
Cyber Charter Schools: Can Accountability Keep Pace with Innovation?

Because of their focus on innovation, charter schools have always posed a puzzle for those concerned about accountability. How much more difficult is it to keep track of nonclassroom-based charter schools? The authors look to the Pennsylvania experience for answers.

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CHARTER SCHOOLS have become a significant movement in public education. Over the past decade, both the popularity of the reform and the number of charter schools founded have grown dramatically. Student enrollments increased by 130% from 1999 to 2003.¹ At present, an estimated 3,600 charter schools serve one million students in 41 states.² The rapid growth of charter schools has encouraged innovation and adaptability and facilitated the emergence of new models of schooling. Foremost among these are cyber charter schools.

It is tempting to dismiss cyber charter schools as a trivial byproduct of a larger charter school movement. But preliminary analysis suggests the existence of a sub-

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stantial demand for nonclassroom-based learning, especially among families frustrated by the stringent requirements of public education. In 2004, an estimated 68,000 students were enrolled in nonclassroom-based charter schools, accounting for 10% of the total charter school population.³ Two primary forms of nonclassroom-based charter schools have emerged. Home-school charter schools closely mirror private home schools. Parents serve as the primary education authority and are responsible for keeping track of attendance, determining the length of the school day, setting curriculum goals, and monitoring peer interactions, student progress, and student achievement.⁴ In contrast, cyber charter schools rely primarily on computer-based learning provided either in real time or through prepackaged lessons created by a third-party curriculum provider. Student performance is evaluated by the school, but family cooperation is required.

Both organizational models have attracted large numbers of formerly home-schooled students. For example, approximately 60% of all Pennsylvania cyber charter students were formerly home schooled.⁵ One reason for the appeal of cyber charters to this segment of the population is that state and local oversight of nonclassroom-based charters is minimal. A second reason is that teachers are expected to act as education consultants and to defer to parents' decisions in managing the processes of teaching and learning. When we consider that about 1.1 million students are home schooled each year,⁶ it is clear that enrollment in cyber charter schools has the potential to increase dramatically.

However, it is unclear whether cyber charter schools will be allowed to continue to operate as they are currently set up. Cyber charter schools have resulted from loosely defined charter school laws that have failed to explicitly identify permissible teaching and learning strategies.⁷ As interest in charters has grown, policy makers have begun to question whether these schooling models go too far in defining what is both innovative and permissible within a public school system. Four distinct characteristics that separate cyber charters from traditional "brick-and-mortar" schools are at issue.

1. Learning occurs primarily outside of a classroom and often in isolation from peers.
2. Instruction is delivered through an alternative medium, usually a computer.
3. Schools enroll students who did not previously attend public schools, especially home-schoolers.
4. Schools do not conform to district enrollment lines and can draw students from across a given state.

Combined, these four characteristics challenge current accountability structures and reduce oversight within public schooling.

The difficulty of governing cyber charter schools has been demonstrated by several high-profile scandals. In Pennsylvania, more than 200 school districts refused to forward per-pupil funding allotments to the state's largest cyber charter, TEACH-Einstein Charter Academy, for failing to provide services and materials, including computers, Internet access, and learning materials.⁸ The school's eventual closure affected over 2,500 students. In response to such events, legislatures in several states have begun adopting new policies aimed at strengthening oversight of cyber charter schools.

Other policy-related events, most notably the passage of the No Child Left Behind (NCLB) Act, have further politicized cyber learning. Currently, NCLB requires states to grant new schooling options to students who attend schools that fail to make adequate yearly progress for two consecutive years. Nonclassroom-based charter schools are (arguably) inexpensive, space-saving solutions that provide overwhelmed districts with needed flexibility. Yet nonclassroom-based charters appeal to populations that resent standardization. Promoting their use through NCLB may lead to a whole new set of policy headaches. Moreover, many teachers and legislators complain that nonclassroom-based charter schools divert money from struggling public school students.

Overall, the varied experiences of nonclassroom-based charter schools lead us to two conclusions. First, diversification within the charter school movement is indeed producing new models of public schooling. Nonclassroom-based charter schools challenge traditional governance and organizational structures, as well as teaching and learning methodologies. Second, charter schools that deviate from public schooling norms tax established accountability systems. In this article, we will defend these two conclusions by presenting the case of cyber charters in Pennsylvania. Approximately 11% of all charter schools in Pennsylvania are cyber schools, the largest proportion in the nation.⁹

We will begin by describing the emergence of cyber charters in the state and the responses of politicians, educators, and parents who have contested their legitimacy and the legality of their organizational structures, their enrollment patterns, and the per-pupil funding formulas that sustain them. We will conclude by offering policy recommendations. Already, debate over cyber schooling has led to litigation and increased state involvement in charter schooling, including the creation

of a statewide school district that will effectively authorize and monitor cyber charters. These actions run counter to the traditions of local control that drive the charter school movement and may have far-reaching implications for all charter schools, as well as for traditional public schools.

