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Charter Schools in Portland; Resolution in Favor of Ballot Measure 17

City Club of Portland (Portland, Or.)

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City Club Approves BALLOT MEASURE 17 RESOLUTION

City Club's Research Board and Board of Governors have adopted the following resolution in favor of Ballot Measure 17 to be on the November ballot. This resolution is based on Club's positions taken on earlier related research studies. (As adopted by the Board of Governors on August 12, 2002.)

Ballot Measure Resolution

Ballot Measure 17: Amends Oregon Constitution: Reduces minimum age requirement to serve as state legislator from 21 years to 18 years

RESOLVED that the City Club of Portland supports Ballot Measure 17 and urges citizens to allow younger representation in Oregon's legislative process for the following reasons:

In 1976, the City Club of Portland reviewed a similar ballot measure and advocated lowering the minimum age requirement for state legislators to 18 years to broaden "the opportunity to serve in the legislature, which expands the voters' choice of representatives."

Both the Oregon Senate and House of Representatives proposed this constitutional amendment and have sent this legislative referral to the citizens of Oregon.

The measure promotes age diversity in legislative representation.

30% of the voting aged population is between the ages of 18 and 34 and only 20% of that segment is registered to vote, younger legislative representation may increase voter participation by Oregon's citizens who are 18 to 34 years of age.


The City Club of Portland argued in its 1976 ballot measure report that a person old enough to vote is old enough to join in the decision-making process and to represent a constituency.

This measure addresses a fairness issue related to potential age discrimination.

Passage of this ballot measure by a vote of the people would not create a fiscal impact on state or local governments.

The City Club of Portland
Presents Its Report :

CHARTER SCHOOLS IN PORTLAND



The City Club membership will vote on this report on Friday, September 6, 2002. Until the membership vote, the City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated September 20, 2002.

The City Club of Portland Mission

To inform its members and the community in public matters and to arouse in them a realization of the obligations of citizenship.

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CHARTER SCHOOLS IN PORTLAND

EXECUTIVE SUMMARY

Charter schools are the newest form of public education in Oregon, established by the legislature in 1999 as part of a growing national trend. Established by law in 37 states and the District of Columbia, charter schools are publicly funded but independent schools established by a contract (or charter) with an appropriate public agency (in Oregon, a local school district).

Charter schools are created to encourage site-based school management and to shift emphasis in schools from responsibility for educational processes to responsibility for educational outcomes. Further, some charter schools are established as centers of innovation where new educational philosophies and practices can be introduced, proven, and subsequently find their way into traditional public schools. Nationally both Democrats and Republicans in Congress and the Administration have supported charter schools. In Oregon the charter school legislation was intensely partisan, supported by most Republicans and opposed by most Democrats and by the Oregon teachers and school employees unions.

In theory charter schools are freed from many local, state and federal regulations and requirements, but are required to meet the contracted outcomes. In practice both parts of this equation are usually compromised. Charter schools remain subject to many regulations, and in most states reviews concentrate more on financial soundness than on educational results.

Oregon's charter school law offers a formula for calculating charter school funding that puts charter schools at a severe financial disadvantage. This and the complexity of obtaining a charter, establishing an educational program, and arranging the myriad of operational details will restrict charter schools in Oregon to a small number organized and operated by exceptionally determined and committed people. In a few cases school districts and communities will also establish charter schools to meet special needs that cannot be met by Oregon's established traditional public schools.

Two factors give impetus to the demand for reform in Portland Public Schools (PPS). The first is a failure to deliver satisfactory educational outcomes for a significant proportion of the district's students, including a disturbing proportion of the district's minority and socio-economically disadvantaged students. The second is the district's inability to meet parental demands for popular alternative education programs and special focus or magnet schools. Underlying both of these problems is a district culture perceived as resisting

reform and change, most recently exemplified by the dismissal of the Superintendent for failing to implement the district's strategic plan.

While the Portland school district maintains a public position of cooperation and support for charter schools, charter school advocates charge that the district actively works behind the scenes to challenge efforts to establish charter schools in Portland. The stormy history of relations between the school district and McCoy Academy, first as an alternative school, then as the first school to be granted a charter, and barely more than a year later the first to have its charter revoked, tends to support that perception.

Charter schools are not a silver bullet that will lead to major reform of public education. They are a useful mechanism to meet specific educational needs in the Portland school district and across the state. Most important, they will not solve the major educational problems faced by Oregon's public schools and should not detract from the need to address and resolve those problems.

The committee recommends revising the charter schools law to provide more equitable funding levels for charter schools, providing incentives for charter schools (and other schools) that successfully serve students who currently fail to complete school, and rewriting the state's complex and confusing laws governing public education.

Best practices in schools should be recognized, rewarded and replicated, both in the Portland area and statewide. The Portland school district's successful alternative education and special focus programs should be expanded to meet demand and be better publicized.

The new superintendent, when hired, should recognize the need for cultural and institutional change in Portland schools, and should be a leader in reforming public education in Portland, meeting the needs of at-risk students, and developing a constructive working partnership with the district's charter schools. School administrators and teachers union leaders should help the new Superintendent introduce a culture that promotes change and constant improvement in public education.

The committee reached further conclusions and proposed additional recommendations that are not summarized here, but can easily be found in detail in the Conclusions and Recommendations sections of the report, beginning on page 74.

CHARTER SCHOOLS IN PORTLAND

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CHARTER SCHOOLS IN PORTLAND

Introduction

I. INTRODUCTION

A. WHY ARE WE DOING THIS STUDY?

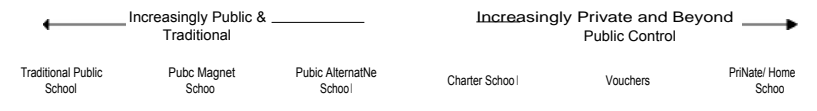
There are three kinds of schools: the bad, the good enough, and the excellent. If your child is attending an excellent school, public or private, you are a happy parent. If your child is attending a bad school, you are a parent desperate for a better solution. If your child is attending a good enough school, you may be demanding improvement, or you may be looking for an alternative. Perhaps you are unsure whether your school could do better.

Charter schools are a new alternative to the bad and the good enough public schools. Over the past ten years, approximately 2,300 charter schools have been created in 37 states across the nation and the District of Columbia. Oregon passed a charter school law in 1999. What will be its impact on Portland's public schools? Can charter schools provide a choice for those who cannot afford to send their children to private schools? Or will they drain badly needed resources from Public schools?

This City Club study takes a deeper look at the charter school movement, the lessons learned in other states and our own, the challenges facing public schools in Portland, and the likely effect of charter schools in our community.

B. WHAT ARE CHARTER SCHOOLS AND WHERE DO THEY FIT?

In the United States, parents may choose for their children's K-12 education from a spectrum of alternatives with differing degrees of public funding and public control:



At one extreme is the **Traditional Public School** with full public funding. Attendance is usually based on family residence. An elected school board hires a superintendent of schools who is responsible for administration of all schools in the district. Decisions of the superintendent are delegated through an administrative hierarchy down to principals of individual schools, and then through a staff to individual teachers.

• At the opposite extreme is the **Private School**, which receives no public funding (there are exceptions to this, but these are beyond our scope). Funded by tuition and fund-raising, private schools have only limited accountability to the state. Home schooling also fits on this end of the spectrum.

• **Public Magnet Schools** (also called Special Focus Schools) do not draw students from specific neighborhoods, but instead enroll students from all over the district. Benson High School, founded in 1908, was Portland's first magnet school and focused on training students in the trades. During the 1960s and 1970s, Portland Public Schools responded to desegregation pressures by creating a number of magnet programs, including Early Childhood Centers, Jefferson High School (legal secretary, television and the performing arts), Cleveland High School (marketing), Lincoln High School (international studies), and Washington/Monroe (health/food services and child care). More recently a number of foreign language immersion schools have been added. The program has continued, and a number of additional magnet schools exist in Portland today.

• **Public Alternative Schools** arise from another national movement of the 1960s to serve students not well served by traditional school programs. Initially intended to serve students with low attendance, behavior problems, and at risk of dropping out, the concept was later expanded to include unusual or innovative students who needed more challenge in school. Schools serving these two categories of target students have very different educational approaches and methods, but they share the common interest of meeting the educational needs of a special target group of students. Examples include the Metropolitan Learning Center, WinterHaven School, night schools, and environmental schools. Some of these are contracted to outside providers.

• **Vouchers**, available in some inner cities on an experimental basis, are included here primarily to indicate that, at least in principle, there is a middle ground between public education and private education. Vouchers are rights to public funds that are awarded to students and follow them to the school their parents send them to, whether public or private. Resisted by some as a stalking horse to circumvent restrictions on public funding of religious schools, and by others as a threat to public schools, only a very limited number of voucher programs have been put into effect. Among them is a program by the City of Cleveland that the Supreme Court recently ruled, by a 5 to 4 vote, not to be in violation of the constitutional separation of church and state, even though most of the vouchers are being used in parochial schools. There are no voucher programs in Oregon.

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Introduction

Charter Schools, the subject of this study, are schools that operate under a contract with either a local school board or a state agency, and receive public funding as a consequence of this contract. Charter schools are an effort to replace an emphasis on methods with an emphasis on outcomes. In exchange for greater autonomy and freedom from many rules and regulations, charter schools agree to meet specific goals and performance objectives. If these goals and objectives are not met, the school's charter may be revoked.

Charter schools are usually funded from public school sources, following a per-student funding formula specified in the charter school legislation or in related regulations. A percentage of the statewide per-student funding average normally remains with the central public school district to pay costs related to charter schools within district boundaries.

Charter school programs vary as broadly as the visions of parents and teachers. An individual, a group, or an organization may propose a charter school. The school may address the needs of a specific group of students, ranging from at-risk to unusually talented and gifted, or may propose a special program of instruction. While charter schools are normally limited to a single building, or even a part of a building, in a few cases charter-granting agencies have approved charters for entire school districts.

This diversity makes it difficult to present concisely the concept of a charter school. What is clear is that charter schools are a growing movement in the United States, from the first state approval of a charter school law in 1991 to 37 states today, from the first charter school created in 1992 to over 2,000 schools serving over 500,000 students today.

Despite this difficulty in defining concisely what charter schools do, we can give some examples of the diversity from even the small number of charter schools that have been started within Oregon's borders:

- **Pioneer Youth Corps Military Academy** in Springfield offers a semi-military learning environment.
- **Lincoln City Career Technical High School** offers a simulated office environment for its students.
- **Destination Charter School** in Coos Bay offers project-based learning to at-risk students.

- **Lourdes School** in Scio serves 48 K-8 students in a non-graded program with strong community involvement.
- When closure of the last school in **Santiam Canyon** seemed certain owing to school district consolidation and the depressed logging industry, the Detroit Lakes school was converted to a charter school in order to continue serving 40 K-8 students.

Nationally, charter schools may be started by parents or by educators, may be run by for-profit or not-for-profit organizations, may target talented and gifted students, slow-learners, at-risk students, or students who have already dropped out and seek a way back in, to give a few examples. Likewise their programs may be career-based, environmental-based, technology-based, or follow the theories of Montessori, Reggio Emilia or others.

While there is great diversity both in groups of students targeted by charter schools and their approaches to education, there is consistency in the concept of independent site governance charter schools under contract with the local school district have local control over budget, relationships with parents and staff hiring.

C. STUDY CHARGE

The Research Board charged the Committee to achieve the following objectives:

- (1) Briefly summarize problems with the public education system that charter schools are intended to solve.
- (2) Describe the range of definitions/types and characteristics of charter schools.
- (3) Summarize the arguments for and against charter schools.
- (4) Identify and analyze important issues related to how charter schools are structured, managed, regulated, and funded.
- (5) Identify what people say are the problems with the existing school system in Portland.
- (6) Identify the range of existing alternatives in Portland to the regular public school system such as private schools, public alternative and magnet schools.
- (7) Examine any issues around the relationship between new

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charter schools and the ongoing implementation of the Oregon Education Reform Act.

- (8) Identify the challenges charter schools would face in starting up in Portland.
- (9) Analyze the likely impacts of adding different forms of charter schools to the existing education options and funding in Portland.
- (10) Make recommendations for public and private action.

Our charge further specified that the study should address "implementing charter schools in Oregon and in Portland-area school districts" and should assess "the likely impact of the creation of charter schools on the Portland Public School District #1."

We were directed to avoid getting sidetracked by other major educational issues including vouchers, higher academic standards, teacher testing and tenure, class size, discipline, and school uniforms—except as they directly relate to charter schools. To this list of out-of-scope topics your committee added "school finance and governance," with the same exception.

D. PROCESS

Your committee reviewed nearly three years of newspaper articles and stories from across the United States. We interviewed more than 25 witnesses, including charter school proponents, school board members and district staff, public school advocates, teachers union leaders, education researchers, and state, local and national public education officials. We read and shared several books and made extensive use of the resources available on the Internet.

Lists of these sources are found in the Appendix. During the course of our study, we tracked several evolving issues including an aborted attempt at a ballot measure to overturn Oregon's charter school law, the rejection of a number of applications for charters and the establishment of Oregon's first charter schools, the evolution of related state and local policies, actions of a citizen group dissatisfied with the educational results of Portland Public Schools, and the departure of the school superintendent. Without being distracted by these events, we tried to understand and evaluate their impact on charter schools in Portland.

A considerable amount of our discussion and some of our conclusions and recommendations address the culture of PPS. Our decision to do this was based on the testimony of a number of our witnesses (including some with inside experience) that district culture was a major factor that influenced many activities in the district. Our coverage consisted of listening carefully to many witnesses, both "insiders" and "outsiders." Needless to say, there were tremendous differences in what we heard from our witnesses. We looked for common threads, looked for reasons for the many discrepancies that arose, and made our best judgments.

Section V. 3., addressing Evidence of Failed Students in Portland Schools, was written early in the course of preparing our report. More recent statistics are available than those cited in that section, but we are confident that they do not contradict our major conclusions.

E. REPORT STRUCTURE

This report addresses charter schools, the trends and pressures that feed their growth, and the reasons why charter school opponents resist that growth.

After a summary of the arguments of charter school proponents and opponents, we examine the trends that led to the creation of public charter schools over 10 years ago. We follow the development of charter schools since then, at first nationally (with a brief look at a national experiment with charter schools in New Zealand) and more recently in Oregon.

We then look at Portland Public Schools, the forces that give rise to a demand for charter schools, and the other public alternatives to traditional public education (magnet and alternative schools). We will address students who demonstrably do not get an adequate education from Portland Public School, and will consider charter schools and alternative schools as choices for saving these students from failure.

We end our report with our committee's conclusions and recommendations.

¹See, for example, "Portland Schools Skirt Law, State Says," *The Oregonian*, July 3, 2002. PPS is criticized for insufficient notification that students have a right to transfer to other schools from the district's three failing schools, Jefferson, Roosevelt, and Marshall High Schools.

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Key Arguments

II. KEY ARGUMENTS MADE FOR AND AGAINST CHARTER SCHOOLS

Proponents argue that:

- Charter schools will end the existing public school monopoly on education and introduce competition that will force all schools to improve.
- Charter schools introduce accountability which currently is lacking in public education.
- Charter schools increase choices available to students and parents, permitting them to leave failing schools for better-performing schools, or to choose a school better meeting their children's educational needs.
- Charter schools return site-based governance to our schools.
- Charter schools are freed from costly, burdensome, and unnecessary regulations.
- Charter schools will introduce educational innovations that will improve all public education.
- Charter schools allow an escape from the straight jacket of teacher's union concerns: wages, hours and working conditions, usually met at the cost of larger class sizes.

Opponents argue that:

- Charter schools drain badly needed resources from already under-funded public schools.
- Charter schools will cream the best students, leaving traditional public schools with more expensive problem student populations.
- Charter schools will undermine the role of public schools as the primary "melting pot" that brings immigrants and diverse ethnic and socio-economic groups into a common American culture and tradition.

- Charter schools will return public education to the discredited concept of "separate and unequal."
- Charter schools will avoid accountability because chartering organizations will be reluctant to cancel charters.
- Charter schools will fail to improve public schools because:
 - *They will lack resources to deliver innovative programs.*
 - *When they do generate innovations, there is no mechanism to move these into public schools.*
- Charter schools will undermine fair labor standards for teachers attained after many years of struggle.

CHARTER SCHOOLS IN PORTLAND

Background

III. BACKGROUND

A. HISTORICAL CONTEXT FOR EDUCATIONAL REFORM

The charter school concept is a relatively new educational reform movement; Minnesota passed the nation's first charter school law in 1991. However, the debate that surrounds charter schools fits into a pattern that extends back through more than a century of efforts to reform public education. To understand the charter school debate, that pattern must be understood.

Educational leaders have long debated the primary role of public schools. Some argued that the primary role should be to prepare the next generation of citizens (and especially the large numbers of poor immigrants) to be literate, productive, and good citizens, ready to join the "melting pot" and contribute to its economy.

