

THE DIRTY DOZEN: HOW CHARTER SCHOOLS INFLUENCE STUDENT ENROLLMENT

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Informed discussions of whether charter schools are successful include considerations of student differences between different schools. We address “selection bias,” “attrition bias” and the like because measured outcomes are undoubtedly affected by inputs. Charter schools tend to have fewer students with disabilities, fewer English learners, and a less poor population of students than their surrounding public schools (Frankenberg, Siegel-Hawley, and Wang, 2010; Miron, et al., 2010; U.S. Government Accountability Office, 2012).

In fact, the patterns are particularly stark when we realize that such at-risk students are disproportionately enrolled in a small subset of “mission-oriented” charters – those dedicated to serving a particular type of at-risk student. For instance, the “majority of charter school students with severe disabilities [in Florida] are concentrated in a handful of schools that specialize in those disabilities...” (O’Connor, J., & Gonzalez, 2011; see also Miron, et al. [2010] for a national picture). This leaves the remaining charters serving even fewer at-risk children.

Yet little attention has been paid to the mechanisms that generate these differences. One exception is an article in February of 2013, written by reporter Stephanie Simon of Reuters, which described a variety of ways that charter schools “get the students they want” (Simon, 2013):

- * *Applications that are made available just a few hours a year.*
- * *Lengthy application forms, often printed only in English, that require student and parent essays, report cards, test scores, disciplinary records, teacher recommendations and medical records.*
- * *Demands that students present Social Security cards and birth certificates for their applications to be considered, even though such documents cannot be required under federal law.*
- * *Mandatory family interviews.*
- * *Assessment exams.*
- * *Academic prerequisites.*
- * *Requirements that applicants document any disabilities or special needs. The U.S. Department of Education considers this practice illegal on the college level but has not addressed the issue for K-12 schools.*

This article builds on Simon’s work and the work of others who have researched charter schools. It offers a taxonomy, a classification of the evidence into twelve different approaches that charter schools use to structure their student enrollment. These practices impact the likelihood of students enrolling with a given set of characteristics, be it higher (or lower) test scores, students with ‘expensive’ disabilities, English learners, students of color, or students in poverty.

#1: Description and Design: Which Niche?

The designers of a new charter school face a variety of decisions. Will the school portray itself as focused on rigorous academics? Or perhaps the design will cater to children with autism? Will it have the facilities to provide free or reduced-price lunch? Will it have teachers for English learners and for students with special needs? In short, which niche will it be designed to fill? Given the high-stakes accountability context, a school designed to serve an at-risk student population will face greater survival obstacles. Low test scores lead to lower school performance ratings and eventually to closure. In contrast, high test scores lead to acclaim and to positive word-of-mouth from realtors, press, friends and neighbors. In short, nothing succeeds like success, and the greatest determinants of success are the raw materials – the students who enroll.

#2: Location, Location, Location

As has long been recognized by the courts, the siting of a school is an effective way to influence student demographics (Kennedy, 2007). A school that intends to serve students who live in an urban area will locate in that neighborhood, while a school with an intent to serve a suburban population will make a different decision. Because families with less wealth tend to have fewer transportation options, this is particularly important when thinking about disadvantaged groups.

#3: Mad Men: The Power of Marketing and Advertising

Charter schools are not allowed to directly select students based on those students’ demographic characteristics. But if a school wants to enroll English learners, it will produce and distribute materials in the first language of those families. If it does not, it will produce and distribute materials overwhelmingly in English. Similar decisions can be made regarding special needs populations and lower-income populations. And if it wants students with higher incoming test scores and a drive to excel academically, it can advertise as “college prep” and highlight the rigor of its curriculum. Even the visual images used in marketing materials can send distinct messages about who is welcome and who is not. When a school makes deliberate decisions about how and where to market, it is exercising influence over who applies.

#4: Hooping It Up: Conditions Placed on Applications

Through the application process, charter schools can control the pipeline that leads to enrolled students. If less desirable students do not apply, they will not be enrolled. Charter schools are usually in charge of their own application processes, and many impose a daunting array of conditions. These include lengthy application forms such as a required essay simply to get into the lottery, mandatory character references, parents

required to visit the school before applying, short time windows to file the applications, special ‘pre-enrollment’ periods for insiders, and admissions tests to determine grade placement or learning group. These policies and practices can directly turn away families (*I’m sorry, but you can’t enroll here because you didn’t visit*). Further, they can serve their purpose by discouraging parents who lack the time, resources, or overall commitment to jump through the hoops.

#5: As Long As You Don’t Get Caught: Illegal and Dicey Practices

As noted earlier, Simon (2013) documents instances of charter schools that require applications to “present Social Security cards and birth certificates for their applications to be considered, even though such documents cannot be required under federal law.” She also notes some schools that require special needs applicants to document their disabilities – which may or may not be illegal but which is certainly contrary to the intent and spirit of the Individuals with Disabilities Education Act. Such policies will have the effect of discouraging special needs students and, in some communities, minimizing the enrollment of immigrant students. Another troubling, and possibly illegal, practice involves elementary-level charters with attached, private pre-k schools that charge substantial tuition – and the using of that pre-k school to funnel students into the public charter and thereby create a wealthier student demographic (see, e.g., Dreilinger, 2012; Ferguson, 2011; Ferguson & Royal, 2011).

