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# Charter Ranking Roulette: An Analysis of Reports That Grade States' Charter School Laws

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Since 1996, the Center for Education Reform has released an annual report card, grading each state's charter school legislation and labeling as the "strongest" those laws placing the fewest and slightest restrictions on charter schools. While the Center for Education Reform rankings have undoubtedly been the most influential, at least four other systems have been developed. In this article, we analyze the different ranking systems, including a new approach we have developed in order to illustrate the arbitrariness of any given ranking system and to highlight some key charter school issues. We then investigate the general, popular phenomenon of rankings in the field of education, exploring the benefits, drawbacks, and appeal of such rankings.

## Introduction

Since 1996, the Center for Education Reform (CER) has released an annual state-by-state report card, grading each state's charter school legislation on a scale of "strong" to "weak" (see CER 2006). These ratings assess the free-market emphasis of each state's law; those laws placing the fewest and weakest restrictions on the formation and operation of charter schools are identified as the strongest laws. This approach is consistent with two of the rationales behind the charter school movement: an opposition to governmentally imposed rules and restrictions and a trust in the pressures of the competitive marketplace.

The CER rankings have been influential. Each year when the grades are released, newspapers publish credulous stories identifying their home state law as strong or weak (e.g., Lucadamo 2003; *Pueblo Chieftain* 1998). Purportedly impartial organizations such as the Education Resources Information Center

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(ERIC) have similarly reproduced the CER rankings with no critique or cautionary note (Hadderman 1998). *Education Week's* "Quality Counts" has uncritically incorporated CER's charter law grades into its own state rankings (Orlofsky and Olson 2001). As Scott and Barber (2002, 5) note, "It is common to find the strong/weak framework used in news media reports and academic research without explication of its meaning. We suspect that some use the descriptor without knowing the values supporting it."

Yet a variety of goals and visions for charter schools have never been included in CER's reports. For instance, among the prominent initial goals for the charter movement are such items as curricular innovation and service to at-risk student populations (Bulkley and Fisler 2002). Omitting these and other initial objectives has the effect of shifting the goalposts—judging the value of laws by different standards than those on which the laws were established. Moreover, a person is effectively misled if she is simply told, "The charter school law in State X got a grade of C," without also being informed of assessment criteria as well as the political goals and ideological beliefs underlying the grade.

At least four other approaches have been proposed as alternatives for gauging the value and success of charter school laws (AFT 1996; Miron 2005; Scott and Barber 2002; Witte et al. 2003). In this article, we supplement these four alternative proposals with one of our own, not so much to propose an improved grading system but rather to critique the current use of rankings through a series of comparisons. More broadly, we then expand our focus on existing and potential charter law rankings into an exploration of the general, popular phenomenon of rankings in the field of education.

### *Charter Schools*

In 1974, Ray Budde presented a paper suggesting that local school boards grant contracts, which he called "charters," to teachers to explore new teaching

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ideas in exchange for increased accountability (Budde 1988). The idea gathered dust until he published it in 1988 and caught the attention of Albert Shanker, then president of the American Federation of Teachers (AFT). Shanker further publicized and expanded this concept by proposing that local school boards provide charters to form new schools (Bracey 2000; Nathan 1996a). In 1991, Minnesota became the first state to pass charter school legislation (Hadderman 1998). Since that time, the number of charter schools has grown at a rapid pace. Currently, 40 states plus the District of Columbia have charter schools, with total enrollment exceeding 1 million (CER 2007).

The approach gained bipartisan support, much of which still exists. However, research indicates that the schools have, on average, little or no positive effect on student achievement but do have unintended consequences (Carnoy et al. 2005), calling into question the long-term vitality of the reform. Several studies show increased student segregation—by race, socioeconomic status, prior test scores, and special education status (Bifulco and Ladd 2006; Cobb and Glass 1999; Howe et al. 2001; Howe and Welner 2002; Weiher and Tedin 2002). In addition, charter schools can cause adverse budgetary consequences to local public school districts (Plank and Sykes 1999; Smith et al. 2003).