Others, while not attacking this as a worthy objective, wanted primarily to assure that the best and brightest would excel in the nation's best universities, enabling the United States to become economically, intellectually and culturally equal or superior to leading countries in the world. The importance of excellence was demonstrated early in the century by American industrial growth, in mid-century by winning the war and the race to produce the atomic bomb, and ultimately by planting the American flag on the moon (after a Sputnik scare that spurred anew the focus on educational excellence).

In a word, these themes could be expressed as "equity" vs. "excellence."²

A second debate focused on the governance of public schools, especially in major cities and, since World War II, in suburbs. Some favored centralizing schools to achieve more diversity of curricula, others tried to protect neighborhood control of schools. Where the latter approach prevailed, it led to better schools in wealthy neighborhoods than in poor neighborhoods, but also pressured all neighborhoods to improve their schools or suffer a reluctance of newcomers to move into the community, impacting the values of homes.

² No major educator, and no member of your committee, believes that schools should fall short of meeting the worthy goals of both "equity" and "excellence." These are terms that have been adopted by writers and analysts as convenient code words to identify the major forces struggling to shape the future of American education. They represent the characteristics that the two sides cite as the most egregious weakness in the system, and that they use to shape their call for reform.

In the post-World War II era, these two debates were transformed by global events. At the height of the cold war, Soviet Premier Nikita Khrushchev predicted that Communism would "bury" the free world. With the subsequent stagnation of communist economies and the fall of the Soviet system, competition was considered a proven model for reform and improvement.

The victory of competition in the marketplace was an economic event, but it has also influenced delivery of public services. Vice President Al Gore spoke proudly of the effort he led to "re-invent" government, reducing the number of federal employees for the first time in decades through provision of many government services contracted from the private sector. Amtrak and the Postal Service became semi-private corporations. Deregulation has become a major trend, broadly impacting transportation, communications, finance and energy.

Over the same period of time American society has greatly changed. Even in the Deep South minorities gained universal suffrage and an end to segregation both in public accommodations and in public education. In Brown vs. Board of Education the US Supreme Court ruled that a separate school system is inherently unequal.

The victory over segregation gave proponents of educational equity the moral force they needed to again shift the focus to equity in education. Following Brown vs. Board of Education the trend for school governance has been towards consolidation.

In most cities school districts became large enough to encompass a region's minority and majority neighborhoods, its wealthy and low-income neighborhoods.³

While there is no inherent link between the "equity" vs. "excellence" debate (focusing on results) and the "central" vs. "competitive" models of educational governance, proponents of "equity" have come to resist decentralized control as a return to segregation, while proponents of "excellence" have come to conclude that it will be realized only through moving from centralized control to a competitive delivery system. They believe that free markets will make a better determination of how to allocate resources for education than a centralized administration and school board.

Hence the education debate has become transformed into "equity" vs. "competition."

Proponents of "equity" in education consider the post-war trend of

³ Recently the Los Angeles school district went against this trend by breaking its large public school district into a number of smaller districts.

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centralized control of schools to be necessary but far from sufficient. They point to unsatisfactory performance by students from low income and minority families and call for further reform. They point to schools in the inner cities of New York, Chicago, Los Angeles and Washington D.C., where only parents who clearly cannot afford private schools send their children to the public schools, as the ultimate return to segregated schools and failure of government to provide equal opportunity.

In contrast, proponents of "competition" consider large central school administrations to be monopolistic government bureaucracies, incapable or unwilling to respond to change, not providing a useful educational framework, and needing a stiff dose of competition to assure that they serve the needs of society as expressed by consumer decisions. They feel that bureaucrats in central administration and teachers union leaders conspire to protect a status quo of mediocrity or failure. They point to the inner city schools of New York, Chicago, Los Angeles and Washington D.C. as the ultimate destination of all "monopolistic" public school systems.

This leads one author to write that efforts at educational reform have had little effect other than to oscillate between the poles of competition and equity.⁴ Another argues that by constantly focusing on reform, the public schools have failed in their basic mission of educating students.⁵

The competition advocates have pointed to a study sponsored by the Reagan administration entitled A Nation at Risk: The Imperative for Educational Reform. It reported a mediocre and unevenly distributed level of educational achievement demonstrated by students who pass through the nation's public primary and secondary schools. Two decades later, many observers believe that the concerns raised in the study remain largely unaddressed by a majority of the nation's public school systems. These observers believe that the nation remains at risk.

The basic tenant of the A Nation at Risk study was that, "then educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people." This conclusion flowed from a series of statistics: 23 million American adults at the time were functionally illiterate; functional illiteracy among minority youth may have run as high as 40%; average achievement of high school students was lower than it was 26 years

⁴ Tyack & Cuban, Tinkering Toward Utopia: a Century of Public School Reform (1995).

⁵ Diane Ravitch, Left Back: A Century of Failed School Reforms (2000).

before when Sputnik was launched; SAT scores had shown an unbroken line of decline between 1963 and 1980; 40% of 17 year olds could not draw inferences from written material; and remedial math courses in four-year colleges then constituted one-quarter of all mathematics courses taught in those institutions.

The report articulated a fundamental mission statement:

"All, regardless of race or class or economic status, are entitled to a fair chance and to the tools for developing their individual powers of mind and spirit to the utmost. This promise means that all children by virtue of their own efforts, competently guided, can hope to attain the mature and informed judgment needed to secure gainful employment, and to manage their own lives, thereby serving not only their own interests but also the progress of society itself."

The report listed five recommendations to improve America's schools:

- **Excellence:** Set high expectations and requirements for the knowledge, abilities and skills graduates should possess and help students meet them.
- **Standards:** Set high standards and require students to demonstrate mastery through rigorous examinations.
- **Curriculum:** Improve the quality of school curriculum.
- **Time:** Increase the time spent on learning and make more effective use of classroom time and homework.
- **Teacher Quality:** Improve the quality of teachers.

The report warned that schools should not sacrifice the important goal of equity in the pursuit of excellence. These recommendations (which, the report said, should apply to public, private and parochial school systems) have laid the groundwork for many reform efforts across the nation and in Portland.

In our research of more recent literature and conversations with witnesses, we read and heard references to both equity and competition:

- Public school achievement levels, while improving, remain broadly and consistently below "world class" benchmarks. The U.S. public school system fails to meet the competition.
- Traditional schools fail to reach 20-30 percent of the enrolled population, and this under-served population consists disproportionately of poor and minority students. The U.S.

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public school system fails to meet the competition .

- Traditional schools fail to reach 20-30 percent of the enrolled population, and this under-served population consists disproportionately of poor and minority students. The U.S. public school system does not deliver an equitable result.

Different observers disagree whether more than a century of reforms have improved public education or whether they have, for the most part, been a series of failures that have resulted in an unacceptably mediocre public education system.

While the answer to that fundamental debate is beyond our scope, some authors have identified specific criteria for successful educational reform efforts. These could be valuable for groups considering chartering a school, for school boards considering either internal reforms or charter school applications, and parents considering whether to send their children to a charter or alternative school. According to these authors,⁶ successful education reforms focus on the following key elements:

Be clear about the objectives of proposed reforms. Is the reform intended to improve academic performance, or to meet other social, economic, or political needs? What problem is the reform intended to solve? How can we define and measure success or failure?

Change where it counts the most - the daily interactions of teachers and students. Reforms that do not improve this interaction are unlikely to have much impact.

Reforms need to be sustained over time. Many otherwise promising reforms fail because they require a level of effort and resources that is not, or cannot be, sustained over time.

Innovations must be "replicable" or implemented broadly. Reforms that work with a group of highly motivated teachers in one school last only in that school and as long as those teachers, and those they recruit and train to replace them, are there.

⁶ David Tyack and Larry Cuban, *Tinkering Toward Utopia: A Century of Public School Reform*, Harvard University Press, Cambridge MA, 1995 (first three items); Richard Elmore, "The Problem of Taking Educational Innovations to Scale", NCREL, <http://scalingup.qontent.com/questionware/segment.cfm?segment=2113> (fourth item).

B. THE CONTEXT OF CHARTER SCHOOLS

Over the years a number of efforts were made to address these concerns. School districts created or expanded magnet schools to offer high-quality programs that would attract students from all over the city. Alternative schools were introduced to offer special programs to meet needs of targeted groups of students. Site councils, made up of parents, were to bring community involvement into the neighborhood schools. Yet criticisms continue, and critics claim that rather than improve schools, these efforts simply mask the underlying inadequacy of the school system.

Charter schools are an attempt to improve the system by completely changing school governance. Rather than schools dominated by central bureaucracies and a teachers union, charter school proponents offer a model featuring smaller schools that are governed at the site level. The concepts of magnet schools, alternative schools, contracting of public services, and community parental empowerment are all a part of the charter school concept, and may be drawn upon to greater or lesser degrees by the group chartering the school.

In the charter school model, central school boards no longer run schools. Instead, boards and central administrative staff review applications for charters, grant charters to quality programs, and play a supportive role once schools are chartered. They also provide quality control, with power to revoke a charter if its conditions are not met.

With each school offering its own program and answerable only for results, parents can choose between different schools for their children. Effective schools will thrive and grow; failing schools will lose students and be forced to close their doors. The ultimate quality control for charter schools is not the school board, but the collective decisions made by parents.

With charter schools showing success, proponents argue, traditional public schools will learn from the successful charter schools or eventually be forced to close as the result of loss of students to schools that offer better education. This competition will improve all schools and improve parental choices. Competition and choice will reward successful schools and provide the impetus for closing the doors of schools that cannot provide a quality education.

Charter school proponents argue that charter schools will resolve the debate of "equity" vs. "competition" by offering both. All students will have an opportunity to choose the educational approach that best meets their needs, and as students vote with their feet, failing schools

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Background

will be forced to close. Opponents of charter schools argue the opposite, saying that charter schools will skim the best students and the support of the energetic parents from the traditional public schools, resulting in the return to an educational system that is separate and unequal. Further, they argue that charter schools lack funding needed to attract good teachers, and will not be successful in offering effective competition to traditional public schools.

IV. THE NATIONAL EXPERIENCE WITH CHARTER SCHOOLS

A. THE NATIONAL OVERVIEW

While the scope of our study is Oregon and, more particularly, the Portland area, the Oregon charter school law is barely three years old. To understand charter schools and their development we must begin at the national level.

In the late 1980s, Philadelphia started a number of schools-within-schools and called them "charters." During that period the RAND Corporation studied decentralization and proposed the basic concepts of modern charter schools. The first charter school law was enacted in Minnesota in 1991, followed by California the next year.

After initial slow growth, charter schools are gaining momentum. As of October 2001, 37 states and the District of Columbia had passed charter legislation, and 35 of the states had operating charter schools.⁷ During the 2000-2001 school year, charter school enrollment totaled 518,609 (double the 252,009 student enrollment in 1998-1999). Charter schools are concentrated; nearly 60 percent of the nation's charter schools are located in Arizona, California, Michigan and Texas.

Demand runs high; a substantial majority of charter schools report waiting lists. The theory that charter schools may also fail is proving true; 86 charter schools, about four percent of the total, have closed their doors.⁸

Most charter schools are smaller than other public schools (median 137 students vs. 475 for traditional public schools in charter school states). This tendency towards small school size may reflect a desire on the part of charter school founders and parents for structuring their schools in a way that enables them to provide intimate, nurturing school communities. Some advocates of charter schools feel their small size is their principal advantage.

In general, however, many of their characteristics are not greatly different from standard public schools. Student-teacher ratios are close (16 for charter schools vs. 17.2 for all public schools⁹). Despite concern that charter schools would become a haven for rich white

⁷ Charter Schools: Scorecard and Ranking, The Center for Educational Reform, October 2001.

⁸ Tamara Henry, "Charter Schools Pledge Success; Movement Gaining a Public Foothold," USA Today, 11/14/01.

⁹ In 1996-97, with 1172 schools reporting, the Oregon Department of Education reports student-teacher ratios of 19.3 for all elementary schools, 20.0 for all middle schools, 20.3 for all high schools, and 19.7 for all schools. However, we consider this to be a very unreliable statistic, often including non-classroom educational staff. In Portland, da Vinci school was given 10 classroom teachers for 300 students, and was told that its were consistent with other middle schools in the district.

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families, white student representation of charter school students (48 percent) is below that in the general public school population (59 percent) and is declining slightly. Nonetheless, nearly 7 in 10 charter schools have a student racial/ethnic composition similar to their surrounding school district.

Charter schools enrolled a relatively small percentage of public school students nationwide. Only three states had two percent or more of their public school enrollment in charter schools, with the District of Columbia enrolling the greatest percentage of students in charter schools (4.4 percent). As indicated earlier, the number of students in charter schools is growing quickly so these percentages are expected to rise.

Nearly half the charter schools deviate from the normal elementary, middle, high school pattern. One quarter spanned K-8, K-12, or were ungraded, vs. less than 10 percent for public schools. Nearly two-thirds of the newly created charter schools seek an alternative vision of schooling, and an additional one-quarter were founded to serve a special target population of students.

The types of agencies allowed to grant charters differ by state. In 14 states, only local boards can grant charters; in eight of those states (including Oregon), the decision of the local board can be appealed to a higher authority. In seven states, some state level agency (usually the State Board of Education) is the only charter-granting agency. In the remaining 16 states, multiple agencies are authorized to grant charters—usually local boards and a state body. In five states with multiple charter granting agencies, universities can also grant charters.

All states with charter school legislation permit pre-existing public schools to convert to charter school status. All states except Mississippi allow newly created charter schools. Ten states (but not Oregon¹⁰) allow private schools to convert directly to charter status, while an additional three states allow private schools to become charters under specific conditions. Overall, 72 percent of all charter schools were newly created, 19 percent had been pre-existing public schools, and 10 percent had been pre-existing private schools.

Charter schools are established as limited-term contracts. At the end of the contract period, the charter must be renewed. Charter terms range between three and five years in 31 states (five in Oregon¹¹). Arizona

¹⁰ ORS 338.035 (6)

¹¹ Though McCoy Academy Public Charter School was terminated after 13 months of operation as a charter school, an event is discussed later in the report.

and the District of Columbia have the longest charter terms-15 years (although both states require a review at the end of five years).

Both the Clinton and the current Bush administrations have strongly supported charter schools (in the 2000 election both Gore and Bush campaigns strongly supported continued expansion of the number of charter schools nationally). The primary difference was Bush's support for vouchers that could be used for either public or private schools (a concept that goes beyond charter schools).

In December 2001 Congress passed the No Child Left Behind Act, which implements much of the Bush Administration education program. The President budgeted \$44.5 billion for education in fiscal year 2002. The act targets \$200 million of this for public charter schools, including funds for both startup and operation.

Even more significant, the act compels the identification of failing or unsafe schools. Once so identified, local school boards must offer the option to transfer to another public or charter school. If the school is failing the school board must at least replace the school staff or institute and implement a new curriculum.

Some interesting statements in the act present the view of Congress:

- *"Charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from the restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards..."*
- *"Charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement."*
- *"There is a strong documented need for cash -flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available."*

This information indicates that charter schools are becoming well established and a small but growing part of the public education system in a significant number of states.

Clearly charter schools are established and growing. What about their results? Do they deliver results that are superior to traditional public education? We next look for answers to these questions.

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A. RESULTS - WHAT DO WE KNOW SO FAR?

1. United States

Are charter school proponents correct in their assertion that schools can improve the quality of public education through smaller site-governed schools, competition, and a system of accountability focused on results rather than methods? Can the innovations introduced by charter schools improve traditional public schools, either through competition or through sharing of best practices?

Do Charter Schools Demonstrate Superior Results?

A study of charter schools in Michigan¹² was unable to draw any substantial conclusions about the comparative performance of charter schools vs. traditional public schools. Finding that no useful accountability measures existed, the report concluded that the state's charter schools are producing few and limited innovations, and that charter schools were not implementing comprehensive accountability plans.

A UCLA charter school study of ten California school districts likewise found that what charter schools are trying to accomplish and thus what they should be accountable for, is not clear or straightforward. The US Department of Education (DOE) found that charter schools provide standard financial and student achievement reports to different constituencies depending on the state's approach to accountability. Areas of monitoring included school finances (94 percent), compliance with state or federal regulations (88 percent), student achievement (87 percent) and student attendance (82 percent). Assessments of student achievement included standardized tests, student demonstration of their work, student portfolios, performance assessments, parent surveys, behavioral indicators, and student surveys.

Some individual charter schools have posted impressive results. A number of articles cite individual charter schools where student test scores have risen impressively since the school began operations, and where the charter school students outscore other schools in the district and state. Opponents cite as many studies where charter schools perform at a level lower than traditional public schools. Neutral analysts looking at comprehensive results conclude that differences between test scores in charter schools and traditional public

¹² Jerry Horn and Gary Miron, "An Evaluation of the Michigan Charter School Initiative: Performance, Accountability and Impact," July 2000).

schools and nationwide are not statistically significant.

In fact, the average results of charter schools compared with the average results of traditional public schools may not be very important. While charter schools clearly intend to deliver academic results at least as good as those of traditional public schools, many charter schools are established for reasons unrelated to academic performance. Many are created as alternatives to what charter school founders perceive to be an unresponsive public system. In many cases the objectives of founders do not lend themselves to traditional forms of evaluation, such as standardized testing. The objective is often simply to introduce a choice in education that is not currently available. In the final analysis, the worth of charter schools can best be evaluated over the long term by the demand for the education they offer. If they are perceived as a good place for students to learn, they will thrive and grow. This is the basic argument of charter school proponents who favor competition in education. Looking at the national results over the past decade, they appear to be succeeding by that measure.