PENNSYLVANIA CYBER CHARTER SCHOOLS

In 1997, Pennsylvania passed Act 22 and became the 27th state to approve charter school reform. During the law's first year of operation only six charters were granted, but expansion was rapid. By the 2003-04 school year, the number of charter schools had increased sixteenfold.¹⁰ Act 22 was similar to charter laws passed in other states. For example, all interested parties (with the exception of sectarian and for-profit individuals and organizations) were eligible to apply for a charter, only local school districts or a group of local districts could authorize charters, and public schools were allowed to convert to charter school status. In addition, the law strictly forbade the operation of home-school charters.

However, like most charter school laws, Act 22 did not explicitly define what types of charter schools *were* permissible.¹¹ Internet-based cyber charter schools soon emerged as a highly popular and legal alternative to home schooling. Cyber charters differed from established schooling models, including traditional charter schools, in their instructional methods and student enrollments. Cyber schools rely primarily on computer-based learning provided either synchronously or asynchronously. Synchronous instruction is delivered through the Internet in a real-time virtual classroom environment by a teacher or paraprofessional who guides students through instructional units. In most cases, students can interact directly with the teacher, ask questions, and participate in discussions with other students. Asynchronous instructional delivery is less expensive and more widely used among cyber charters, usually in the form of prerecorded lessons created by a third-party curriculum provider.

The first Pennsylvania cyber charter school to open was the SusQ-Cyber Charter School. Its opening gave little indication of the controversies soon to follow. The SusQ-Cyber Charter School was au-

thorized by five districts in Northumberland County. It was established in 1998 with the intent of serving "highly motivated, independent learners" by using technology to deliver personal educational programs for students.¹² The school did not attempt to attract students outside of the 13 districts served by the Central Susquehanna Intermediate Unit and, therefore, remained relatively small. Its maximum enrollment for the 2004-05 school year was 150 students.¹³ This approach fostered a working relationship with SusQ-Cyber's chartering districts and involved little or no interaction with other districts across the state.

However, in the fall of 2000, the opening of a second cyber charter school garnered the attention of both educators and policy makers. Upon enrolling at the Western Pennsylvania Cyber Charter School (WPCCS), students were issued a personal computer, a printer, Internet access, and a prepackaged curriculum in the form of computer software. Each student was assigned a teacher (referred to as a facilitator) who was required to make weekly contact with students via telephone.¹⁴ The materials, services, and limited oversight provided by WPCCS proved highly attractive to home-schooling families. Within two months of operation, the school increased its enrollment from 250 to over 500 students, surpassing the total student population of the Midland Borough District, where the school operated. Yet only 12 WPCCS students resided in the Midland Borough District.¹⁵

While the organizational model, instructional delivery methods, and spike in enrollment of the cyber charter were certainly unorthodox for a public school program, a more important issue — the payment of student tuition — was the source of greatest contro-

versy. Only months after opening, WPCCS faced a funding crisis when over 70% of the nearly 105 school districts from which it drew student enrollment refused to forward tuition payments to the school. In Pennsylvania, each student's district of residence is required to forward per-pupil funding to the student's new school of choice. In this case, WPCCS had requested payments from 105 school districts for over 500 stu-

of the districts' refusal to forward payments was a funding shortfall of nearly \$900,000 at WPCCS, which left many of the school's bills unpaid. The Pennsylvania Department of Education responded by withholding more than \$850,000 in state aid from over 60 local districts that had refused to send tuition payments to WPCCS. The money was withheld in order to pay for tuition owed to the cyber charter.

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dents who resided in 22 different counties throughout the state.¹⁶ School districts were outraged and refused to fund an out-of-district school that they had not approved, could not monitor, and were not empowered to regulate. Further, the sudden infusion of home-schooled students into the public system severely taxed the budgets of local districts; money became scarce. The result

At the height of this tension, in April of 2001, the Pennsylvania School Boards Association (PSBA) together with four of the state's school districts sued the state of Pennsylvania. The suit challenged both the requirement that school districts pay the local portion of per-pupil expenditures for students enrolled in cyber charters and the state's interpretation that cyber

Provisions of Pennsylvania Public School Code Act 88

Regulation

- Cyber charter schools may now be granted charters only by the Pennsylvania Department of Education at the state level.
- Districts whose students attend a cyber charter must be granted access to the school's charter application.
- All cyber charter schools must maintain a teaching staff that is 75% certified.
- All cyber charter students are required to take the state assessment exam.
- Among 16 other requirements, the cyber charter must: 1) provide a description of the manner in which instruction will be delivered and guarantee that progress will be assessed by teachers; 2) explain the types of technological and other materials to be provided; 3) describe the methods in which a student's on- and offline time will be monitored; and 4) explain the methods to be used to ensure the authenticity of student work.