#### *Author Perspective*

One of our contentions in this article is that ranking systems are most worthwhile when readers understand the values, interests, and perspectives of the authors. A key element of our own perspective arises out of our overarching concern for educational equity. We take very seriously the research showing an association between increased charter schools and increased segregation. At the same time, we are heartened by those charter schools that provide new and promising opportunities to low-income students of color, among others. This perspective is seen, for instance, in our inclusion of the reform goal of serving at-risk children. More broadly, we place a high value on policy making being informed by comprehensive and comprehensible reporting of research.

#### *Study Overview*

Evaluation criteria are not value-free (House and Howe 1999). Rather, these criteria can arise from such sources as a client's request, the evaluator's own values, or a desire to make the evaluation useful (Joint Committee on Standards 1994). CER's rankings frame the charter school movement and the success of that movement around a set of beliefs that places the highest value on the free market. From this perspective, a charter school law with fewer

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governmental constraints is, by definition, good and strong.<sup>1</sup> In contrast, the evaluation approach advocated by the AFT penalizes charter school legislation that tends to create an alternative school system serving a few, select students; it rewards charter school legislation that serves a broader public interest and facilitates improvement of the public education system (AFT 1996).

But these are just two options; we found three others. Witte et al. (2003) use two dimensions to analyze charter school laws: (1) the laws' flexibility, freedom, and support for the new schools and (2) the degree of public accountability required of charter schools. The first dimension is similar to the CER approach; the second dimension adds criteria that Witte and his colleagues consider to be key to a more complete evaluation. Scott and Barber (2002) analyze charter school legislation from three prominent states—California, Arizona, and Michigan—using a framework that examines how well the laws advance the goals of choice, productive efficiency, equity, and social cohesion. Miron (2005) focuses on factors that he has empirically found to be important for higher student achievement in charter schools.

The first part of this article describes the CER rankings and their influence. Next, we present the alternatives developed by the AFT (1996), Miron (2005), Scott and Barber (2002), and Witte et al. (2003). To these, we add a fifth alternative, designed by us to emphasize our critique of the capriciousness of rankings. In our alternative, we view the success of the charter school movement as dependent, at least in part, on the degree to which it is designed to accomplish the goals on which the concept was originally promoted.

Together, these six different approaches highlight the arbitrariness of any given ranking system. A reader with a complete understanding of the ranking criteria could make good use of any of these approaches. However, the rankings by themselves, without that complete understanding, are confusing and misleading.

The article's final section uses this case study to more broadly consider the popularity of rankings in the field of education. Given that the media and the broader public tend to find these rankings interesting and useful, we consider how such information might be more critically presented and consumed.

### Ranking and Evaluation Approaches

In table 1, we have set forth a summary comparison of the various criteria used in these six approaches. Looking down the columns, one sees different emphases for each rating or evaluation method: (a) autonomy and growth (CER), (b) broad benefits to public education (AFT), (c) competing values (Scott and Barber), (d) flexibility and accountability (Witte et al.), (e) empirically

TABLE 1

*Comparison of Evaluation Criteria*

	CER	AFT (1996)	Scott and Barber (2002)	Witte et al. (2003)	Miron (2005)	Chi and Wellner (2008)
Assistance in creating new schools	Y			Y	Y	
Bipartisan support for legislation					Y	
Broad service to community		Y			Y	
Equity			Y			Y
Facilitates improvement of the public education system		Y				Y
Facilitates innovation within the public realm						
Faster and more growth	Y					
Less regulation and more choice	Y		Y	Y	Y	Y
Minimal (and overseen) involvement by for-profits (EMOs)			Y			
Productive efficiency						
Public accountability (renewal procedures, performance reports, and fulfillment of state standards)				Y		Y
Results in higher student achievement						Y
Rigorous approval process					Y	
Rigorous oversight process					Y	Y
Slow growth to allow for learning and adjustments					Y	Y
Social cohesion			Y			
State financial support	Y				Y	Y
Strong evaluation component					Y	Y

NOTE.—CER = Center for Education Reform; AFT = American Federation of Teachers; EMOs = educational management organizations.