Do Charter Schools Impact Traditional Public Schools?

A 2001 review of the impact of charter schools in 49 school districts in four states¹³ showed that:

- All districts felt a financial impact from loss of students (and their funding) to charter schools. This was universally felt in the central office administration, and mostly (except for some districts with growing enrollment) in public school budgets.
- Districts with declining enrollments and small districts (less than 5,000 students) looked on charter schools as a challenge or threat.
- Districts with increasing enrollments saw charter schools generally as an opportunity to increase choices and as leverage age to change some of their practices.
- Some districts felt it necessary to responded with new educational offerings similar to programs introduced by charter schools, indicating a response to competitive pressures.
- Most districts improved customer relationships and introduced new or different educational offerings (talented and gifted, all-day kindergarten, after-school programs, restarting arts and music programs).

¹³ "Challenge and Opportunity - The Impact of Charter Schools on School Districts", U.S. Department of Education, June 2001.

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School districts tend to view charter schools they chartered as less of a threat than schools chartered by an outside agency.

Why would districts with growing enrollment welcome charter schools, while districts with a declining student body consider them a threat? Consider an economic analysis. A growing district, with buildings strained to capacity, usually must go to voters to approve bonding for capital construction, a very expensive proposition that often fails. New teachers must be recruited, hired, and oriented. The marginal cost per 100 students added may be very high. These expanding districts are happy to find lower-cost alternatives to accommodating those additional students.

On the other hand, a district with a declining student body, like Portland Public Schools, has excess plant and fewer and fewer students to bear the fixed operating costs. Though there is no need to hire teachers or staff, there is a cost of downsizing that the district is anxious to avoid. Losing 100 students to a charter school may save the district, perhaps, only \$100,000 to \$200,000 in operating costs. However, the dollars flowing out of the district's budget to charter schools may be two to four times the marginal cost savings.¹⁴ As a percentage of the district's overall budget, the loss is small, but with schools already struggling to provide a quality education with restrained budgets, every little bit seems important. Schools with declining enrollment, like Portland Public Schools, are very resistant to losing still more students. The primary problem is a physical plant financed with long-term bonds and very difficult (often very expensive) to downsize. This makes it extremely difficult to adjust costs to accommodate a declining student base.

We found no evidence that charter schools harm traditional schools by "skimming" the best students, leaving only expensive problem students behind for the traditional public schools. Indeed, statistics provided earlier show that charter schools serve a student body with higher proportions of minorities, at-risk students, and students from low income families than traditional public schools.

¹⁴This is true only because the school district - like most school districts with declining enrollments - finds itself trapped by a relatively high level of fixed operating costs. Some are fixed by contract. Others, while not contractually committed, are effectively fixed by long-standing deeply embedded patterns of practice and resource allocation. By contrast, many businesses have shifted toward operating cost structures that can more quickly adjust to either growth or decline in volume. For example, consider the rise of "temp employees," "just-in-time" supply chain systems, and leased space for warehousing and retail operations.

The DOE report concluded that the most effective strategy for chartering schools depends on the objectives of policy makers. If the goal is to encourage districts to learn from charter schools and embrace them as a tool for reform, laws and policies should give local districts strong chartering powers, and provide financial relief for small districts and districts with declining enrollment. On the other hand, if the goal is to apply competitive pressures to districts, power should be given to multiple agencies to grant charters.

2. The New Zealand Experience

Charter school proponents are divided in their vision of the future. Some see charter schools as a laboratory where new approaches to education are developed. Traditional public schools are then stimulated (or motivated by fear of losing all their students) to adopt the improvements introduced by charter schools. Others, purists in the attitude that competition can only improve education, would prefer to see traditional public schools disappear altogether, forced into extinction by a superior species.

Early in our deliberations, a leading charter school proponent urged your committee to become familiar with New Zealand, where an entire nation adopted charter schools. He predicted that within 10 years Oregon would move to a public school system similar to that of New Zealand.

We learned that at almost the same time as Minnesota's first charter school law, New Zealand, dissatisfied with its national educational system, instituted radical reform. The national Department of Education, responsible for the nation's public schools, was abolished and replaced with a much smaller Ministry of Education, charged with setting and implementing educational policy and monitoring results. Operating responsibility for schools moved from the national government to an elected, site-based Board of Trustees for each of New Zealand's 2700 primary and secondary schools. Schools were free to accept students without regard to where they lived. When this model was implemented a decade ago, it was viewed as one that would allow pure competition to determine which schools will prosper and which will fail and be closed.

New Zealand, with a population of 3.8 million people, is comparable to a midsize U. S. state such as Oregon. It has a white majority who came from Europe (mostly Great Britain) and distinct minority groups (a native, or Maori population and immigrants from other Pacific Islands). These minority groups tend to be economically disadvantaged. The Pacific Islanders live primarily in the cities, while the Maoris live both in the cities and throughout the primarily

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agricultural countryside sprinkled with smaller cities. Intrigued, your committee looked for an evaluation of the results of New Zealand's national move to a charter school model. We found an excellent study by Fiske and Ladd.¹⁵ They give examples of many schools that thrive, and that provide exceptional learning environments for students. None in New Zealand, they find, favor a return to the earlier centralized system. Nonetheless, they cite a number of findings that indicate limited success:

- The effort to set up 2,700 separate contracts with local schools in a very short period was daunting, and in many cases quality clearly suffered.
- Despite 10 years of effort, accountability for results has not been attained. The national Education Review Office, created for this purpose, has wrestled with how to define and measure the results schools should achieve. In practice it has evolved to have two major roles: periodic assessment of schools, with published results, and publication of "best practices" documents that communicate successful approaches.
- New Zealand schools have become more ethnically and economically segregated. White and well-to-do parents are more inclined to exercise the option to choose a different school for their children than minority and socio-economically disadvantaged parents.
- Competition for student attendance does not generate new schools to replace low-performing "failed" schools. While lower-performing schools tend to lose students, and well-performing schools tend to gain students, lower performing schools are usually not replaced by more successful competitors. In fact, parents of students in these schools are more likely to insist that their schools be improved; the government is responding with additional subsidies for these schools.

Fiske and Ladd could reach no general conclusion relating to the effect of chartered schools on student outcomes because prior to the reforms New Zealand had no system of national testing of student performance that could serve as a baseline.

¹⁵ Fiske & Ladd, When Schools Compete, a Cautionary Tale (2000). Brookings Institution.

If Oregon is to learn from New Zealand's experiment, the following guidelines stand out:

- Replacing a nearly universal traditional public school system with a site-based model of governance in a single stroke is a bad idea. The American approach of gradual adoption and learning from experience is more likely to bring ultimate success.
- Accountability is a concept that is more easily promoted than realized, especially in education.
- Closing a failing school and replacing it with a successful school will work only if a comprehensive replacement process is implemented. Given a choice between a failing school and no school, parents will insist on rescuing the failing school.

In summary, the lower quality schools attended by the Maoris and Pacific Islanders were not closed. The reasons seem clear: transportation out of the neighborhood was not a feasible option for them. The sophistication needed to enroll in an upscale charter school was beyond the parents. Because of the discriminatory nature of the signup process, (various preferences and other means of selection available under the on-site management approach used), poor children and their parents were not able to gain access to the better schools. Finally, it was clear from the study that the parents of children who could not escape these lower quality schools pressed the government hard to solve the problems of the particular schools rather than close them.

The New Zealand experience is instructive for Oregonians who might be tempted to view charter schools as a solution to the state's public education problems.

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V. THE OREGON EXPERIENCE

A. THE CONTEXT - RECENT EDUCATION CHANGES

Because much of the case for charter schools is based on arguments relating to flaws in current governance and accountability mechanisms or on arguments relating to student performance and achievement, it is useful to review changes in Oregon law of the last decade and current trends in student achievement. We also discuss school finance in Oregon and how it impacts charter schools.

Three important trends have shaped Oregon K-12 public education during the past decade:

1. A shift away from property tax based funding of schools.

Prior to 1991, the operating costs of school districts were primarily funded by local property taxes. Per student tax funding levels varied greatly from district to district, and many districts labored under an annual requirement for voter approval of an operating levy.

Oregon voters approved Measures 5 (1990), 47 (1996) and 50 (1997). These measures, and related statutory changes, have gradually shifted the primary source of operating funds for public schools to the State's General Fund and equalized per student funding levels statewide. This shift in primary funding source for K-12 education has had two major impacts:

- i. A decline in per-student funding of previously well-funded districts (e.g., Portland Public Schools) in favor of districts having historically low per-student funding levels (e.g., Oregon City Public Schools), and
- ii. A shift in many decisions relating to schools from local districts to the state legislature.

According to Governor John Kitzhaber¹⁶, the four billion dollars of revenue lost to education as a result of these changes has never been replaced.

2. An increased emphasis on educational measurement and standards.

In addition to dealing with the initial effects of Measure 5, the 1991 legislature adopted the Oregon Educational Act for the 21st Century. Under this law, individual student achievement

¹⁶ City Club Speech, 2/ 1/02.

of a new, uniform set of performance standards is recognized by the award of a Certificate of Initial Mastery (CIM) and later a Certificate of Advanced Mastery (CAM). Progress towards meeting CIM standards in English, mathematics, science, social sciences, the arts, and a second language is measured by a program of statewide testing at specified grade levels. Students pursuing a CAM must achieve progress in career and life skills such as problem solving, working in teams, and communication while pursuing a selected career field of interest (such as Health and Human Services).

This legislation builds on a long-standing history of school testing and performance measurement. Intelligence testing was refined on draftees during the First World War, standardized in college entrance examinations, and has long been seen in the form of Scholastic Aptitude Tests (SATs).¹⁷ Performance testing can be seen in the National Assessment of Educational Progress program (NAEP),¹⁸ the Iowa tests and the California tests.

The Oregon Educational Act for the 21st Century mandates a statewide assessment system, including both performance based and content-based assessments. The Oregon Department of Education must develop benchmarks for performance at grades 3, 5, 8 and 10.¹⁹ The assessment system was to be phased in over time: mathematics in 1995-1996; English in 1996-1997; science in 1997-1998; history, geography, economics and civics in 1999-2000.²⁰

The focus on measurement and reporting was extended to individual school sites via a system of school-level "report cards" by the 1999 legislature. Schools are classified as exceptional, strong, satisfactory and low or unacceptable. The schools are graded based on student achievement relative to state benchmarks, attendance and dropout rates, and the proportion of students taking state standardized tests.

The legislature continues to tinker with this system, requiring in the 2001 session that the assessment be done on or after March 1 of the school year if for math problem-solving skills or English writing skills.²¹ If a student fails to meet benchmarks then an alternative must be provided by the school districts.

Notwithstanding the push for less red tape and restrictive regulations for charter schools, public charter schools in Oregon are required to participate in this assessment process.²²

¹⁷ Ravitch, *Left Back* (2000).

¹⁸ see e.g., 20 USCA Sect 9010.

¹⁹ ORS 329.075 (2) (c).

²⁰ ORS 329.485(1).

²¹ 2001 Or L Ch 269, Sect. 1.

²² ORS 338.115 (1) (L).

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The demand for more testing is also found in the most recent education act of Congress, the "No Child Left Behind Act." According to its executive summary, "...a sample of students in each state will be assessed annually with the National Assessment of Educational Progress (NAEP) fourth and eighth grade assessment in reading and math." The act provides that if schools consistently fail to show adequate yearly progress for disadvantaged students, then students may use Title I funds to transfer to a higher-performing public or private school, or receive supplemental educational services from a provider of choice.

In addition to these two new laws requiring testing, Oregon colleges are considering yet another round of testing. According to David Conley, Associate Professor of Education at the University of Oregon, students will be required for entry into Oregon's universities to meet a "Proficiency-based Admission Standards System (PASS)"²³ PASS is designed to align the Oregon universities with Oregon's Education Act for the 21st Century, rejects grade point average (GPA) as an effective aid in focusing students on the knowledge they need, and will help the Universities with placement. This year's ninth graders will be the first to have to deal with PASS. Proficiency will need to be shown in six areas with math and English in 2001, science in 2002, visual and performing arts in 2003, second languages in 2004, and social science in 2005.

Measurement and reporting of results is, itself, getting mixed reviews.

.The grading of schools is a reality; the third report card was issued in January. Almost all Oregon schools were rated satisfactory or better; no school in the state was ranked unsatisfactory. Schools where only half the students met state reading and math standards were rated "strong."²⁴ Critics say that the ratings are too high to be meaningful.²⁴

. Student testing is under way (and impetus for continuing it will be strengthened by recent federal legislation), but progress toward meeting CIM/CAM goals appears unduly slow. Barely 20 percent of the Class of 2001, the first to be eligible for CIM designation, met its requirements.²⁵

3. School district consolidation.

In 1990, there were 300 separate school districts in Oregon.

Today, twelve years later, there are 198. As a consolidation was

²³ *The Oregonian*, 3/3/02, p. B5.

²⁴ *The Oregonian*, 1/25/02, 1/26/02.

²⁵ *The Oregonian*, 1/21/02.

primarily a rural trend, it was not visible in the Portland area except for the Gresham/Barlow consolidation of 1995.

The restructuring of income sources for public education was necessitated by the tax cutting initiatives that were completely outside the context of educational considerations. After the measures passed and removed much of the local funding for education, the legislature responded and provided funding from state sources. In fact, the conservatives who promoted the tax cuts likely had little idea that one of their impacts would be a shift of decision making for public education from the local school district to the state.

Three further legislative developments are important to understand:

- **Site councils**, consisting of a representative group of teachers and parents, were mandated for each school by the Oregon Educational Act for the 21st Century. These were intended to address the criticism that school district policies stifled local control of schools. While these have undoubtedly helped, they have not eliminated criticism that the district bureaucracy gives insufficient autonomy to schools.
- **Alternative schools**, authorized by legislation in 1987, provide programs "designed to assist students to achieve the goals of the curriculum in a manner consistent with their learning styles and needs." School boards are required to maintain learning situations that are flexible with regard to environment, time, structure and pedagogy. Portland Public Schools has been particularly active in the use of alternative schools.
- **Teacher tenure** was eliminated in 1998 by a statute prohibiting the inclusion of provisions waiving the right to consider competence in making decisions about staff reduction and recall in collective bargaining agreements. To date, this change in law has not brought about substantial changes in teacher retention and turnover patterns, although it appears that Portland is one of the few districts in the state to use this law to reduce the number of poorly performing teachers.

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B. OREGON'S CHARTER SCHOOL LEGISLATION

1. Adoption of the Legislation

Oregon's charter school movement got its start in the late 1980's. Support originated with progressive education reformers, teachers, and school administrators who wanted to see more innovation, more effective teaching, and a decentralization of authority in the school districts. The charter concept soon attracted concerned parents looking to meet their children's needs, and policy makers seeking increased choice and accountability in the public school system.

In the late 1980s and early 1990s, groups of educators, administrators, and education researchers proposed statewide programs to encourage innovation, demonstration schools and greater decentralization. These efforts were not funded and were powerfully overshadowed by passage of Oregon's Education Act for the 21st Century. That act became the primary vehicle for education reform in Oregon.

During the 1990s, attempts to pass charter school legislation failed in three successive sessions, as did an attempt to qualify a charter school ballot measure for the November 1996 ballot. Discussions of charter school legislation became increasingly partisan and contentious.

In 1995, the U.S. Department of Education began offering states funding for planning grants to support the development of charter schools. Oregon received planning funding from 1995 through 1998 even though the state did not have a formal charter school law. The Oregon Department of Education made the case that Oregon's Alternative Education Law was flexible enough to allow "charter-like" schools to be created. Around 40 or 50 Oregon schools or districts received planning grants ranging from \$5,000 to \$35,000. Many went to existing programs and some to efforts to establish new schools within existing districts. In 1998 the U.S. Department of Education ruled that further funding would require passage of a true charter school law in Oregon.

In the 1999 session a new, more conservative education reform advocacy group called the Oregon Education Coalition took up the charter cause. Charter proponents and Republican legislators supported a bill with few restrictions on charter schools. Governor Kitzhaber, Democrats, and the Oregon Education Association argued for greater limitations. After much negotiation, a compromise bill was approved on a vote that included support of most Republicans and

opposition of most Democrats. The Governor signed the bill.

2. The Political Climate and the Issues

The 1999 Oregon legislature was one of the most bitterly partisan sessions of recent times. Conservative Republicans controlled both houses and vigorously pursued their agenda.