Finance

- For each resident student enrolled in a cyber charter school, local districts must send the school

funding equivalent to local per-pupil expenditures.

- Districts must provide cyber charter schools with access to facilities and special education services.
- Districts must continue to provide funding while a student's district of residence is contested. If a dispute is decided in favor of the district, the cyber charter school must reimburse the district.

Support Services

- Cyber charter schools must provide parents or guardians with 1) a description of both online and offline lessons; 2) an explanation of the manner in which attendance will be recorded; 3) a list of standardized tests the student will be required to take; 4) a list of all teacher meetings to be held during the school year; 5) a list of extracurricular activities and services; and 6) an account of computer-security, suspension, and expulsion policies.
- Cyber charter students must be furnished with all instructional materials and equipment necessary to participate in the school's curriculum, including, but not limited to, a computer, a computer monitor, and a printer.

charters were legitimate entities under the 1997 charter school law.¹⁷ The PSBA raised three primary objections to cyber charter schools. The first objection stemmed from provisions in Act 22 that indicated that only local school districts or, in the case of a regional charter, a cluster of school districts, had the authority to grant charters. In the case of a cyber school such as WPCCS, which was attended in its first year by children from 105 districts yet was approved by only one, school districts were being asked to pay for the schooling of children in a program whose charter they had no voice in approving or monitoring.

The second objection focused on the drain of resources from local school districts. Districts were expected to continue funding students who chose to exit their local district and enroll in a cyber charter, but they were unable to hold cyber charters accountable for how the money was spent. Further, although local districts receive funding from the state on a per-pupil basis, overall budgets benefit from economies of scale. To continue to financially support students who exited the schools of a given district, as well as absorb the cost of former private-school and home-schooled students who now wished to access public funds, severely strained the resources of local districts. Within this climate, local administrators began to question the needs and expenditures of cyber schools that could operate without facilities and with small numbers of teachers and that varied greatly in their investments in curriculum development.

The last objection focused on the likeness that the PSBA perceived between cyber schools and home schooling. The two existing cyber schools provided instruction exclusively via the Internet, which students accessed from their homes, and therefore lacked the physical classrooms, hours of direct instruction, and adequate supervision required for compulsory attendance laws as referenced in Act 22. In addition, Act 22 explicitly prohibited the allocation and disbursement of funds to directly support home schooling.¹⁸ Despite these concerns, an injunction requested by the PSBA was denied in late May of 2001. Cyber charter schools would remain legitimate public entities until the matter could be decided at trial.

In February 2002, the state department filed a complaint asking a state court to intervene in a different conflict — this one regarding the funding of TEACH-Einstein Charter Academy, the state's largest cyber charter, serving 2,700 students. The school, which was already being sued by over 100 school districts, was now

the target of complaints from parents who alleged that the school had not delivered on its promise to provide students with computers, Internet access, and other learning materials.¹⁹ Just as it had done with the districts that had protested against funding the WPCCS, the state department had been withholding state aid from the districts that had refused to pay tuition payments to TEACH-Einstein Charter Academy. But upon filing the complaint against this school, Secretary of Education Charles Zogby resumed paying state aid to those districts.

As the cyber charter debate reached its boiling point, a seven-judge panel in a state court ruled in the PSBA case. The ruling provided a partial victory for both parties by protecting the legality of cyber charters under Pennsylvania law and ordering the state department to stop taking funds from districts that had refused to make tuition payments to cyber charters. The court explained that the department of education should have provided districts with due process and allowed them to challenge the validity of the tuition bills before it redirected payments to cyber charters.²⁰

Throughout the PSBA case, state legislators, unwilling to let the courts direct charter school reform, contemplated policy changes. In June 2002, the Pennsylvania legislature amended the state's original charter school law and passed Act 88. The law explicitly defined a cyber charter school as "an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means" (§1703-A). The new law addressed concerns about the regulation, finance, and support-services provisions of cyber charter schools by radically increasing the role of the state government. Act 88 ostensibly created a new school district, one that encompassed the entire state of Pennsylvania. The sidebar on page 26 presents the changes enacted by the new law.