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derived criteria of effectiveness (Miron), and (*f*) original rationales and goals (Chi and Welner). These approaches and criteria are each discussed below.

### *Autonomy and Growth*

From the perspective of CER, the best charter school laws are those that facilitate the easiest path for charter creation and the least regulation for operating charters. In a nutshell, CER favors a free market for the creation and operation of charter schools. Laissez-faire rules are seen as the way to improve educational quality and efficiency, with charters using their autonomy to innovate, to enhance parental involvement and teacher professional opportunities, and “to create focused learning communities and high levels of accountability, . . . [which] will result in higher levels of performance” (Miron 2005, 1–2).

In its 2006 rankings, CER used 10 criteria—focused on faster and easier growth in the number of schools and on greater autonomy for those schools—for its determination of strong charter school laws (those criteria are set forth in full on p. 5 of CER [2006]). These criteria were then applied to states’ laws by a panel of free-market advocates from the CER itself, as well as the Fordham Foundation, the Hudson Institute, and the Pioneer Institute (CER 2001, 1). Of note, the political and ideological goals embodied in the CER criteria were also embodied in this panel that applied the criteria. The rankings are essentially an applied version of a shared free-market ideology among these panel members. Accordingly, a hypothetical spokesperson for an organization might say, “Charter schools should be completely freed from the restraints of labor agreements and state regulation.” Or she might say, “Arizona’s charter school laws are strong because they are overwhelmingly freed from the restraints of labor agreements and state regulation.” The second statement is no less subjectively linked to ideology than the first.

### *Broad Benefits to Public Education*

As noted above, the late AFT president Albert Shanker was one of the earliest proponents of charter schools (Shanker 1988). In 2002, however, the union released a well-publicized report concluding that student achievement was no better (and was sometimes worse) in charter schools as opposed to other public schools. More important for our purposes, the report criticized the shift in the justification for charter schools “from one that is based on education and innovation to one that is based on choice and competition” (AFT 2002, 7).

Six years earlier, the AFT had released a report that raised some of these

same concerns but did so in a more preliminary and less critical way. That AFT (1996) report essentially pushed for their preferred model of charter schools in the same way that the CER reports push for theirs. The evaluative criteria set forth by AFT include “the likelihood that [the law] will produce quality schools”; yield “examples of how the larger system of public schools should operate”; “allow for experimentation, while at the same time ensuring quality schooling within a system that protects the public interest and the integrity of public education”; avoid producing “an alternative school system created for a few, but operating at the expense of many”; ensure “public accountability for student achievement”; guarantee “accessibility [for] all students”; and empower teachers (AFT 1996, 7).

The report’s application of these criteria to each state’s laws did not result in a ranking or a graded report card. Instead, each state’s system is described and critiqued, along with summary statements such as, “California meets most of the criteria for good charter school legislation. However, it does not extend collective bargaining for employees to new charter schools and does not require teacher certification” (AFT 1996, 35). The report concludes that no state’s charter school legislation satisfied all the criteria indicating a good law “likely to produce quality education and be the basis for widespread reform of public education” (AFT 1996, 15). Arizona, the state held out by CER for the most praise, drew the harshest criticism from the AFT because its law “emphasizes the quantity of schools created rather than the quality of education provided” (AFT 1996, 15).

### *Competing Values*

To critique the CER and AFT approaches, Janelle Scott and Margaret Barber formulated a framework grounded in four competing values concerning schooling in the United States (Scott and Barber 2002). The rubric they applied was developed by Henry Levin in the context of vouchers (Levin 2000). Scott and Barber propose that state charter school laws be analyzed based on pursuit of one or more of the following four goals: choice, productive efficiency, equity, and social cohesion. The final term is defined as “the extent to which the public school systems promote common educational experiences to diverse populations of students” (Scott and Barber 2002, 30). Using this four-goal rubric, they highlight the values inherent in the AFT and CER frameworks: “absent from the CER rubric are any provisions for student access, optimal working conditions for teachers, or targeted resources for charter schools serving low-income populations. The AFT framework emphasizes more regulation and potentially less freedom of choice” (Scott and Barber 2002, 6).