Among the key supporters of Democrats is the Oregon Education Association, the statewide organization that represents local chapters of teachers unions in Oregon, including the Portland Association of Teachers. The OEA viewed charter school legislation as an effort by conservative forces to weaken the position of the teachers union. In this environment, the charter school legislation took a tone far more partisan than the issues appear on the surface. Key points of disagreement in the session included:

- **Multiple Sponsors:** Proponents wanted a variety of entities to have the authority to issue charters (local school districts, neighboring school districts, educational service districts and universities). Local school boards said they should have final say over whether a charter school is established in their district.
- **Private School Conversions:** Proponents wanted private schools to have the option to convert to charter schools. Opponents warned that existing private schools would simply change to charter and tap public school funding, leaving public schools to educate the same number of students with less money.
- **Certified Teachers:** Proponents, believing that charter schools should be free of regulation, supported giving charter schools complete freedom in choosing teachers. Opponents said all charter teachers should have either an Oregon teaching certificate or an alternative license.
- **Union Membership:** Proponents favored giving charter schools freedom to determine their relationships with the teachers union. The governor and Oregon Education Association said teachers should be covered by collective bargaining contracts.
- **State Education Standards:** Proponents wanted to give charter schools freedom from all regulation. This was challenged by supporters of the reforms enacted in Oregon's Education Act for the 21st Century, as well as those opposing charter schools on other grounds.

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In the effort to get charter school legislation passed, proponents accepted major compromises. The result, as will be seen later, is a measure with many provisions that fall short of the ideal pursued by charter school advocates.

3. The Substance of Oregon's Charter School Law

S.B. 100, a charter school bill, was passed and signed into law by the Governor on May 29, 1999. The legislature was clearly divided on whether to approve the law, the deciding factor that put the measure over the top was the desire to provide Oregon communities access to the federal grants available to initiate charter schools.

The law defines a "public charter school" as "an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant and operating pursuant to (the Oregon charter school law)." ²⁶

The law:

- Allows charters to be fully autonomous (must be nonprofit, 501(c) (3) public charities) ²⁷
- Allows an unlimited number of charters. (Although no more than 10 percent of the students in any district may attend charter schools, this restriction will be eliminated on January 1, 2003).
- Allows conversion of existing public schools with the consent of the local school board.
- Allows appeal and alternative sponsorship. Denials of charter applications may be appealed to the state board of education (whose members are appointed by the Governor). If the state board is unable to mediate the dispute, it may then grant the application itself and assume sponsorship of the charter school. If the state school board denies the application, the applicant may seek judicial review.
- Allows charter school directors, employees, and sponsors to enjoy the same immunity from civil lawsuits enjoyed by school district board members.

²⁶ ORS 338.005 (2).

²⁷ <http://www.heritage.org/schools/99/oregon.html>.

- Allows charter schools to become separate bargaining units. (Charter school teachers may choose the same union as other teachers in the district, a new union or no union).
- Requires annual financial audits and sponsor site visits.
- Offers charter school teachers the same retirement benefits as other public school teachers.
- Asks districts to pay charter schools their share of state funding within ten days of the district's receipt of the funds from the state.
- Allows charter schools to hire the most qualified teachers available, regardless of certification, as long as at least 50 percent of the faculty hold state teaching certificates.
- Allows a charter school to contract with a for-profit corporation to operate the charter school (allows for-profit charter management companies such as the Edison Project) .²⁸
- Creates a charter school development fund to help charter schools with their start-up expenses. Charter schools serving "at-risk" students are given priority.
- Offers "performance-based" charter schools blanket waivers from most of the "compliance-based" Oregon Education Code, except those provisions directly related to health, safety, civil rights, public records, public meetings, and academic standards, testing, and seat time.
- Gives the state board of education the power to waive any requirement of the act if the board determines that the waiver would, among other things, "enhance the equitable access by underserved families to the public education of their choice."²⁹
- Prohibits school districts or the state board of education from waiving their right to sponsor charter schools as part of a collective bargaining agreement.
- Allows local school districts to deny charter school applications if they find that "the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality

²⁸ Opinion 8273 of the Oregon Attorney General (Sept. 13, 2000).

While the Board can waive provisions of the charter school law, it can't waive many other provisions of law. These include federal laws and regulations, public records law, the public meetings law, the municipal audit law, laws relating to criminal records checks, laws relating to free use of textbooks, limits on what tuition can be charged for and how much, laws preventing discrimination, tort claims, health and safety statutes and rules, the statewide assessment system (testing and CIM/CAM), Common Curriculum Goals in mathematics, science, history, geography, economics, civics, English and physical education, instructional time required during a day or year, and prohibitions on corporal punishment. (See ORS 338.115).

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of the public education of students residing in the school district in which the public charter school will be located.³⁰

- Allows local school districts absolute veto power over any applications to convert an existing public school to a charter school.

The law does not:

- Guarantee charters equality of funding. K-8 charters must receive at least 80 percent of their per-pupil funding from the state and local education agency while high schools (9-12) must receive at least 95 percent. However, if the state board of education sponsors a K-8 charter school, the charter school shall receive at least 90 percent of per pupil funding.³¹
- Allow non-religious private schools (such as Montessori schools) to convert to charter schools, regardless of community support.³² (Religious private schools also are excluded from conversions,³³ as required by the state and federal constitutions.)
- Prohibit for-profit corporations from operating charter schools.

In addition, charter schools cannot assume responsibility for a child's special education needs without the prior permission of the child's school district. However, the parents of special needs children may enroll their children in a charter school. If they do, the child's school district retains the financial responsibility for providing all required special education services (unless the district specifically contracts with the charter school or some other service provider to assume that responsibility).

The criteria to be used in deciding whether to approve a charter school include **(a)** demonstrated sustainable support, **(b)** demonstrated financial stability, **(c)** capability to deliver comprehensive instructional programs, **(d)** delivery of comprehensive instructional programs to low achievers, **(e)** adequacy of information required by the application, **(f)** whether the value of the charter school is outweighed by the adverse impact on the district's students, **(g)** existence of arrangements for students with disabilities, and **(h)** provisions for student, teacher and employee transfers out of the charter school.³⁴

³⁰ (Section 7 (2) (f)).

³¹ In fact, the situation is much more complex, and charter schools receive a much smaller percentage of public funds compared to traditional public schools. We explain this in detail later in the report.

³² ORS 330.035 (1).

³³ ORS 338.035 (7).

³⁴ ORS 338.055 (2).

If an applicant is approved, the district becomes the sponsor of the public charter school, and issues a charter for the applicant to operate a school.³⁵ The charter shall be for a period not to exceed five years. Annual reports on performance of the school and its students are required. A yearly site visit and review of the charter are required, along with an annual financial audit.³⁶

Measured against the key points of dispute listed above, the legislature came out as follows:

- **Multiple Sponsors:** Only public school boards and the state Department of Education can issue charters, and the state has indicated it would issue charters only very reluctantly.
- **Private School Conversions:** Existing private schools cannot convert to charter schools.
- **Certified Teachers:** In a compromise, only 50 percent of the teachers in a charter school must be certified.
- **Union Membership:** Each charter school and its teachers are free to determine whether its teachers will be union and, if so, who will represent them.
- **State Education Standards:** Charter schools remain subject to many state and federal laws and regulations. These will be described more fully in a later section of the report.

4. Is Oregon's a "Strong" or "Weak" Charter School Law?

Your committee heard from different witnesses that Oregon's charter school law was either a "strong law" or a "weak law." A strong law is one that streamlines the chartering process, and leaves a charter school free from regulation, fully in charge of its program, and answerable to the chartering agency only for results. More charter schools are formed in states with "strong" laws. Wyoming and New Hampshire are examples of states with "weak" laws having no charter schools in 2001, six years after they enacted charter school legislation.

The Center for Education Reform published, in October 2001, a comparison of the charter school legislation and programs of states, ranking them from strong to weak. Criteria, which were weighted equally, included factors like number of agencies authorized to issue charters, degree of legal and operational autonomy, fiscal autonomy, and per-student funding for charter school students compared to public schools.

³⁵

³⁶ORS 338.055(2).

ORS 338.065(1).

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States were ranked from A (strong charter school law) to F (very weak law). Seven states were ranked A, 13 were given B, 11 were C, six were D, and there was one F. Oregon ranked 16th of the 38 entities rated (37 states and the District of Columbia), and earned a low B. Criteria that reduced Oregon's score included the small number of chartering agencies (only school districts and the state), its very limited waiver from state and district laws, its low per-student funding, and limited fiscal autonomy. Oregon received high ratings for few restrictions on who may apply for a charter and for not requiring burdensome evidence of local support.

5. Funding of Charter Schools in Oregon

Background: Oregon Public School Funding

Despite the charter school's provision of at least 80 percent of per-pupil funding at the K-8 level, and 95 percent at the 9-12 level, two of our witnesses (one strong proponent of charter schools and one strong opponent) stated that in the final analysis the per student funding received by charter schools was much lower than for traditional public schools. One of our committee members researched this issue and returned the surprising finding that Portland charter school students receive barely more than half the public funding level paid for students attending traditional public schools.

In Oregon, public schools - and the charter schools that public school districts charter - derive almost all of their operating revenue from a mixture of local property taxes and state funds pursuant to a legislatively mandated formula. The formula adds together local levy tax resources and State resources to provide an equal per student operating resource level among the State's 198 school districts. This amount available to each district is called its "General Purpose Grant." While this uniform, equalized approach appears straight forward, additional technical considerations make it significantly more complex in practice. For example:

- The formula does not count all students in the same manner as it works its arithmetic magic on local funding. Certain students are counted, or "weighted," as though they were more than a single student because they have "high cost" characteristics (for example, students whose primary language is not English, pregnant teenagers, or students with severe physical or mental handicaps). The impact of this weighting is not trivial. In Portland, the weighted per-student factor, or "weighted daily average membership" (ADMw),

results in an increase in the General Purpose Grant amount of more than 25 percent from its unweighted levels. Further, the proportional distribution of "high cost" students is not uniform across the state or across the Portland metropolitan area.

- The General Purpose Grant formula does not allocate state and federal categorical resources, which are available only for specific programs and cannot be used for general, unrestricted programs. These can be substantial; for Portland Public Schools they supplement the effective level of general fund resources by approximately 15 percent.
- Certain school district activities such as paying the capital cost of school buildings and other long-lived assets, internal service activities (insurance, retirement, etc.) are typically treated separately from the general instructional, operating and administrative activity paid from categorical grants and the General Purpose Grant. These activities are also financially significant. In Portland, they collectively account for about eleven percent of the total annual budget. While most of these budget obligations have been established by contract and the revenues associated with them cannot be flexibly redeployed over the near term, the operating assets which they are associated with - school buildings for example - are not generally made available to charter school operators.

This complex approach to school district funding and budgeting would not be relevant to a discussion of charter schools in Oregon if charter schools were free to capture these resources (more or less) pro rata with charter school enrollment. However, this is far from the case.

Impact of SB100 and Funding Formulas on Charter Schools

Oregon's charter school law (SB100) includes a "minimum" funding level of 80 percent of the district's ADMw for grades K-8, and 95 percent for grades 9-12, based on weighted average enrollment. To date these minimum funding levels have also been the actual funding levels.

But as we noted above, school districts receive other significant resources that lie outside the General Purpose Grant formula. For selected Oregon districts the table below compares total budgeted school district operating revenues, total student enrollment as of October 2001, enrolled student operating resources per student, and the minimum amount a charter school must receive per student (once again, this minimum, in practice, is the amount actually received).

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The Budget and enrollment data below are from Oregon Department of Education. The Legislative Revenue office estimates that the General Purpose Grant per enrolled student in Oregon will be about \$5,297 in the 2001-02 fiscal year.

| Total Budgeted Operating Resources and Enrollment Compared to Charter Funding Minimums For Selected School Districts - 2001-02 Fiscal Year | | | | |
|---|-----------------------------------|---------------------------------|-------------------------------------|--|
| | Budgeted Operating Revenue | Enrollment as of 10/1/01 | Per Capita Operating Revenue | Charter Minimum Per Capita Funding As A % of Per Capita Revenue |
| Portland | \$461,563 | 50,747 | \$9,095 | 55% |
| Beaverton | 233,878 | 34,058 | 6,867 | 73% |
| Roseburg | 45,765 | 6,775 | 6,755 | 74% |
| Cottage Grove | 21,146 | 2,826 | 7,483 | 67% |
| Lincoln Co. | 49,192 | 6,385 | 7,704 | 65% |

We see that the funding formula in SB100 delivers to charter schools a per-student amount much lower than that received by traditional public schools. In Portland, charter school students are paid 55 cents for every dollar expended for other public school students. This difference persists whether or not the calculation is made using weighted or unweighted measures of enrollment in the conventional public schools. The magnitude of the gap varies somewhat from district to district and is especially severe in Portland.

It is clear that a significant part of this higher resource level is not "liquid." However, this part may represent some assets that can be made available to charter school programs. For example, buildings owned by a school district but not fully utilized could be made available to a charter school by charging only the cost difference between leaving the building vacant and opening it to the charter school. Indeed, one Portland charter school has had to delay its opening a full year because its arrangement for a building fell through, (and may again be unable to open for the coming year) while Portland Public Schools is wrestling with disposal of its excess buildings. Still, the district declines to make space available at rates lower than they can receive from commercial sources.³⁷

³⁷ See Section V. 6.

If a school building can be shared between a traditional public school and an alternative school, it can also be shared between a traditional public school and a charter school. Utilities, libraries, lunch facilities, transportation can all be shared. These are all public school students, and eligible to share these resources.

The Portland School Board has clearly stated, on a number of occasions, that charter schools will have access to the district's surplus buildings only on payment of a rental rate that goes well beyond meeting out-of-pocket costs.

Many sources of federal money come into the district, and represent part of the substantial gap between public funding for traditional public schools and charter schools. Portland Public Schools makes none of these funds available to its charter schools except when regulations specifically require it, which is seldom. The school district correctly points out that the charter schools are eligible to receive grants³⁸ under the federal charter school legislation, but all federal funds received by Oregon charter schools to date have funded planning rather than sustained operations.

Sharing transportation facilities, cafeteria services, janitorial services, and many other types of services³⁹ could further offset this difference, if agreements were to provide that charter schools would pay only out-of-pocket costs incurred by the district to provide these. It would cost the district little to enable charter schools to benefit from the district's volume purchasing of supplies and services. As mentioned earlier, however, school districts with declining student enrollments have strong financial incentives not to give up students to charter schools. Consequently they are motivated to insist on agreements where charter schools also contribute a substantial portion of the fixed costs, often not reflecting current cash outlays.

We further note that the state allocation specifies a minimum level of funding. There is nothing preventing districts from rising above these levels when special conditions make such an allocation appropriate (for example, the district recognizes a need to provide a more equitable level of support to charter schools).

This fact has not been lost on charter school advocates, who question its fairness. In order to have per student funding anywhere close to levels available in traditional public schools, a charter school must have an aggressive and successful fundraising program. Meanwhile the Portland Public School Board and administration show little

³⁸ "Authorizes \$300 million in federal funds to states and local communities to help fund charter schools. Authorized \$150 million for the Charter School Facility Demonstration Project, which encourages schools and states to develop innovative approaches to funding charter school construction and infrastructure needs." White House Fact Sheet on No Child Left Behind Act. Including assistance in seeking funding from the new federal grant programs listed above.

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interest in going beyond the minimum level of cooperation with charter schools required by state law.

Not all Oregon districts follow this path. For example, the Salem-Keizer district⁴⁰ reports that it seeks to fund all district schools—standard, alternative and charter—on a consistent and equal basis. The Salem-Keizer funding formula:

- *Sums all available operating sources for schools,*
- *Deducts certain district-wide expenses (board, superintendent, assessment and testing, etc.)*
- *Deducts an allowance for utilities and building maintenance (only if the school in question uses district owned space)*
- *Divides the result by the total enrolled population of the district*
- *Allocates the resulting per capita funding to individual schools based on school specific enrollment.*

The district reports that this formula results in a charter school funding amount significantly in excess of state law minimums. The Salem-Keizer district also has provided one time, three-year supplemental funding to a charter school that was faced with securing its own facilities. The district and its charter schools have also arranged to carry most charter school employees on the district's own payroll (i.e., the charter staff are employees of the district and not of the charter school), to free the charter schools from having to support a payroll function without compromising their independence.

6. Charter Schools in Oregon and Portland

Twelve charter schools operated in Oregon in the 2000-2001 school year. The schools were spread across nine counties, all west of the Cascades. As of July 2001, sixteen schools were expected to be operating in fall 2001.

Some are based on progressive philosophies (Montessori and Opal School), some are back-to-basics, some serve at-risk students, and some small districts seek to keep from losing their community school to district consolidation.

⁴⁰ July 2, 2002 telephone interview with Ron Turner, Director of Fiscal Services, Salem-Keizer School District. The district has two charter schools in 2001-2002 and anticipates adding three more in 2002-2003.

The U.S. Department of Education provided the Oregon Department of Education with \$6 million to disburse as planning grants over the three-year period 1999-2002. Charter schools in Oregon are eligible for grants from the state of \$255,000 over about three years for planning and implementation. The first of three grant phases, \$25,000, can be used by charter applicants to develop their charter application and curriculum and to take the applicants through the process of seeking school district approval and negotiating a charter.