Act 88 succeeded in resolving particular disputes between local districts and charter school operators, but it remains unclear whether increasing the state's authority will quell larger debates. The original questions posed by educators and policy makers remain unanswered. How do cyber charter schools affect the goals of public education? Can a model of schooling designed for home-schooling families remain committed to public interests? Despite both legislative and judicial efforts,

cyber charter schools are still largely undefined. The actions of a statewide school district designed to better control cyber schooling may have lasting implications for all charter schools, as well as for traditional public schools.

ADAPTING POLICY

Several salient issues have emerged as Pennsylvania confronts nonclassroom-based learning. The amendment of Pennsylvania's original charter school law indicates that policy makers require a regulatory blueprint to adapt traditional accountability mechanisms to cyber charter schools. Below, we list preliminary recommendations that begin to address questions that have surfaced with the growth of cyber charter schools.

1. *Adjust per-pupil funding levels to reflect the real costs of cyber schooling.* Cyber charters may not merit per-pupil payments equal to those of traditional schools, considering that their facilities, staffing, and transportation costs are considerably lower. Teacher salaries and benefits are typically the largest budget item in the traditional school model, amounting to an average of 56% of total expenditures.²¹ Facilities and maintenance, on average, account for another 11% of traditional school budgets. Nonclassroom-based schools do not bear these large costs. For example, some nonclassroom-based models of teaching provide one teacher for every 150 students.²²

One solution is to create a sliding scale whereby funding is determined by how much a nonclassroom-based school spends on faculty and curriculum and instruction. In California, for example, in order to receive full per-pupil allotments, nonclassroom-based schools must spend 50% or more of total public revenues on staff salaries and benefits and more than 80% on instruction and related services.²³ It is important to note here that cyber charter schools typically experience far larger technology costs than do traditional public schools.²⁴ New funding systems would benefit from recognizing the different ways in which cyber schools spend money.

Of course, inherent in this discussion are two fairly large assumptions. The first is that funding for traditional public schools is adequate and that funding for nonclassroom-based schools should be proportionally less. The second is that nonclassroom-based charter schools will respond to tighter funding restrictions by implementing better school practices. It seems possible that if funding is directly tied to how much a cyber

charter school spends, then successful schools may lose the capacity to innovate, while struggling schools may have a perverse incentive to become more inefficient. What is apparent is that policy makers and educators will benefit from determining the exact cost of nonclassroom-based learning.

For their part, states must realize that nonclassroom-based charters have adopted patterns of resource use that require alternative ways of keeping student records (e.g., attendance logs and transcripts), of showing accountability (e.g., determining what constitutes instructional time and how it is logged, as well as evaluating the quality of nonclassroom-based instruction), and of accounting (e.g., linking per-pupil payments to expenditures on technology, learning materials, paraprofessional services, and third-party curriculum and management-service providers). Once benchmarks have been established for a high-quality nonclassroom-based instructional program, a funding formula linked to these benchmarks may begin to more accurately identify necessary resource levels.

2. *Define appropriate state and local mechanisms for holding cyber charter schools accountable.* To create new accountability mechanisms that are aligned with nonclassroom-based schooling, policy makers must address the unique organizational models, as well as the different teaching and learning methodologies, that nonclassroom-based charters employ. An accountability formula that begins to define a nonclassroom-based schooling model must include enrollment, instructional hours, quality of instruction (whether delivered by parents, computer software, or distance learning), quality of student work, assessments, and level of contact hours between teachers and students.

One solution is to calculate student progress based on the "time value" of work rather than on average daily attendance. This system would require a certified teacher to make a professional judgment of the work's quality and then calculate a time-value equivalent of the completed work. In addition, nonclassroom-based learning should not preclude high-quality interactions between certified teachers and students. Requiring consistent communication and even "face-to-face" conversations is another important step in maintaining program quality. Teacher/student contact ensures that teachers will direct instructional objectives, provide the curriculum necessary to complete learning objectives, and monitor student progress more closely, thus preventing nonclassroom-based schools from evolving into home schools.