Importantly, Scott and Barber do not reject the usefulness of frameworks

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grounded in such values; instead, they persuasively assert that value orientations in such evaluations should be overt. Moreover, they emphasize the conflicting values inherent in policy decisions of this nature. Their framework brings these conflicts to the fore, helping policy makers realize that their decisions regarding charter school legislation will involve important trade-offs. Given this approach, it should not be surprising that Scott and Barber do not grade or rank the state laws; the framework provides no basis on which to prefer, for instance, a law that emphasizes equity at the expense of choice or emphasizes choice at the expense of social cohesion. Which set of rules is preferable is a decision to be made by informed policy makers.

### *Flexibility and Accountability*

The CER rankings were also critiqued at the outset of a paper by Witte et al. (2003), but the criteria they settled on have a great deal in common with CER's. These authors retained the basic CER tenet that a law with more "flexibility" (their term for fewer legal restrictions) should receive higher scores. However, they also "argue that these [charter school] laws are multidimensional; something that the CER scale fails to capture" (Witte et al. 2003, 1). Accordingly, they added a second dimension, focused on the level of public accountability required of charter schools. This dimension has three elements: renewal procedures, performance reports, and fulfillment of state standards. Applying these criteria to the states, they found a high correlation between flexibility and accountability. That is, laws that tend to have a more free-market orientation also tend to require more public accountability, so the resulting state-level ratings for the laws are similar to CER's (although Witte's paper sets forth this conclusion, it does not include a state-by-state listing of the ratings).

### *Empirically Derived Criteria of Effectiveness*

As of early 2005, Gary Miron had conducted nine large-scale evaluations of charter schools, in six different states (Michigan in 1999 and 2002, Pennsylvania in 2000 and 2002, Illinois in 2002, Connecticut in 2002 and 2005, Ohio in 2005, and Delaware in 2004). Based on those evaluations and on a study of the correlates of success in charter schools, he contends that the criteria for considering strong charter school laws should be empirically derived. That is, since we now have a good idea about what works, we should judge the laws with that knowledge in mind. As did the other authors discussed above, Miron (2005) begins his paper with a critique of the CER approach:



TABLE 2

*Comparison of Miron's Judgments, CER's 2006 Rankings, and Chi and Welner's Rankings*

	Miron	CER	Chi and Welner
Delaware	First (strongest)	A (third strongest in United States)	B (ninth strongest in United States)
Connecticut	Second (strongest)	C (thirty-first strongest)	B (twelfth strongest)
Pennsylvania	Third (moderate)	B (eleventh strongest)	D (thirty-first strongest)
Illinois	Fourth (moderate)	C (twenty-eighth strongest)	A (fourth strongest)
Ohio	Fifth (weak)	B (twelfth strongest)	B (sixteenth strongest)
Michigan	Sixth (weak)	A (fifth strongest)	F (fortieth strongest)

NOTE.—CER = Center for Education Reform.

“Contrary to [the CER] assumptions, we have seen from our research and state evaluations that permissive laws and states with large numbers of charter schools are often less likely to have positive outcomes” (Miron 2005, 1).

Miron and his colleagues judged two of their six states to have charter school reforms with weak or mixed results (Pennsylvania and Illinois), two with positive results (Connecticut and Delaware), and two with negative results (Michigan and Ohio; Miron 2005). Table 2 shows no obvious correlation between Miron's rankings, the CER (2006) rankings, and our own rankings (discussed further below). Although all agree that Delaware's law is strong, the differing approaches reach very different judgments about the other five states.

Comparing his successful and unsuccessful states, Miron (2005) identifies eight key components of strong charter school laws. These include only two items (assistance in creating new schools and the need to have solid state financial support) that are an area of clear agreement with CER (2006) and several items (slow growth, as well as rigorous oversight and approval) that are in direct conflict with CER (see table 1).