After charter approval, another \$150,000 becomes available. This grant can be used for planning and design of program, professional development of staff, informing the community about the school, buying equipment and educational materials, and some limited other initial operational costs. After two years of operation, another \$80,000 becomes available for "ongoing implementation."

The Oregon Department of Education has been modestly supportive of charter schools. They have awarded 41 planning grants for proposed schools. They provide a full-time staff position to coordinate charter school activity and provide basic information on the Department's web site.

7. Charter Schools for At-Risk Students

Portland Public Schools recently adopted a set of benchmarks for charter schools.⁴¹ Citing the No Child Left Behind Act of 2001, they specify that all charter schools should only be benchmarked against performance of the entire student population. This would preclude future applications such as McCoy Academy and Rose City School.

The district feels that all schools wanting to serve at-risk students should apply to the district for status as an alternative school, not as a charter school. They cite the differing laws authorizing charter schools and alternative schools as a justification for this position.

Your committee sees no such distinction. We agree that Oregon's alternative school legislation, enacted first, controls programs directed to at-risk students. But the later Charter School legislation was not intended to exclude alternative school programs. Indeed, startup charter schools serving at-risk student populations are given priority for state funding under the Oregon Charter School Law.⁴² Nationally, the U.S. Department of Education reports, one of four charter schools established their charter "to serve a special population of students, often students considered 'at-risk.'"⁴³

⁴¹ "Portland Public Schools-Charter School Benchmarks", PPS, undated.

⁴² ORS 338.185.

⁴³ The State of Charter Schools 2000, U.S. Department of Education, p. 42.

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8. Political Fallout for Portland

In the heat of a partisan 1999 legislative battle, legislators supporting the charter schools bill perceived that Portland Public School District 1 was active in efforts to prevent passage of the measure. During that session, the strongest proponents of charter schools also resisted funding to public schools. Between the 1999 and 2001 sessions House Education Chairman, Ron Sunseri, R-Gresham, was quoted as saying most districts were making an effort to implement the law, but criticized those who were not.⁴⁴ His committee heard testimony about resistance to the new legislation, with Eugene and Portland school districts specifically mentioned as having introduced procedural or financial barriers to charter school applications. The report also mentioned the urging of the Portland Association of Teachers that the district require 100 percent teacher certification, as opposed to only 50 percent required by the law.

To the extent that Portland Public Schools and the Portland Association of Teachers persistently behave in a manner which is interpreted by the present leadership of the Oregon legislature as resistant and obstructionist to charter schools, the District and its teachers may be making more enemies and doing more damage to themselves in the educational funding wars than is appreciated.

9. Educational Service Districts

Oregon's Educational Service Districts (ESDs) are regional agencies chartered by the state that offer services more economically provided over a geographical area that includes multiple school districts. They deliver education-related services to school districts (and other local agencies such as courts and human resource agencies) within their boundaries.

ESD services include curriculum support, program evaluation, media and technology support, transportation and delivery services, support for federal or foundation grant proposal preparation, and early childhood education.

The original charter school legislation did not address services that ESDs should provide to charter schools. Calls to the three ESDs serving the Metropolitan area in 2000 indicated that this question had not yet risen to the policy level. In general, they felt that charter schools, as publicly funded K-12 schools, would qualify to receive

⁴⁴*The Oregonian*, "Charters Claim Unfair Treatment," (date unknown).

services. Multnomah ESD, with a formal allocation of services by school district, indicated that credits would go to charter schools to the degree that the chartering school district chose to allocate from its share of credits.

The situation was clarified by the 2001 legislature. The law now provides "A public charter school may receive services from an education service district in the same manner as a nonchartered school district in which the public charter school is located."⁴⁵ Presumably Multnomah ESD's requirement that the relevant school district release credits from its allocation would still apply.

10.Ore on Public School Legislation-Legal Thickets and Dead Wood

Charter school advocates propose that charter schools be freed from overlapping, contradictory and stultifying statutes, rules, regulations and accepted practices. They propose to do this by making charter schools responsible for educational results, and not for complying with specified teaching methods. Opponents say that if there is dead wood, it should be removed and all schools freed from it.

We earlier outlined a school reform pendulum that constantly swings between the goals of equity and competition. Each time a "new approach" attains political popularity, programs that support the approach are enacted into law, rules are written, and new required practices are introduced in schools. These have built up over the years, and nobody prunes the excess through repeal.

One author highlighted New York City as an outstanding example of this. "The interactions of attempted reforms in governance in New York City produced a complexity in decision making that only Rube Goldberg could appreciate. Far from being either an efficiently centralized system or a fully decentralized one, the New York district illustrates how successive reforms over time have produced the 'fragmented centralization' found in many districts today."⁴⁶ They point out: "In 1890 there was, on average, one staff member in state departments of education for every 100,000 pupils; in 1974 there was one for about every 2,000. Regulations ballooned: in California the state education code took about two hundred pages in 1900, in 1985 more than twenty-six hundred."⁴⁷

In Oregon law we found examples of such statutory dead wood. One example is "seat time." Graded schools became the pattern after the civil war. Around the turn of the 20th century the Carnegie Foundation

⁴⁵ORS 338.115.

⁴⁶Tyack and Cuban, "Tinkering Toward Utopia," p. 78.

⁴⁷Ibid p. 19.

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for the Advancement of Teaching gathered key college presidents together to develop what came to be called a "Carnegie Unit," defined as a unit of credit for spending a set period of time in a class room for five days a week during the academic year. This became known as "seat time." Out of this came grade-by-grade promotion, upon a showing of competence in the subject matter taught at that grade and in that unit.

One of the unintended consequences of this set of requirements is "social promotion". Students who failed grade were forced to repeat the entire year. Multiple repeated years left students with younger and less emotionally mature classmates, leading to discipline problems and classroom disruption. The "solution" was to promote students despite their lack of grasp of the material needed to achieve success in future academic years. In time this led to some high school graduates who were functionally illiterate and ill prepared to enter the workforce.

In Oregon, state law requires seat time.⁴⁸ The State Board of Education is given the responsibility to establish state standards for primary and secondary schools.⁴⁹ Thus, for all Oregon public schools it requires a minimum set of instructional hours for various grades, kindergarten - 405 hours, grades 1 to 3 - 810 hours, grades 4 to 8 - 900 hours and grades 9 to 12 - 990 hours. Within this framework, district school boards are given discretion to fix the days of the year and hours of the day when schools shall be in session. A district school board may alternatively set up a 12-month program, and may compel the student to attend the entire year.

In SB100 (the Oregon Charter School law) the Oregon legislature supposedly allowed charter schools to cut through burdensome requirements. However, charter schools are still bound to many laws and regulations, including: "the statutes and rules that shall apply to the public charter school; . . . (and) the proposed school calendar for the public charter school; including the length of the school day and school year: . . .".⁵⁰ Notwithstanding the noble sentiment, seat time is still required, even for charter schools.⁵¹

If the problem is "social promotion" and the cause is "seat time", then charter school proponents have a point in questioning why we tinker with the rules and regulations that govern education rather than insisting on results in student performance. The trend toward

⁴⁸ ORS 336.012.

⁴⁹ ORS 326.051(1) (a).

⁵⁰ ORS 338.045(2)(L) and (o) and 338.115(1)(n).

⁵¹ Portland School Board, draft policy on charter schools, section on requirements of charter schools to meet public laws, subsection N. (September, 2000).

measurement and standards reflects this trend-but seat time is still required. If charter schools must comply with encrusted rules like this, is it reasonable to expect them to break out of the mold set many years ago?

Another example has to do with changes to the core curriculum. Two major factors shaped the standard curriculum. In the time of Horace Mann in the late 1800s the common school was supported so everyone could learn to read the bible for him or herself. Then college presidents, in order to assure more standardized entry level skills for their institutions, structured a set of curricular requirements for high schools about the turn of the 20th century. Because educators realized that not all students were college bound, the vocational education movement was engrafted to the core K-12 curriculum in the 1920s and special education in the 1970s.⁵²

In Oregon the talented and gifted programs were added to the state's requirements in 1959, and state funds were to flow to the districts for implementation.⁵³ Then, a major reform occurred in 1987 with the creation of the Alternative Education Programs law.⁵⁴ This highly flexible law required school boards to "maintain learning situations that are flexible with regard to environments, time, structure and pedagogy."⁵⁵ The Portland district's Chet Edwards told us that this program is flexible enough to handle the creation of charter schools without additional legislation. While the Portland district's alternative schools are indeed very similar to charter schools, the district has failed to meet demand for these popular programs, as can be seen from the long waiting lists.

Even with the above programs, the legislature determined that there wasn't enough emphasis on academic achievement, and in 1991 it adopted the Oregon Education Act for the 21st Century. In this act the legislature defined the goals of public education, K-12 as (1) to demand academic excellence, (2) to provide a motivational environment, and (3) to provide lifelong academic skills.⁵⁶ It is this law that establishes the certificates of initial mastery (CIM) and certificates of advanced mastery (CAM).⁵⁷

Onto this plethora of laws, goals and requirements, the legislature added as an independent and un-integrated program the charter schools law of 1999. Its legislative intent is to enable the taking of "responsible risks to create new, innovative and more flexible ways of educating children within the public school system."⁵⁸ The nine

⁵² Tyack et al, supra, at 54.

⁵³ ORS 343.391 et seq.

⁵⁴ Now ORS 336.615 et seq.

⁵⁵ ORS 336.625 (1).

⁵⁶ ORS 329.015 (2).

⁵⁷ Now ORS 329.465 and 329.475

⁵⁸ ORS 338.015.

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specified goals of the law are to increase student learning, increase choices, better meet students' academic needs, build stronger parent-educator relationships, encourage innovation, provide duplicable small learning environments, create new professional opportunities, establish additional accountability for schools, and create innovative measurement tools.⁵⁹

In the course of evolution, there has not been a significant effort to repeal, modify, or integrate previous legislation of the public school curriculum in Oregon.

The solution charter school advocates suggest is to cut through these overlapping requirements by freeing charter schools from them. However, the charter schools law still requires the equivalent of seat time and requires the standard performance measures of the current educational requirements system. Further, if the core curriculum is not addressed by the charter school in some manner, then the performance measures, which are mandated for charter schools as well as for traditional public schools, cannot be met. If we are gambling on "new" programs from charter schools to provide better results, then there is a question about how many of the "standard" parts of the current system should be retained.

The elimination of overlapping programs and integration of any reform, in this case charter schools, needs to be a legislative goal. Charter school opponents have a good point when they say that charter schools should not be alone in receiving relief from outdated and overlapping laws and regulations.

⁵⁹ Id.

VI. PORTLAND SCHOOL DISTRICT NO. 1

A. OVERVIEW

Having examined charter schools nationally and provided background information about Oregon's charter school legislation, its history and its impacts, we next turn our attention to the Portland Public Schools. Between 85 and 90 percent of school age children in Portland are educated in public schools. In the 2000-2001 school year, PPS served about 54,400 children⁶⁰ in 94 schools. Private schools located within the Portland city limits served about 8,900 students. About 1,000 students who live in the PPS district are home schooled.

Public schools in Portland traditionally have enjoyed relatively strong public support and a reputation for generally good education. Some say this support arises from the high percentage of families who have children in the public school system. In contrast, public school districts in many other large and medium size cities have experienced significant drops in enrollment as parents—often middle and upper income—lose confidence in the public system and move their children into private schools.

Enrollment in PPS is gradually declining. A 2000 Portland State University (PSU) study⁶¹ attributed the decline to a reduction in the rate that children are entering kindergarten and early elementary school grades (resulting from a reduction in the number of births during the 1990s), and an increased number of families with children moving out of the district. They found that these factors were partly offset by addition of several thousand foreign-born students.

A more recent report from PSU⁶² gives a more disturbing explanation. Analyzing 1990 and 2000 census data, the study found that the percentage of school-age children enrolled in Portland Public Schools declined from 85.8 percent in 1990 to 83.5 percent in 2000. Further, the decline was sharpest in the city's most affluent areas—Portland's west side and a large area of Northeast Portland. In Southwest Portland enrollment in public schools dropped nearly 10 points, to 73 percent. In West and Northwest Portland the decline was 8.6 percent, to 71.1 percent. In contrast, north, inner southeast and outer northeast areas showed little change in percentage of children attending public schools and in the outer southeast, with an increased number of immigrant families, percent of children attending public schools actually increased from 84 percent to 90 percent.

⁶⁰ The difference between this and the earlier number are a consequence of 1) a different school year and 2) different measurement periods (enrollment for a single day early in the school year vs. cumulative enrollment over the period of a year).

⁶² Edmonston, June 26, 2000.

Todd Murphy, "City's Leaders Fear Trend Will Hurt Public Schools," *Portland Tribune*, February 19, 2002.

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Molly Huffman, author of a popular directory of preschool to high school education options in the Portland area, reported that from 1996 to 2000, the number of private schools in Portland increased from 13 to 30. At the same time, enrollment in PPS dropped by 1,100 students. She cautioned that this growth may indicate that parents may be beginning to move away from public schools in response to years of funding and program cuts. Huffman believes that some parents move their children to private schools because the schools are smaller, the class sizes are smaller, and parents believe the teachers are better.

B. WHAT DO PEOPLE SAY ARE THE PROBLEMS WITH THE EXISTING SCHOOL SYSTEM IN PORTLAND?

In order to identify "what people say are the problems with the existing school system in Portland," your committee compiled a list of criticisms we heard from various witnesses and in our readings. We heard, or read, the following **major criticisms**:

- *Students from minority and low-income families suffer from a major achievement gap compared to other students.*
- *A strong central administration prevents independent decision-making and frustrates site-based governance.*
- *The administrative culture of Portland Public Schools resists change, fails to recognize and reward excellence, and accepts substandard results.*
- *teachers union policies and actions create a change-resistant culture which leads to lackluster performance.*
- *The administration and teachers union have formed a de facto alliance to maintain the status quo. Sustaining the money flow gets more attention than improving educational outcomes.*
- *While the Portland Public Schools has a good and diverse set of alternative school programs, these are poorly publicized, oversubscribed, and seldom expanded or replicated.*

To the extent that these relate to charter schools (and to alternative schools, the nearest analog within the existing public school structure), we discuss them in detail in the following sections.

C. EVIDENCE OF FAILED STUDENTS IN PORTLAND SCHOOLS

Why have Oregon's major educational reforms not satisfied critics of the system? Why do we ask schools trying to digest these changes to accept still more reforms? One answer lies in a minority of students whose needs clearly are not being met by the present system.

In Oregon, student performance and achievement are improving but they continue to generally fall well short of adopted State benchmarks,⁶³ especially in higher-grade levels.

Over the course of the decade, more students met or exceeded reading and math benchmarks at every grade level tested, and improvement in early grades has been significant. In 2001, the percent of students meeting reading state performance standards increased in all grades except 8, which dropped two percentage points from 2000 scores. In 2001, the percent of students meeting math state performance standards increased over year 2000 in grades 5 and 10, remained the same at grade 3, and decreased by one point in grade 8.⁶⁴

The National Assessment for Educational Progress tests students at the fourth and eighth grades. Oregon fourth grade students are at or below average in reading and math, but eighth grade students are at or above average. Our students continue to best the national average in Scholastic Aptitude Test (SAT) scores and consistently score favorably in an international comparison of student achievement in math and science (TIMSS).

⁶³ Levels of performance established in reading and mathematics at grades 3, 5, 8 and 10. There are three levels identified: basic, proficient and advanced. According to the Department of Education, "schools use information about the percent of students in each category to analyze their instructional programs and plan improvements." (www.ode.stat.or.us/asmt/results/1998/apalysis.htm).

⁶⁴ Oregon Department of Education - Highlights from the 2001 Assessment. August 2001. <http://www.ode.state.or.us/asmt/results/2001/highlights.htm>.

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RESULTS OF EDUCATION REFORM IN OREGON

| Indicator | Beginning of Decade | 2001 |
|--|---------------------|-----------------------------|
| Oregon Reading Benchmarks | | |
| Percentage Meeting Minimum Standards | | |
| 3rd Grade | 52% | 84% |
| 5th Grade | 51% | 77% |
| 8th Grade | 40% | 62% |
| 10th Grade | 31% | 52% |
| Oregon Math Benchmarks | | |
| 3rd Grade | 35% | 75% |
| 5th Grade | 47% | 73% |
| 8th Grade | 40% | 55% |
| 10th Grade | 34% | 42% |
| SAT | | |
| Average Scores | | |
| Verbal Scores | 506 | 526 |
| Math Scores | 514 | 526 |
| TIMSS⁶⁵ 8th Grade Math | — | 514 (World=487) (US=502) |
| TIMSS 8th Grade Science | — | 536 (World=488) (US=515) |

Adult poverty levels are directly related to educational level (e.g. less than 5% of Ph.D.s live in poverty contrasted with more than 35% of those who have only an eighth grade education). Our economy has

⁶⁵ TIMSS 1999 Benchmarking Highlights, published April, 2001.
http://www.timss.org/timss1999b/pdf/t99b_highlights.pdf

become increasingly hostile to uneducated workers. There are few high paying jobs awaiting the high school dropout. Nevertheless, nearly one third of Oregon students who enter high school fail to graduate.