#6: Send Us Your Best: Conditions Placed on Enrollment

Simon’s (2013) article also pointed to “One charter high school in [California that] will not consider applicants with less than a 2.0 grade point average. Another will only admit students who passed Algebra I in middle school with a grade of B or better.” She also points to states that allow a charter school to give an admissions preference to students based on a demonstration of interest in that school’s theme or focus: “Some schools use that leeway to screen for students who are ready for advanced math classes or have stellar standardized test scores.” Other charter schools, including KIPP, require that students and their families commit to longer school days and school hours. Many also require so-called ‘sweat equity’ contracts from parents, whereby they commit to contribute service to the school. As with conditions placed on applications, these conditions of enrollment can work by directly turning away families as well as by discouraging families perceived to be less desirable.

#7: The Bum Steer

Connected to these application and enrollment practices is the old practice of steering away less desirable students (Fiore, et al., 2000). The typical scenario involves the parent of a high-needs child who drops by the school to inquire about enrolling and is told that opportunities for that child will be much richer at the public school down the road. These are among the allegations in the Southern Poverty Law Center’s lawsuit against the Recovery School District in New Orleans (Mock, 2010).

#8: Not In Service

As noted above, a charter school may or may not have services designed to meet the needs of a given group of higher-needs children. For instance, teachers with TESOL

(Teachers of English to Speakers of Other Languages) training or certification may be unavailable. Similarly, a charter school may not have the resources necessary to meet the special needs of a child with so-called low-incidence disabilities. But even reading specialists, for instance, may be unavailable. While a charter school may not, under the Individuals with Disabilities Education Act (IDEA), be legally entitled to reject a student with special needs and his or her individualized education plan (IEP), pointing out the unavailability of resources and services is often sufficient to do the trick (Welner & Howe, 2005).

#9: The Fitness Test: Counseling Out

Parents of less successful students or those who are viewed as a poor fit may simply be told that they should consider a different option. This is usually accomplished through ongoing meetings with the charter schools' teachers and administrators. (*Bobby isn't responding well to instruction, getting along well with other students, etc.*) In a school choice context, a reasonable way to address a disappointing experience is to seek out a different school, and a nudge from school staff can help move this process along.

#10: Flunk or Leave: Grade Retention

One such nudge can be provided by telling the student and parent that if the student remains at the school, she will be retained in grade. Grade retention is extensively used, for instance, at KIPP charter schools. One effect of such policies is to rebuke less successful students and to suggest that those students may do better elsewhere (and to inform them that they will have to go elsewhere if they want to graduate on time).

#11: Discipline and Punish

Charter schools' discipline policies generally differ from those of their nearby school districts. Washington DC's charter schools, for example, have much higher expulsion rates than do district schools (Brown, 2013). The *New York Times* wrote in 2012 about a charter school in Chicago that has collected hundreds of thousands of dollars in fines from students for infractions like "not looking a teacher in the eye" (Vevea, 2012). Through direct expulsion and through harsh discipline regimes, such charter schools are able to maintain a more controlled school environment, but one effect of doing so is the selective removal of students who are more disruptive – or, in the case of the Chicago school, less able to afford the fines.

#12: Going Mobile (Or Not)

Low-income communities across the country tend to have high rates of student mobility. Many students exit and enter each year and – most disruptively for all – during the school year. Neighborhood public schools generally have no power to limit this mobility and must focus instead on minimizing the disruption. Charter schools, however, can decide to enroll few or no new students during the year or in higher grades. Researchers refer to this addition of new students as a choice of whether or not to "backfill" the students charters lose through normal attrition or through counseling out. A related issue is the common practice among new charter schools of 'feeding from below.' To illustrate, imagine a new charter authorized to serve grades k-8. Such a school would often open with just grades k-2, and then each year would bring in a new kindergarten cohort and

extend up one year, to k-3, then k-4, and so on. This approach tends to create stability and to screen out more transient students and families.

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These twelve techniques are not used by all charter schools, nor when applied are they necessarily intended to enroll only more advantaged students. Techniques controlling student populations also provide no evidence to impugn the quality of the education provided at these schools. Nevertheless, they do impact at least three important aspects of the education reform debate: scaling up, evaluations of success, and equity and non-discrimination.

The scaling up concern is straightforward. If charter schools identified as successful are not serving a cross-section of the student population, then where do the students go who are left out? Currently, they can easily go to neighborhood public schools. But in a system dominated by such charters, something must give. Either these charters start to take all comers, or a separate set of charters must thrive with a very different mission: a refuge (or dumping ground) for unwanted children.

The evaluation concern is more about policy and political rhetoric than about the overall research base. Charter school research is now sufficiently established and comprehensive enough that most researchers are comfortable concluding that a school's status as a charter school has no substantial effect – good or bad – on student test scores. But weak research and evaluation reports, which fail to account for all these ways of skewing enrollment, are nonetheless still being issued and trumpeted by advocates. (An example is a recent Florida report that uses school-level data to conclude that charters are outperforming conventional public schools; see Florida Department of Education, 2013). This can result in masking undesirable practices and to making bad policy decisions.

Finally, equity concerns arise whenever a publicly funded opportunity is provided to a more fortunate group of children but denied to others, even if that skimming takes place within a disadvantaged community. This gilds inequalities with socially acceptable language and constructs about individual choice, and it's particularly problematic when children are denied opportunities based on special needs status or English learner status – or when the poorest children in a community are pushed aside.

Charter schools are now an established part of the landscape in most states. As such, they should be understood as a policy tool that can be included as part of overall state education policy. Like most tools, we can decide how best to use them, to maximize their benefits and minimize their harm. If policy makers hope to improve the education system as a whole, they should take a serious look at the dirty dozen as a starting point.

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