### *Original Rationales and Goals*

We find a great deal that is sensible and useful in these earlier evaluative and ranking criteria. But we contend that they all pay insufficient heed to the original goals set forth by charter school advocates. These concerns have prompted us to develop our alternative approach to assessing the merits of charter school laws. We want to stress up front, however, that rather than simply adding one more voice to the dissonant chorus championing some

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state's laws above others, we are presenting this alternative ranking system to highlight our critique. Accordingly, while our exercise includes a ranking and grading of states, we emphasize that our main critique is not that the wrong criteria are used in ranking exercises; it is that the arbitrariness and underlying beliefs are not well understood by consumers.

We began by first establishing categories aligned with the initial goals of the charter school movement—those objectives that were used by charter school advocates in the early 1990s to lobby for the laws. To create a fair and comprehensive list of these goals, we went back to early, seminal works—primarily those of Joe Nathan (1994, 1996a, 1996b, 2002) and Ted Kolderie (1990, 1992, 1995; see also Bulkley and Fisler 2002; Cookson 1994; Gill et al. 2001; Henig 1994; Mintrom and Vergari 1997; and Miron 2005). We also reviewed the state charter school legislation itself to ascertain the rationales articulated by legislative authors.

Based on this comprehensive review of early charter school advocacy and of the rationales stated in state charter school legislation, we derived seven important goals: (1) curricular and instructional innovation, (2) waivers of bureaucratic rules, (3) maintaining the public nature of charter schools, (4) increased access to opportunities for at-risk students, (5) performance-based accountability, (6) increased student achievement, and (7) learning about the reform's potential and best practices through evaluation of initial small-scale efforts. We combined goals five and seven, yielding six main categories: (1) innovation, (2) waivers, (3) public realm, (4) at-risk access, (5) accountability and evaluation, and (6) achievement. From this process, we yielded seven subscale categories within the six main categories, which split into 22 items at the next level. Two primary types of sources supplied our state-level data: the state charter school laws themselves, plus existing compilations of information from organizations such as the Education Commission of the States (ECS), U.S. Charter Schools Inc. (<http://www.uscharterschools.org>, run by WestEd), CER, the Fordham Foundation, and the U.S. Department of Education. In general, our rankings were produced through the same approach as earlier rankings from CER and others. That is, we assigned scores and weights to each of our main categories and subcategories and then assigned cut scores in order to allot grades that differentiate between states. We used a coding scheme from  $-2$  to  $+2$ , which treats neutral laws as zero. Figure 1 summarizes the scores. (For a full itemization of the scoring and a breakdown of each state's scores, please see the appendix in the electronic version of this article.) To make our exercise parallel to those of CER and others, we have also included a letter grade for each state.

For some categories, ordinal rankings are inappropriate, but the criteria lie at the heart of our concerns; our analysis of such items is presented as a narrative discussion rather than a ranking or a grading. Also, the rankings