The problem is more severe for the poor and minorities. According to research by the Manhattan Institute for Policy Research published in November 2001, one-third of all Oregon high school students and more than half of African American and Latino teens fail to earn a diploma.

Sixty-seven percent of state students overall graduate compared with 74 percent nationwide, putting Oregon in the bottom 20 percent of states. Nationwide, 56 percent of African American students and 54 percent of Latinos earned diplomas in 1998. The percentages are worse in Oregon, where 49 percent of African Americans and 43 percent of Latino students earned diplomas.

The results underscore an achievement gap that's tantamount to racial and class segregation according to Ron Herndon, co-chairman of the Crisis Team, a group of activists representing minority and low-income children in Portland schools.

"There is one system for the affluent, and another for the poor," Herndon said. "They systematically ensure that poor kids get the least experienced teachers . . . If this is not child abuse, I don't know what is. No one does anything about it."⁶⁶

If we look beyond dropout rates and ask how poor and minorities fare in receiving a quality education, the national situation is grim. Based on the federal government's annual assessment, "the average scores of black students have remained well below those of whites. For black 17-year-olds, the average scores in reading and math are about the same as those of 13-year-old white pupils. In science, 13-year-old white students actually scored higher than 17-year-old black students. The worst achievement divide was in science, a situation with troublesome implications for blacks, given the new high-tech economy."

Even a poor or minority student who makes it to high school graduation may end up with little more than an 8th grade education. "Their teachers are less qualified and their course work is less rigorous," said Kati Haycock, director of The Education Trust in California. "Put these factors together and, of course, you get lower test scores."⁶⁷

In Portland, the story is similar. The schools with the weakest assessments are those who serve the higher percentages of poor and

⁶⁶ *The Oregonian*, 11/13/01, Bill Graves, "One-Third of Teens in State Don't Graduate.."

⁶⁷ *Los Angeles Times*, August 25, 2000. "Student Scores Stalled in 90's in Two Key Areas."

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minorities. Jefferson High School, in the center of Portland's highest concentration of minority students, received one of the few failing grades in the first round of state assessments of schools. A district-wide look at 10th grade students who have met benchmark shows a clear pattern based on ethnicity:

| | African American | Hispanic American | American Indian | European American | Asian American |
|----------------|-------------------------|--------------------------|------------------------|--------------------------|-----------------------|
| Reading | 20% | 24% | 37% | 63% | 39% |
| Math | 13% | 11% | 28% | 51% | 43% |

There is also a vicious cycle at work here. One of the leading reasons given for dropping out of high school was the student had "fallen behind." ⁶⁸ In June of 1999, the situation was alarming enough for the Community Monitoring Advisory Coalition to treat it as a crisis and "the Coalition launched an ambitious effort [known as the Education Crisis Team]... to boost ailing student achievement at 14 Portland schools with predominantly low-income and minority enrollments." ⁶⁹

The coalition has the numbers to back up their claims that poor/minority schools are systematically disadvantaged. Humboldt Elementary, with almost 94% low-income students, has teachers averaging 7.11 years of experience while teachers at Maplewood School with 16.6% low-income students average 24.61 years. ⁷⁰ Teachers with less experience receive lower salaries. Humboldt teachers average \$35,691 while Maplewood teachers average \$50,984. Teaching resources are allocated to schools based on FTE, not on dollars. Therefore, Humboldt receives only \$713,820 to pay 20 teachers while Maplewood receives \$1,019,680. The poor/minority schools also have far more teachers teaching outside his/her field of expertise.

The trend is clear both nationally and locally. Even as we struggle to improve the performance of our students, poor and minority students continue to be at a disadvantage. It is this failure that gives greatest ammunition to advocates of equity in educational reform.

In its criticism of Portland Public Schools, the Crisis Team came to focus on Superintendent Ben Canada. Hired in 1998 after a national

⁶⁸ Dropout Rates in Oregon High Schools 1999-2000 State Summary Report, Oregon Department of Education, March 2001, <http://www.ode.state.or.us/stats/students/9900drpt.pdf>.

⁶⁹ *The Oregonian*, June 23, 1999, "Activists Will Aid Lagging Schools."

⁷⁰ Crisis Team Report, November 8th, 2001. Uses data from the PPS 1999 report to the Legislature, data from the Oregon Department of Education, and data provided them by the PPS Research and Evaluation Department.

search, Canada became the target of criticism about time spent away from the district, controversial hiring choices, and struggles with the teachers union. His proposal to address budget problems by cutting 170 teachers was severely criticized. At the time of these criticisms, however, the school board continued to support him.

D. A CHANGE-RESISTANT CULTURE?

Advocates of educational competition paint public schools as bureaucratic and unresponsive to change. They charge that both the central administration and the teachers union resist change and maintain the status quo. Is this criticism fair?

The Central Administration

A number of witnesses, including both those who have been within the Portland Public Schools structure and those who have observed it from outside, indicated that a major barrier to change in schools is the educational bureaucracy. Those who are part of the central staff, while individually are often "enormously talented" and committed to the best interests of students, are often captive in a culture of indecision and unable to deliver concrete results.

According to these witnesses, the school district's corporate culture is very hierarchical and very deferential to authority. Even when there is agreement, everyone will leave the meeting all charged up and at the next meeting nothing has happened. There are always excellent reasons: we have no staff to work on it; it is too expensive, there is no money left. Activities are task force oriented, with many dropouts along the way. It is rare for someone to say, "what we are considering is a bad idea."

We heard about excellent principals with solid records of achievement who were promoted into this establishment and had their effectiveness swallowed up by it. These witnesses feel the culture can't deal with things that differ substantially from what has been done in the past. The culture, they said, fails to recognize and reward excellence. It is rare that a principal or teacher is publicly recognized for outstanding work, rarer still for someone to propose that what a teacher has done should be replicated in another school or classroom.

When we met with school district and school board representatives we heard, not surprisingly, a very different story. These were clearly "enormously talented" people who spoke of solid achievements.

More significant was the testimony of Connie Cheifitz, the mother responsible for starting da Vinci Middle School within the structure of Portland Public Schools. She told of seeing a sign posted by former

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superintendent Jack Bierworth soliciting innovative programs. She praised the district administrators who worked with her, coaching her over the steps required to get the school set up and running. She spoke highly of their commitment and dedication to starting an innovative new program.

While your committee lacks concrete evidence to reconcile these two views, we suspect both are correct. Though the culture appears to favor inaction and resist innovation, a dedicated and creative individual or exceptional proposal can find the support needed to succeed. The key is to work with key enablers in the district bureaucracy. In essence, the "enormously talented" individuals are capable of moving a very limited number of changes through the system's barriers to change.

One particular criticism of the PPS culture that struck your committee was the administration's reluctance to recognize and reward excellence. We sense this is true nationally and probably is nurtured by both bureaucracy and union regulations. Where excellence is recognized and rewarded, the potential arises for poor performance to be recognized and punished. This may be the single feature of the public educational culture that gives the most ammunition to its opponents.

The Strategic Plan

During the 1990s, the City of Portland regularly provided financial support to Portland Public Schools from the city budget. Concerned about the many criticisms heard about the schools, Mayor Vera Katz asked for a performance audit. In September 1998, KPMG Peat Marwick issued an audit report that was highly critical of the school board's leadership and direction, the district's inadequate strategic planning, and poor internal and external communications.

"The driving force behind any high-performing organization is a clear vision that communicates and translates policy into action. PPS has only tinkered with strategic planning through several disjointed activities... While commendable, these efforts have not been comprehensive or effective. PPS' stakeholders have not accepted nor supported [management's proposed Strategic Plan for Student Achievement]. School Improvement Plans are not linked to an overall PPS mission, vision, or objective, and the strategic planning efforts are not in sync with the budget. Nor are they evaluated based on a set of consistent performance measures. As a result, these plans do not provide the basis for effective resource allocation. This is due, in part,

to the lack of definable and measurable objectives PPS needs to pursue a coordinated and comprehensive strategic planning effort to determine its future direction and the allocation and best use of scarce resources."⁷¹

In response to the crisis, the Portland Schools Foundation (PSF) funded a broad strategic planning effort. Many people hoped that this would lead to an improvement in the culture, management and effectiveness of the school system. The process took 18 months and resulted in a Strategic Plan that was released in May 2000. Hundreds of parents, teachers, administrators and community leaders participated.

The plan offered measurable objectives. For example, "by 2005, 100 percent of our students will demonstrate significant growth every year toward achieving rigorous system-wide academic expectations." Strategies were outlined for achieving these objectives. These included:

- *Creation of a system-wide culture to reflect an ethic of service, excellence and respect.*
- *Partnerships with stakeholders (parents, students, staff, businesses, community organizations, local and state government, and the public) to achieve the objectives.*
- *Staff selection, support, and retention policies and practices to accomplish the objectives.*
- *Elimination of the achievement disparity of low income, minority, and English language learners.*
- *Flexibility for each school and department to develop and implement a plan to meet the objectives, and accountability for meeting the objectives.*
- *System-wide standards for student achievement and the means to assess them at each school.*
- *A commitment not to initiate any new program or service unless it is consistent with the objectives and is accompanied by an assessment plan to determine whether these are met.*

A year of turmoil followed completion of the plan. Many critics inside and outside Portland Public Schools saw no fundamental change in the district's leadership and culture. The Portland Schools Foundation and community leaders finally called for the resignation of Superintendent Ben Canada, which was announced in May 2001. The PSF and others hope the new Superintendent will proceed with implementation of the strategic plan.

⁷¹ KPMG Executive Summary.

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The Teachers Union

Most teachers belong to a three-tier affiliated group of professional organizations. The National Education Association (NEA) has affiliates in each state, including the Oregon Education Association (OEA) in Oregon. Most teachers belong to these and to a local affiliate in Portland, the Portland Association of Teachers (PAT). Some choose not to join these organizations, but still must pay dues to support the costs of collective bargaining for union contracts since they theoretically benefit from the outcomes.

The NEA and OEA lobby for teachers on educational legislation on the national and state levels, respectively. PAT is the collective bargaining agent for all Portland teachers and counselors.

When the concept of charter schools was first proposed, teachers union leaders hailed the idea. Albert Shankar, former president of the American Federation of Teachers (a rival to the NEA), supported the idea that local boards could charter an entire school-but only with union and teacher approval.

Since then the concept that charter schools should be free from regulations has tipped these organizations in the other direction. In particular, they resist freeing charter schools from the requirement that teachers be licensed, and from the compulsory participation in the collective bargaining relationship that exists with the school district in which the charter school is located.

The teacher unions and education establishment argue that a teaching license is evidence that the teacher has gained the necessary professional skills to be effective in the classroom, and that without this training (which includes working in classrooms under the supervision of experienced teachers) teachers would be poorly prepared to educate students. Supporters of charter schools argue that schools should be free from regulations that tie their hands in choosing staff. In particular, they feel that people with experience in business or government, or training in specific disciplines, are fully qualified to share their experience with students in a classroom.

Another issue at stake is the ability to assign teachers to schools based on the educational needs of students. Under the current collective bargaining agreement, teachers are assigned on the basis of seniority. We have seen that this leads to much more experienced teachers in the "better" schools, where student performance is high, and less

experienced teachers in the schools where student performance is lowest. The district has limited ability to act independently, however. School evaluations recently led to all teachers at Jefferson and Tubman being released and a complete re-staffing of these schools. Nonetheless, it will be very difficult to bring about a needed assignment of first-rate teachers to the lower-performing schools under current union rules. Thus, at present, charter schools and their release from union rules is the best solution available.

The National Educational Association states, "When well designed and operated, charter schools can become change agents within the school system by chartering new and creative ways of teaching and learning. When not so well designed and operated, they can allow unprepared people to start schools and undermine student learning. Whether charter schools are a positive or negative force depends on how state charter laws are written and applied."

"Many of the teachers hired for charters by for-profit companies are far less experienced and command lower salaries than those in the mainstream schools. Even the experienced teachers who accept lower salaries in exchange for the autonomy and opportunity for educational innovation offered by charters are becoming frustrated and even burned out by heavy workloads and lack of resources."

While these teacher organizations appear conditionally supportive of charter schools (OEA has 12 points that it feels must be addressed in charter school legislation, including requiring full certification of teachers), their bottom line is clear: the key to restoring health to our public schools is to provide them adequate financial support. They view charter schools as a diversion from this primary issue.

The teacher union organizations are correct that Oregon schools currently lacks a stable financial base sufficient to meet basic educational needs. Polls indicate that the Oregon public concurs in this opinion and is willing to support measures to improve the level and stability of financial support for schools (though the current economic and political climate will make it very difficult to rectify that soon).

Nonetheless, the unions need to be supportive in identifying and implementing creative innovations in education within the resources that are available, and to avoid becoming part of a culture that resists change in schools.

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E. ALTERNATIVE SCHOOLS

During the 1960s, a national movement encouraged the development of "alternative education programs" to serve students not well served by traditional school programs. Alternative education programs were initially intended to serve students with low attendance, behavior problems, or those at risk of dropping out. Later the concept was expanded to include unusual or innovative programs that served students who needed more challenging learning environments.

In 1987, the Oregon Legislature formalized the state's policies on alternative schools by adopting Oregon's Alternative Education Law. Some people inside and outside the public school system told us that the flexibility sought by charter school proponents is already available under the Alternative School Law.

Current alternative programs vary widely in their content and approach depending on program and target students. Early alternative education programs operated by PPS included some separate schools such as the Metropolitan Learning Center (1967), Vocational Village (1968), Woodmere Alternative (1973) and Night School at Grant (1975). The district also created programs that operated within existing schools, such as Madison Focus (1970) and Cleveland Option (1972).

Today, PPS offers two general categories of alternative education programs: "in-district" programs operated within existing public schools, and "community-based" programs operated under contract by outside organizations.

Community-based alternative schools bear a strong resemblance to charter schools. Many are separate, private schools that receive funding from the public school district in accordance with a contract to achieve specified educational objectives.

Parents have helped start a number of programs that provide students with special focus on the arts, science, or the environment or offer different teaching styles or philosophies of learning.

Indeed, these alternative schools greatly resemble charter schools in all their characteristics except two: they are part of the PPS program and remain under the control of the central school district, and they are funded at the higher per-student funding level consistent with other Portland Public Schools. If these programs were expanded to meet the demand of parents wanting to enroll their children, much of the motivation for creating charter schools would likely disappear. The

Beaverton School District, which does a much better job of meeting demand for alternative programs, has seen little interest in charter schools.

Your committee was very impressed with the number and rich content of alternative programs offered by Portland Public Schools, both within its own schools and under contract with alternative providers. Unfortunately, there are two very significant barriers to parents who may want to enroll their children in one of these special programs.

First, it is difficult to get good information about these alternatives. While school personnel ensure that students at risk of dropping out are informed about alternative programs designed to meet their needs, insufficient information is available for families interested in many of the other programs.

The reason for this lies, at least in part, with the second weakness. Many of these programs have two to four times as many applicants as open spots for students. Better information would do nothing but increase frustrations and lengthen the waiting lists. Portland Public Schools has no mechanism in place to expand and replicate successful programs. Often started at the behest of a parent or a teacher with a vision, who successfully sells the vision to others and starts the program, there is no mechanism to go beyond the original vision once success has filled available seats.

People have also raised questions about the equity of access to these programs. Some have said a two-tier system is developing. The programs are not evenly distributed across the city. Many are located in Southeast Portland. Middle- and upper-income parents can afford the transportation costs needed to send children to these programs, however, many low-income parents cannot. Some people have said that the application processes are geared for middle- and upper-middle class parents with a college education. Further, PPS does not currently have a clear and consistent policy for considering new program proposals.

Since we first heard these comments about the system, however, Portland Public Schools has been actively working to address this weakness. It has established an Office of Educational Options, which has been charged to move the district from a bias towards neighborhood-based schools to an alternative-based model. The district is working to adopt an Educational Options Policy and has prepared a "Road Map to Educational Options" brochure clearly listing the district's alternative programs. In an interview with the director of this program we were pleased to hear a frank admission that popular programs are not currently being expanded and replicated, but that the district recognized this need and was working to improve the situation.

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We commend the district for this good start and encourage a commitment to recognize, reward, and build on the district's successes. The intent is clearly there; now there must be delivery on that intent.

F. CHARTER SCHOOLS IN THE PORTLAND DISTRICT

The first charter schools and charter school proposals in Portland offer valuable and interesting insights into the reasons people want to start charter schools in Portland and the opportunities and obstacles to doing so.

In the context of the new "Educational Options" emphasis, the Portland Public schools recently redefined the role of charter schools in the district, shifting the goal posts rather abruptly. It is difficult to determine how much of this change was driven by the overall effort to define an "Educational Options" approach and how much was the result of difficulty with programs like Rose City or McCoy Academy (see below) that took the charter school route after rejection as an alternative school.

According to this new policy, charter schools in the PPS district will be required to serve only the general student population. Programs to serve disadvantaged or at-risk students are limited to the alternative schools category. In this context, charter school benchmarks will be measured against the general student population and will be expected to meet or exceed district-wide average performances.