3. *Clearly define enrollment boundaries and oversight responsibilities to improve accountability.* As students cross district and county lines, students' resident districts struggle to monitor whether nonclassroom-based charters are providing a high-quality educational program for those students. Auditing the enrollment and attendance records of nonclassroom-based charters is necessary to ensure that local and state portions of per-pupil payments are forwarded by students' resident districts to

schooled or private school student who transferred to a cyber charter school but received only \$743 dollars for each additional student in state aid.²⁶ Many districts struggle to absorb this \$6,000 difference. Two county superintendents representing 22 districts in Pennsylvania reported that they were billed a total of \$1.8 million for 303 cyber charter students who reside in their districts.²⁷ Further, state budgets are set before each school year begins and before parents choose where to

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The large influx of formerly home-schooled students who have chosen to enroll in cyber charters has resulted in an unexpected need for additional funding.
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the nonclassroom-based charters that students choose. Borderless enrollment zones exacerbate oversight challenges. Thus we recommend adopting a policy that delineates manageable enrollment zones within specific geographic boundaries. For example, California restricts enrollment in nonclassroom-based charter schools to students in the charter's home county or contiguous counties.²⁵

A better solution may be to follow Pennsylvania's example and require nonclassroom-based charters to be approved at the state level. But should this approach coincide with increases in state funding? Currently, local revenues constitute nearly 60% of per-pupil funding in Pennsylvania. A state-centered system for authorizing charters would still force local districts to financially support schools they cannot monitor or regulate. Creating a statewide school district may require a more stable revenue stream for nonclassroom-based schools that provides fiscal relief for local districts and relieves charter schools of having to solicit the larger share of their per-pupil payments from their students' resident districts. It appears that some of the problems with charter schools in Pennsylvania have less to do with the expansion of choice than with the state's uneven school funding formula.

4. *Provide state-level funding to address the influx of formerly home-schooled students.* The large influx of formerly home-schooled students who have chosen to enroll in cyber charters has resulted in an unexpected need for additional state and local funding. Each district receives a basic instructional subsidy from the state for resident students. However, only a fraction of the appropriation is based on changes in enrollment. For example, the PSBA estimated that the Souderton Area School District was billed \$6,829 for each former home-

send their child to school. A flood of students who are new to the public schools can force administrators to scramble for money that has already been allocated.

Policies have been introduced in Pennsylvania to help offset the burden of funding cyber charter students. For example, Temporary Financial Assistance is available to local districts in which resident children who attended nonpublic schools in the previous year are now enrolled in charter schools. This aid is a \$1-million item in the state budget. In addition, Temporary Transitional Funding has been made available to aid chartering districts that lose students to new charter schools. In 2001, the state dispersed \$7.5 million through this policy, but state funds for districts that lose students have not been made available every year.²⁸

A more radical solution is to restrict enrollment to students already enrolled in public schools and slowly phase in students who were formerly privately schooled. For example, the state legislature in Arizona recently instituted a pilot program that allows for the creation of 14 cyber schools — seven traditional public schools and seven charter schools. In an attempt to head off local budget challenges, the law explicitly limits student enrollment to students who "enrolled in and attended a public school in the previous school year."²⁹ This restriction allows districts that fund cyber school students to draw per-pupil funding from existing budgets and provides a buffer for enrollment growth over time. In addition, limiting the number of Arizona cyber schools to 14 will allow for the slow growth of cyber schools. However, this strategy raises ethical questions. Should the state be allowed to determine which students can enroll in public schools, regardless of their design? The pilot program also includes provisions that outline a state-sponsored evaluation of all the cyber

schools that will analyze student achievement, effectiveness of instructional programs, patterns of resource use, and cost-effectiveness.

CONCLUSION

In Pennsylvania, cyber charter schools have led to an expanded state role in sanctioning and monitoring public schooling. The effect of this action remains unknown. On one hand, increased participation by state-level actors may further legitimize cyber charter schools and lead to their proliferation. On the other hand, state involvement may force charter schools to conform to established educational practices and ultimately stunt innovation and growth. What is known is that further research is required to fully determine how charter schools that serve students in a nonclassroom setting and attract a majority of students who have never been part of the public education system differ from traditional charter schools.

Are there universally accepted educational goals that all public schools — even charter schools — are expected to pursue? If the answer is yes, then regulations and oversight procedures need to account for the novel ways in which cyber charter schools secure funds, enroll students, and provide services. Increasing the state role in public schooling may improve the effectiveness of both established and new accountability mechanisms. But it may also undermine some of the original objectives of charter school reform, such as increased school-level autonomy. Fostering innovation demands greater attention than simply providing charter school operators with space to introduce new ideas. The relationship between accountability and practice must be continuously balanced and negotiated as states seek to find appropriate solutions for authorizing and monitoring nonclassroom-based charter schools.

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3. Luis A. Huerta, María-Fernanda González, and Chad d'Entremont, "Cyber and Home School Charter Schools: Adapting Policy to New Forms of Public Schooling," *Peabody Journal of Education*, vol. 81, 2006, pp. 103-39. The total nonclassroom-based charter school population comprises an estimated 16,000 students enrolled in 60 online cyber charter schools in 15 states and 52,000 students enrolled in 125 home-school charters in California and Alaska.
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