The board and district staff justify this substantial change in direction by arguing that charter schools and alternative schools are authorized and funded under two entirely different bodies of legislation, and consider it appropriate that the administration of the two programs accordingly have separate objectives, performance benchmarks, and criteria for operation.

European High School

Submitted in 1999, as soon as charter school legislation was in force, this program proposed to replicate high academic standards and educational methods of European schools. After several reviews and attempts to rewrite the proposal to meet school board concerns, the applicant became discouraged and withdrew the proposal.

Rose City Charter School

Its proposal first submitted in February 2000, Rose City is still in rounds of appeals. A middle school with grades 6-8, its target students were the most disadvantaged and under-served students in the district with a record of low academic performance. It proposed to serve 360 students after three years (starting with a sixth grade class of 120 students and adding a class each year). Further, they felt that transporting target students to the school would overcome the problems many disadvantaged students experience from frequent home moves breaking their learning continuity in neighborhood schools. Having worked unsuccessfully for years to become accepted as an alternative school, it chose the charter school route.

Feeling that the proposal did not clearly define the school's approach and academic program, and that the proposers lacked the wherewithal to deliver a successful program, the school board denied the application. Rose City appealed to the State Department of Education. Reluctant to charter schools, the state recommended mediation. After mediation resulted in a new proposal, PPS board felt again that it fell short and rejected it a second time. A second appeal led to a rewrite with state help. The board expects a third submission soon and will review it again. However, in view of the board's recent policy determination that charter schools must meet district-wide academic, attendance, and dropout requirements, it is unlikely the proposal will be approved.

Trillium School

A proposal first submitted in November 2000, PPS board considers this to be a success story. The proposal came from parents who were involved in a PPS special focus program, the Family Cooperative School. The program requires family involvement in the educational program of all students as a condition of attendance. While the district operated the special program, parents felt the district was not supporting the program appropriately. The district wanted to merge it with the public school it shared a building with and tried to interfere in the management of the program. The parents decided to pursue the charter school route in order to gain more autonomy for the program.

The group proposed a program for K-12 students. The school board felt the K-8 portion of the proposal was good, but that the 9-12 program needed more refinement. School staff and school board members worked with the charter school's sponsors to improve the proposal. What emerged and was approved was a K-10 program that will open this fall.

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Opal School

The Children's Museum-2nd Generation (CM2) sponsors the only functioning charter school that will continue to operate in 2002-2003, Opal School. It consists of a non-charter pre-school and charter kindergarten-first grade. It will add a grade a year up to fifth grade. By its fifth year the program expects to serve 72 charter students and 16 non-charter pre-schoolers. Serving a diverse population (following heavy recruitment in Northeast Portland and a lottery selection of students), the school is located at CM2 (the former OMSI building in the Canyon Road zoo complex).

As the first successful charter program that was a fresh startup, Opal School found the process to be very difficult. Not only was there no central individual or group in the district responsible for working with them, converting a museum to a classroom school required working with the city Planning Bureau, Parks and Recreation Department, Bureau of Buildings, and City of Portland (which owns the building).

Opal School's educational philosophy is strongly influenced by the pedagogy of relationships and listening developed in the Northern Italian town of Reggio Emilia. The Opal School philosophy⁷² is shaped by a set of guiding principles summarized as follows:

• **Children as thinkers, planners, and doers**

Children bring themselves, their ideas, feelings, and life histories to every situation with the desire to find meaning through relationships, connections and personal contributions.

• **Children and adults as researchers and co-creators**

In a learning community adults and children collaborate as researchers to co-create and document experiences rich in relationships, challenges and choices.

• **Families as partners**

Family partnerships have the potential to bring vitality and richness to a learning community by contributing distinctive experiences and ways of knowing.

• **Academic excellence connected to the quality of relationships**

Academic excellence is best supported within a system of reciprocal relationships between people, ideas, the natural and human-made world, and the content/skills of the disciplines.

⁷²As explained by Judy Graves of Opal School in a telephone interview on July 9, 2002.

- **Listening as integral to a culture of respect**

Respectful agreements and boundaries support the need for physical and emotional safety and order as they are identified, discussed, practiced, and experienced within a culture of listening, dialogue and exchange.

- **The physical environment as a teacher**

The design, organization, and contents of the school's physical environment have the potential to influence and shape the cognitive, emotional, social and physical development of children.

Opal School values the young child as intelligent, creative and capable. It believes that children play a central role in their own learning through listening, dialogue and exchange. It views academic relationships as best pursued by relationships between people, ideas, and natural and human-made environments. Further, it believes in the ability of children, families and educators to collaborate to create learning rich in relationship, challenge and choice.

An Opal School Board member and educator voiced support for a change in the current system and Charter School law to allow much greater flexibility in assessing performance. She would like to see an emphasis on work samples and portfolios rather than total reliance on standardized testing. Former PPS Superintendent Canada said this would not be possible because all schools must have a common system of evaluation.

Opal School considers its program to be a valid model for public school improvement. In some ways it has been too successful; its organizers are unable to respond to all the requests for visitation and consultation due to time constraints. In response to the demand, Opal started a well-attended program of "Sunday Afternoon Consultations" for interested parents, administrators and teachers, and hosted cooperatively with CM2 and Portland State University a five-day symposium attended by 100 people statewide.

Opal's leader, Judy Graves, has expressed concern that innovative ideas and programs such as Opal's are not readily transferable into general public education systems because there is a lack of structures, opportunities, and resources to allow educators to inquire and experiment with new ideas.

Portland Arts and Science Academy

Portland Arts and Science Academy (PASA) has a scope larger than any other prospective charter school in Oregon. In February 2000 it proposed a program for 450 children initially, expanding over four years to 675. It would begin with about 75 students in each grade of

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K-5 in the first year, and expand to 75 students in each grade of K-8 by the fourth year. It was also the first charter school proposed to be provided by a for-profit corporation, Mosaica, which operates 30 schools, primarily in Michigan, Pennsylvania, New Jersey and Delaware.

The program includes school and day care from 7AM to 6PM (with non-school day care hours paid by fee). The school day would begin at 8AM with what is called "Core Subjects," including a program called "Literary Place," phonics, foreign language (Spanish), accelerated reader, everyday mathematics and science. The afternoon program would use a proprietary program called "Paragon," which includes social studies, history, literature, philosophy, science, visual and dramatic arts, film making, and physical education. These subjects would be integrated in daily Investigative Questions organized around the history of great ideas.

PPS originally denied the application on the grounds that a for-profit company could not operate a public charter school. Portland Arts and Science Academy appealed this decision to the Oregon Department of Education. A subsequent Attorney General's opinion obtained by the Department of Education stated that 1) a public charter school may contract with a private, for-profit entity to operate the school, but the charter school must remain accountable; 2) the public charter school must retain control over the for-profit entity and provide procedural safeguards to affected members of the public as to governmental functions, and 3) a public charter school need not be a tax exempt organization at the time of application or time of sponsor approval.

Based on this opinion and a thorough curriculum analysis, PPS's board in September 2000 approved PASA to open the following fall (2001). However, to the delay the space PASA had located for the school was lost to another tenant. Lacking adequate space, PASA was unable to open on the designated date and currently is still searching for space.

Space is a serious problem for PASA. They want to locate in a residential area in North or Northeast Portland, and neither vacant land nor a suitable and affordable building can be found. Upon closure of Wilcox and Youngson schools, PASA submitted a proposal to rent Wilcox, however, there are problems. The Wilcox space is generally suited to their needs but has only 10 classrooms vs. the 18 PASA needs. While modular space might make up the difference, the district is willing to lease the building only for one year (PASA's program is five years) and is asking commercial rates.

The district expects to rent the space for commercial rates, not less than \$13 a square foot a year. That is about \$689 per student, more than 50 percent higher than PASA's budget. Yet if PASA must open a smaller school (250 students), many economies of scale that a 450-student school would provide would be lost, and the higher rent asked by PPS becomes an even bigger problem.

PASA management points out that taxpayers funded construction of district schools for the purpose of educating children within the district. They have a point. Charter schools are district public schools, and their students are district students. If no rent is charged to other district schools, why should rent (beyond actual out-of-pocket cost to the district, not including taxpayer-bonded indebtedness, which is in a totally separate and dedicated account) be charged the district's charter schools?

McCoy Academy

McCoy Academy serves 100 troubled or at-risk students in grades 6-12 who have been unsuccessful in traditional public schools, and operates at two locations. Asked to state the purpose of McCoy, director Rebecca Black instead told a story: some years ago she was given the task of arranging school placement for a number of gang members coming out of McLaren Reform School. She found no school in the district willing to take them. Feeling an alternative had to be found, she started a school to permit them to continue their education. McCoy has served children born to addicted mothers or "crack babies," drug addicts, alcoholics, and abused kids. They include a drug and alcohol counselor as part of their program. Rather than work toward a GED or other compromise outcome, McCoy students work to earn a standard high school diploma.

McCoy garners a high level of support and enthusiasm from its students and their parents.⁷³ The school officials report a current waiting list of 58 students. McCoy's current dropout rate is 15.4 percent vs. 38.1 percent for the district's alternative schools serving a similar student population.⁷⁴

After eight years as an alternative school, McCoy academy lost its PPS funding over a dispute that resulted from enrolling more students in the program than had been approved by the district. McCoy responded by operating without PPS funds for most of a year,

⁷³ "It's Troubled, but Its Students Love McCoy," *The Oregonian*, September 27, 1999. This theme is also presented in the discussion of many news stories; e.g. "District Likely to Cut Funding to Charter School", *The Oregonian*, April 5, 2002; "McCoy Academy will Forfeit Charter in June," *The Oregonian*, April 9, 2002.

⁷⁴ Bob Jones, Oregon Department of Education.

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and submitting an application for recognition as a charter school. After a long debate fully covered in the local press, with editorial opinion supporting the charter,⁷⁵ the school board finally approved McCoy's application. The agreement specified 11 benchmarks McCoy Academy was committed to meet, with success or failure to be determined by an audit performed by Northwest Regional Educational Laboratories.

The first audit report,⁷⁶ completed in July 2001, concluded the following:

- Two of the benchmarks could not be measured They were measures of improvement over the previous year and McCoy, whose charter was approved in April, operated as a charter school only 30 days in 2000. NWREL agreed with McCoy that these measures were not meaningful.
- NWREL concluded that McCoy fully met seven benchmarks.
- The benchmark to increase the performance level of each student was met by 89 percent of the students. NWREL noted the benchmark was only partially met, but in the supporting text noted that McCoy "substantially met the goal."
- The final benchmark, average daily attendance, received a "partially met" rating, this time with no positive qualification. Starting with a base of 73 percent, McCoy was to reach a goal of 80 percent by the end of the contract (five years). For the first full year, McCoy's Southeast Center showed progress (74.9 percent), but its Northeast Center did not (72.9 percent).

McCoy's program was accredited by the Northwest Association of Schools and Colleges (the same organization that accredits Portland Public Schools). A Quality Assurance Task Force assessment of McCoy's program led by Richard Meinhard (and including two PPS staff among its five members) cited McCoy for being far ahead of PPS in moving in the direction of performance-based education, being one of only a small number of schools in the state delivering on this model.

Oregon Outreach/McCoy currently has contracts with Centennial, David Douglas, North Clackamas and Wallawa school districts for alternative education services and is having no problems with

⁷⁵ "Give McCoy Academy a Charter", *The Oregonian*, December 22, 1999.

⁷⁶ Dr. Roy Kruger, "McCoy Academy Public Charter School 2000-2001 Year 2 Evaluation Report," July 2001, Northwest Regional Educational Laboratory.

any of them.

Recently McCoy's relationship with PPS has again entered turbulent waters over two matters:

- Over the summer school board member Marc Abrams called for revocation of McCoy's charter over their failure to send contributions for employee retirement to the state Public Employees Retirement System (PERS). The charter school law states that "a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System."⁷⁷ However, another provision of the law allows a waiver of other provisions "if the waiver promotes the development of programs by providers, enhances the equitable access...or permits high-quality programs of unusual cost."⁷⁸

McCoy's director, Becky Black, admits she was tardy in submitting request for a waiver and has applied. She points out that the school's 20 employees have all signed letters of agreement acknowledging that they are not covered by PERS, and testifying that the cost of compliance could close the school. PERS said that a waiver was possible only if the Portland School District, as chartering agency, endorsed the request, which the district declined to do.

- More recently the district announced its intention to revoke McCoy's charter at the end of the second year (actually 13 months) of operation as a charter school. They expressed concern on two grounds: financial instability and academic failures. A subcommittee of the school board voted 2 to 1 not to renew McCoy's charter, and the full board approved the decision (with the same member dissenting). This time *The Oregonian* went against McCoy.⁷⁹

The district staff report⁸⁰ contained a litany of missed deadlines and incomplete documents (matched in every detail by McCoy with claims of failure by the district to provide information and to respond in a timely way to documents that were submitted). Much of the criticism of McCoy's academic performance came from the first term's interim report from NWREL. In this interim report 4 benchmarks were missed:

- **Missed Benchmark:** *The number of 10th grade students not meeting standards will decrease by 33 percent annually.* This was one of the benchmarks not measured in the first annual audit. In its report,

⁷⁷ ORS 338.135(5).

⁷⁸ ORS 338.025(2).

⁷⁹ A Charter Lost, for Good, April 10, 2002.

⁸⁰ Staff Report on Contract Renewal Request of McCoy Academy Public Charter School, March 8, 2002.

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the district staff dismissively quotes McCoy's renewal materials: "Along with most other schools in Oregon, we have not met this benchmark." Committee members asked whether the first part of the statement was accurate but received no answer. We judge from the failure of Jefferson, Roosevelt, and Marshall high schools to meet standards,⁸¹ that the statement has at least a degree of truth, and that McCoy is far from unique in missing this measure.

•**Missed Benchmark: *Percent of students showing improved performance levels.*** Percentage compliance rose from 89 percent to 93 percent of the students **tested**, but PPS staff reports that only about 75 percent of the students were tested, rather than the 100 percent required. McCoy responds with knowing that the outcome of tests administered directly by McCoy would be questioned, they hired an outside testing agency to test a sample of students. Therefore this benchmark was missed not on the numbers, but because of disagreement over measurement methodology.

•**Missed Benchmark: *Completion of credits toward high school graduation.*** District staff points out that the first semester data showed that 19 percent of McCoy students earned no high school credit, and that McCoy students earned an average of 1.13 credits during the semester. On that basis, staff estimates that the 22-credit high school graduation requirement would require an average of over nine years. There was no discussion of the remarkable decline from 4.8 (in the annual audit) to 1.13 credits in a single term. McCoy explains that their at-risk students are required by their learning contracts to demonstrate performance at a "B" level before given credit. Their students commonly do not complete these requirements at the end of a semester, but a large lump of late completions are processed during the initial weeks of each new term.

McCoy provided the following information to the committee: Sixteen students received high school diplomas in the current year, with several more working over the summer to complete their final contract terms. In the five previous years the following numbers of diplomas were awarded each year: 20, 13 (2000, the year they received public funds only the final month and presumably reduced the number of students), 16, 18, 26. When we called PPS to confirm the 2002 number, we were advised they did not have the information.

These statistics seem much closer to McCoy's estimate of 4-5 years typical for a student to complete the program, and to the credits

⁸¹ "Portland Schools Skirt Law, State Says," *The Oregonian*, July 3, 2002. Note that these schools do not serve nearly as high a proportion of "at-risk" students as McCoy Academy.

earned per student reported in the full year audit, than to the numbers in the interim audit that the district used to cancel the charter.

· **Missed Benchmark: Average student attendance rates.** The staff report indicated that McCoy claimed compliance had risen to 78 percent, but the report pointed out that this was calculated by averaging percentages at each site. The Southeast site number rose to 81 percent, above the five-year goal, but the Northeast site "declined" (sic) from 72 percent to 74.1 percent. The district pointed out that the 80 percent goal was to be achieved at each site.

In the school year 2000-2001, the district's alternative schools (to which McCoy students will be transferred next school year) had attendance rates ranging from 40 percent to 95 percent, with eight of the 20 schools showing an attendance rate below 80 percent, five below 75 percent. Midyear rates for the 2001-2002 year showed improvement, with seven schools below 80 percent, three below 75 percent. Attendance in Grant's Portland Night High School is 68.2 percent. In this measure McCoy was not seriously out of line with other Portland schools serving a similar student population (though improvement is clearly needed in many of these programs).

With respect to financial stability, the following issues were raised:

· McCoy's own auditor, in his audit report, cited factors that "raise substantial doubt about OOI's⁸² ability to continue as a going concern." We find that the auditor cited McCoy's dependence on revenues from PPS and the pending need to renew the charter with PPS as the principal basis for this concern. The staff report implied that the auditor's concerns were due to exogenous factors, and not on whether PPS board renewed the charter.

· A concern that the finances of McCoy appear to be "inextricably merged with OOI finances" and that any profit of McCoy will be absorbed by OOI, and any losses of OOI will drain cash from McCoy. While true for McCoy, as for many organizations providing services to PPS (to cite but one example, the Urban League, which provides alternative school services), the staff report fails to explain why this arrangement necessarily gives rise to a level of financial instability that should cause concern.

· The deficit in OOI's net assets (\$350,000) plus its potential liability to PERS (\$165,000) are approximately the amount of the total potential payment for McCoy's contract for the year (estimated at \$555,824). Of the two numbers stated, your

⁸² Oregon Outreach Inc., runs McCoy Academy along with some other programs.

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committee agrees with the district's concern about the PERS liability. By contrast, the bulk of the balance represents unsecured loans by affiliated individuals and directors - a relatively common practice in small, closely held businesses.

Our investigation of PPS's evaluation of McCoy's financial stability also revealed:

- There is no specific basis in state law or administrative rule for a school district's review of a charter school's financial stability at the time of contract renewal. (Such a basis does exist at the time of initial application). Subsequent to granting McCoy's charter, PPS did adopt a policy under which the district could terminate a charter if the school failed to maintain "financial stability."
- McCoy's April 2000 charter contract with PPS imposed no specific or general requirements for "financial stability" on McCoy. The contract did provide for third party review of budgets, revenue forecasts, and evidence of grant funding (if any).
- PPS has no specific and clearly defined requirements as to what constitutes an appropriate measure of "financial stability" for a charter school, or for any other entity which contracts with the district for instructional services. This may give rise to situations where stability is defined in the eye of the beholder on a case-by-case basis.
- PPS has previously evaluated the financial characteristics of providers of alternative education services. One such evaluation completed in 1999⁸³ reviewed twenty different proposers ranging from Portland Community College to the Janus Youth Program. The narrative discussion of several of the entities evaluated included comments such as:

"... without a very large borrowing at year-end, the agency will have no cash... the 1999 financials should be very interesting to see how the financial situation works out... "

"The bidder did not attempt to comply with the RFP [financial reporting] requirements in respect to the program."

⁸³Pauly Rogers & Co., Financial Evaluation of Bidders for the Alternative Education Services RFP 06-99, August 1999.

"The operations for 1998 showed a disastrously large loss - 50% of revenue"

"This bidder seems dubious financially - three consecutive years of loss"

"Losses have plagued this agency..."

Each of the five comments cited here involves a different provider. Clearly PPS has some prior experience in working with non-traditional providers of educational services who continue to function despite some evidence of "financial instability." The singular focus accorded McCoy Academy relative to this issue may not be entirely consistent with Portland Public Schools' practice elsewhere in this area and may be motivated in part by concerns other than a simple, consistent concern with financial stability.

McCoy appealed the board's decision to the State Department of Education. The department, supported by a ruling by the Attorney General, concluded that the appeal provision in the charter school law applies to initial charter school applications, not to a renewal decision. The board's decision is final.

The committee does not offer a conclusion on either McCoy's academic program or its financial soundness. We have not done the thorough analysis needed to reach such a conclusion. Our analysis is based on two hours in discussions with each side, inviting them to submit information supporting their viewpoint. We have carefully reviewed the information provided and other public sources of information, and summarize them here. We take the word of the school district and board that McCoy's charter was revoked for the specific reasons indicated in the staff report, and have addressed only those issues.

On this basis, it seems likely to your committee that there has been a rush to judgment, possibly to a result that was predetermined.

Both the district and McCoy provide an "in your face" series of charges and countercharges relating to what information was submitted at what time, what information was requested and when it was provided, that show a deep pattern of bad blood and mistrust. Ability to trade charges like this is an indication that both sides were responding to a situation where specific requirements and their measures were not fully defined, and where, in an uncertain environment, each was able to interpret the requirements and the submissions in the context of their own agenda. The need to articulate and adopt policies

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and procedures for the new charter school law,⁸⁴ the limited administrative resources of a small institution like McCoy, and the substantial administrative cuts in PPS staff would naturally lead to problems in meeting deadlines on all sides.

Notwithstanding this, we feel that the nature of McCoy's student population and the consistent failure of the PPS schools to serve this group argued for a more circumspect approach to accurately measure the impact of the program on its students, to offer opportunities to meet performance measures that are well-defined both in benchmark targets and in measurement methodology, and to base a decision to terminate on more than a single semester's information.

Other Portland Metropolitan

Elsewhere in the Portland Metropolitan Area, Centennial, Gresham-Barlow and Reynolds School districts in eastern Multnomah County showed an especially creative approach to the charter school law. Each saw a need for a technical school to serve some of the students in their district, but none of the three felt they could support a technical school alone. Consequently the three districts jointly chartered a new technical school drawing students from all three districts. Further, they point out, its charter status facilitated efforts to secure funding to build and equip the new school.

G. THE REALITY OF STARTING A CHARTER SCHOOL IN PORTLAND

One reason for the small number of charter schools is clear: the process of starting a charter school is very difficult. A parent, teacher, or group with an urge to set up a new charter school has a long and difficult path to travel.

First, a vision must be turned into a concrete plan. A concept must become an educational program and staffing requirements defined; the numbers of students and teachers and the required teacher skills must be determined. A mission must be expressed in terms concrete enough to communicate a sound proposal to the school board and to serve as a guideline for staff when hired.

This requirement is complicated by the wide gap between the concept

⁸⁴ Still in a turbulent state, as evidenced by the new PPS policy that charter schools are not eligible to serve "at-risk" students (see earlier) after slightly less than a year after awarding McCoy a charter for that specific purpose.

of charter schools and the practice. In theory, charter schools are supposed to be freed from accountability for process, in exchange for accountability for results. In practice, at least in Oregon, accountability for results has been added on top of accountability for process.⁸⁵ Decisions on these issues, and on the process for considering them, appear to be made on the fly and to take undue amounts of time.

Second, timing must be right. A new school, charter or otherwise, must open at the beginning of the school year. It will need to be planned as a part of the school district's overall program; the district must allow for the funds that will go to the charter school rather than to the district's program, and must be aware that the district's attendance for the year will be reduced by the number of students attending the charter school. Consequently, school districts typically require that charter applications be submitted in the fall, nearly a year before the charter school will open.

The charter school must plan its budget, a difficult task in view of the much lower level of per-student funding available for charter schools (see Section IV. B. 5. for a full explanation of this difference). In addition to the unfavorable state funding formula that allocates a substantial portion of the per-student money to the public school district for administrative costs, charter schools have no access to funds raised from bonds, special assessments, and special federal grants or programs that the public school district can raise for its programs.

This may not be sufficient, and fundraising may be required to meet the financial demands of the school. In most cases this translates into involvement by someone with fundraising experience, able to guide the search for supplemental funds.

Next, a full infrastructure is needed: a location must be defined, a building of the right size must be found, arrangements must be made for utilities, plans made for lunches and transportation, furniture must be found, textbooks must be selected, arrangements made for sports and physical education, and all special facilities (libraries, teacher resources, etc.) and programs desired (performing and graphic arts, environmental studies, etc.).

Marketing is crucial. The school must be publicized to prospective teachers and staff, as well as prospective students and their parents.

All of this must be done in the year before the school opens, and without funds coming in (except the planning grant and private

⁸⁵See section IV. B. 10.

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fund-raising). And, of course, it may all be cut short if the school board decides not to approve the charter.

It is not surprising that the number of charter school applications is not large. In fact, it is surprising that charter schools are growing as fast as they are.

VII. CONCLUSIONS

The Value of Charter Schools:

1. Charter schools are nothing more or less than a component of publicly funded education. They are a valid alternative to traditional public schools, and benefit some parents, educators, and especially students.
2. Charter schools have the potential to stimulate innovation in education, especially if a more equitable funding formula is provided. In particular they can fill important niches for difficult to serve students, for geographically special areas, and for creative approaches to developing and providing curriculum.
3. Charter schools offer a significant alternative model for school governance: site-based management, accountability for results rather than methods, and greater involvement and control by parents and teachers.
4. Charter schools are not primarily a route for elite students to escape from mediocre public schools. To the contrary, the national charter school student population contains proportionately more low income, minority, and academically at-risk students than the general public school population.
5. In some instances charter schools offer an escape route to students who otherwise are stuck in failing schools. Even in schools that are not failing, charter schools provide an alternative to students whose needs, for whatever reason, are not being met.
6. There is no unambiguous information leading to the conclusion that charter schools, taken as a group nationally, do a better or a worse job of educating students than do traditional schools.
7. There is a portion of the school age population that is not well served by Portland Public Schools. Charter schools offer one approach for better serving this population.
8. Competition from charter schools, while it may exist, is not likely to be a significant change factor for education in traditional public schools in Oregon for the foreseeable future.
9. Charter schools are not a silver bullet that will bring widespread reform. They will not provide better school funding. They will not ensure a sufficient number of qualified teachers. The problems that were faced by our schools before the charter school legislation was

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enacted are still there, and will be there until they are addressed and solved.

Sustainability of Charter Schools.

10. Charter schools that originate from sources outside of established institutions will frequently be the work of dedicated individuals with exceptional energy and ability. Like small companies, these schools will face great difficulty in institutionalizing their vision and philosophy to ensure long-term sustainability.

Statutory.

11. Over the decades, Oregon has developed a patchwork of laws governing education that are needlessly complex, confusing, duplicative and inconsistent. For example, the charter school law contains many provisions that overlap earlier alternative education laws.

Political.

12. There is a perception among key legislators interested in charter schools that the Portland school board raises barriers to charter schools. These same legislators strongly influence state funding for education. By not publicly showing support for the charter school concept, and helping applicants through the chartering process, PPS weakens its ability to attract state funding for its traditional programs.

Finance and Program Support:

13. Funding and access to other publicly provided resources for charter school students are low compared to students in the general public school population. This creates a distinct disincentive to potential organizers of charter schools.

14. Charter schools appear to offer a successful route to serving many students not adequately served by traditional public school programs. To the degree that the funding formula places charter schools at a disadvantage, these students become doubly handicapped.

15. Portland schools do not provide "in-kind" support, program support, or other non-financial resources that could help charter schools address the funding gap.

Accountability.

16. In many parts of the country, accountability of charter schools is limited to fiscal considerations, without adequate attention to academic results.

Impact on Traditional Public Schools.

17. Charter schools do not present a major threat to traditional programs in districts where student population is growing. Indeed, to the extent that the capital cost of expanding plant can be reduced, charter schools may substantially reduce costs to the school district.

18. In districts with declining enrollment, like Portland Public School District, the marginal saving from reducing student population by 100 students is less than the income lost to charter schools, even at current low funding levels for charter schools, especially in view of the district's long-term debt structure.

19. Other impacts on traditional schools include loss of active parents who would otherwise work to stimulate change in the traditional public school arena. Traditional schools will also lose student to charter schools just as they do with magnet schools and alternative schools. While important, these factors are unlikely to be significant in the foreseeable future.

20. Charter schools do not present a major threat to traditional programs in public schools, except to the extent that they offer an alternative to students stuck in schools that fail to provide a quality education.

21. Charter schools are not a threat to the democratic ideal of equal access to public education in the United States.

22. The charter school debate should not detract from the need to provide a better education for Oregon's students. Real problems exist relating to funding, school size, class size and teacher quality.

23. There is not a good mechanism that identifies, collects and disseminates recognized "best practices" that result in student academic success, to encourage their adoption by other schools.

General Educational Issues Impacting Charter Schools.

24. Portland Public School District No. 1 (like Beaverton and, we infer, other large school districts in Oregon) currently has a rich and diverse set of educational alternatives for its students, including magnet schools, alternative schools and community-based schools. However,

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there is great unmet demand for more of these programs:

- Successful programs are not expanded or replicated, so students who want to participate in these programs are often unable to enroll.

- Information about these alternatives is not readily available to students and parents.

25. The Portland Public School District has a risk-averse culture that often stifles pursuit of excellence, fails to reward outstanding performance, and hinders starting or expanding creative approaches to better serving students. While this appears to be primarily a result of the administrative culture, Portland's teachers union is also a contributing factor.

VIII. RECOMMENDATIONS

To the Oregon Legislature:

1. Revise the law to require equitable funding and other operating resources for charter schools.
2. Provide in the law incentives for all schools-including charter schools-that successfully serve student populations whose needs are not currently being met by available educational programs.
3. Clarify the confusing and inconsistent patchwork of laws and rules that govern public education in Oregon. The state's public education laws and rules should emphasize performance and results rather than methods and process.

To the Oregon Department of Education and School Boards:

4. Identify "best practices" and encourage their transfer among all public schools, including charter schools. Provide mechanisms for identifying, expanding and replicating successful programs.

To Portland Area School Boards:

5. Until the legislature acts to require more equitable access to funding and other publicly provided resources for charter schools, go beyond the present statutory minimums by providing "in-kind" resources. For example, under-utilized property, transportation services and support for special programs should be shared with charter schools.
6. School boards should hold superintendents accountable for providing effective leadership, fostering a culture that supports continuous improvement, and delivering results. Superintendents should advocate for site-based management of schools, be willing to reward excellence and prune poor performance. They should be willing to allocate resources to where they make a difference-in the classroom.

To Portland Public School District Leadership and the Portland Association of Teachers:

7. Recognize and reduce institutional resistance to change. Find more ways to promote and facilitate effective new programs, even if this involves new or non-traditional patterns in the allocation of scarce resources. Help change the PPS culture to better identify and promote excellence.

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Recommendations

To Portland Public Schools Management:

8. Provide effective, consistent and ongoing assistance and oversight to the district's charter schools.

9. Provide better information to parents about the rich variety of programs available within Portland Public Schools, and assistance in accessing them. Respond to waiting lists for these programs by expanding or replicating programs.

To the City of Portland:

10. Engage a management consulting organization with expertise in public education to perform a study of the administrative structure and practices of Portland Public Schools. Such a study should recommend changes that will bring results more in line with the potential of the people involved in the system.

To the City Club:

11. Undertake a study to determine why many Oregon high school students do not perform in an academically competent manner and address whether state law should be changed to mandate a significant restructuring of high schools in the state. The study should address both student performance and retention rates.

IX. ACKNOWLEDGEMENTS

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Respectfully Submitted,

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Richard Forester
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Eli Lamb
Sharon Paget
Paul Schlesinger
Rick Zenn
Steve Schell, Chair

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Appendices

X. APPENDICES

A. WHAT SPECIFIC RULES APPLY TO A PUBLIC CHARTER SCHOOL?

Federal laws

- Public meetings law (ORS 192.610 to 192.690)
- Public records law (ORS 192.420 to 192.505)
- Municipal audit law (ORS 297.405 to 297.555 and 297.990)
- Criminal background checks (ORS 181.539, 326.603, 326.607 and 342.232)
- Textbook adoption procedures (ORS 337.150)
- Prohibition against tuition and fees (ORS 339.141, 339.147 and 339.155)
- Discrimination (ORS 659.150 and 659.155)
- Tort claims protections (ORS 30.260 to 30.300)
- Health and safety statutes and rules
- Any statute or rule listed in the charter
- Statewide assessment (ORS 329.485) [Testing at 3rd, 5th, 8th, and 10th grades]
- Academic content standards (ORS 329.045) [CIM, CAM]
- Any statute or rule that establishes requirements for school-year and school-day instructional time
- The statute that created public charter schools (provisions of SB 100)

B. LIST OF WITNESSES (BY DATE)

- 1/11/00 **Dick Meinhard**, Institute for Developmental Sciences
1/14/00 **Pat Burk**, Portland Public Schools
1/18/00 **Brad Avakian**, Attorney
1/25/00 **Chet Edwards**, PPS Alternative Schools
2/1/00 **Rebecca Black**, McCoy Academy/Oregon Outreach Inc.
2/15/00 **Rob Kremer**, Oregon Education Coalition
2/15/00 **Jim Scherzinger**, Portland Public Schools
2/22/00 **Molly Huffman**, Author and private school principal
2/24/00 **Jim Griffin**, League of Colorado Charter Schools
2/29/00 **Diana Snowden**, Former PPS Acting Superintendent
3/14/00 **Richard Garrett**, Portland Association of Teachers
3/21/00 **Connie Chaifetz**, da Vinci Middle School
3/23/00 **Donna Gallagher**, Portland Council PTA
3/23/00 **Kathryn Firestone**, Oregon PTA
3/28/00 **Jim Sager**, Oregon Education Association
5/9/00 **Keith Thompson**, Oregon Business Council
5/2/00 **Yvonne Katz**, Beaverton Schools
5/30/00 **Ben Canada**, Portland Public Schools
5/30/00 **Sue Hagmeier**, PPS Board of Education
6/6/00 **Jim Green**, Oregon School Boards Association
6/13/00 **Sue Hagmeier**, PPS Board of Education
7/11/00 **Stan Bunn**, Oregon Department of Education
7/18/00 **Ron Herndon**, Albina Headstart
7/25/00 **Jean Thorne**, Office of the Governor, State of Oregon
6/25/02 **Sue Hagmeier**, PPS Board of Education

6/25/02 **Rebecca Black**, McCoy Academy/Oregon Outreach Inc.
6/27/02 **John Liljegren**, Executive Director, Portland Arts and Science Academy
(also Field Director, Oregon Public Charter School Service Center)
6/27/02 **Judy Graves**, Director, Opal School
7/2/02 **Chet Edwards**, Director, Educational Options, Portland Public Schools

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