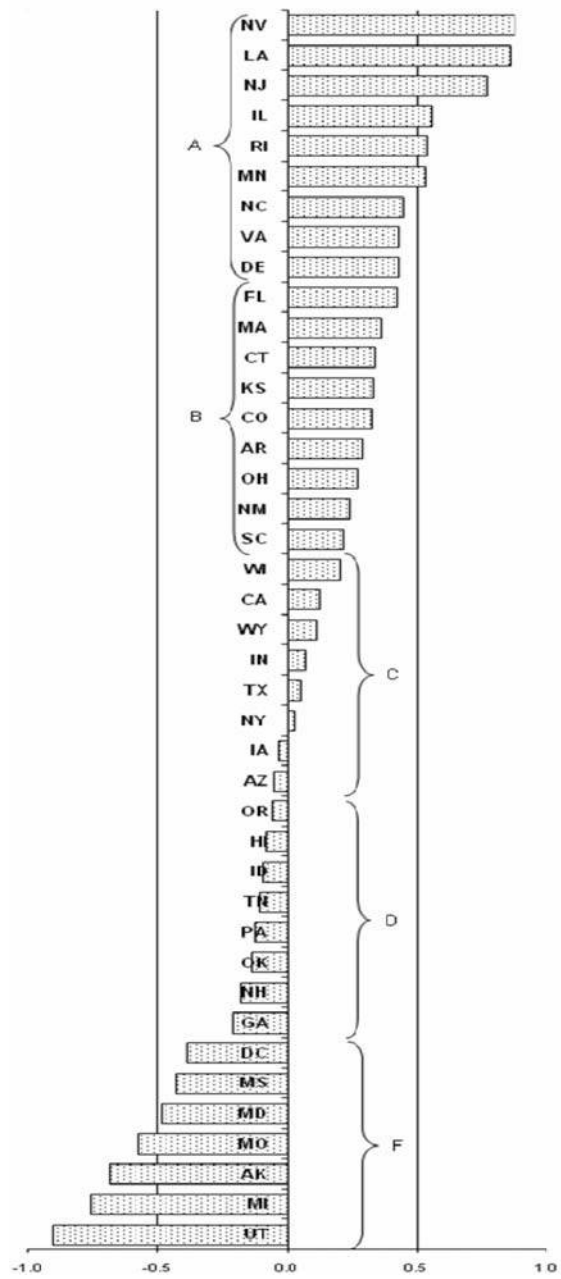


FIG. 1.—State rankings and grades

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are not meant as an evaluative judgment of the efficacy of a law. That is, although we may praise a law for including a provision to promote service of at-risk populations, we are not weighing in on the question of whether that provision has been successfully implemented. Furthermore, our assigning of a grade is based only on available data; missing data are treated neutrally when appropriate, with that factor not increasing or decreasing a state's score. (For specifics, please see the appendix in the electronic version of this article.) With those caveats, we now describe the categories.

*Innovation.*—Our first category based on the goals of the original charter school proponents concerns the importance of innovation. The early rhetoric about innovation was extensive and powerful. Ted Kolderie expressed the general sentiment as follows: “Only new [charter] schools can stimulate the widespread innovation that public education needs” (Kolderie 1990, 7; see also the discussion in Lubienski [2001], 10–11). In a nutshell, traditional public schools were characterized as stuck in bureaucratic stagnation, rarely trying creative and new instructional approaches. Charter schools would be laboratories of new ideas; the best ideas would then be adopted by public schools if they hoped to survive in the competitive marketplace. All the while, the schools would retain their public nature (Kolderie 1990).

Even though we judge this to be a key initial goal for the reform, we do not include innovation in our ranking system because of practical difficulties in distinguishing differences in state laws. Further, judging from the analysis of Lubienski (2001) as well as the lack of specifics in laws, the vast majority of states do not appear to be demonstrating any serious commitment to this issue (see also Wong and Shen 2001). Only one state, Massachusetts, indicates a preference for applications with an innovative educational plan (see ECS 2006). It appears that state laws have incorporated, in their legislative intent, the rhetoric concerning the importance of innovation, but authorization rules and funding opportunities do not concretely advance the goal.

Lubienski (2001) points out that the same market mechanisms that were expected to prompt innovation may actually be stifling it. A new school hoping to attract customers is often wise to base that appeal on a known commodity. Traditional instructional approaches are thus very common in charter schools (Lubienski 2001). Of course, charter schools do bring, almost by definition, innovation in school governance. And, as Lubienski (2001) notes, they also tend to lead to more diversification of instructional models, giving parents options in a more diverse marketplace. However, our “original intent” focus asks whether states have effectively promoted curricular and pedagogical innovation, and the various state laws appear to have come up short.

*Waivers.*—Our second category involves the waiver provisions of state laws. Through the granting of waivers from burdensome, bureaucratic provisions, charter schools are intended to have more autonomy in exchange for greater

accountability (an issue discussed later in this article). Early charter school advocates believed that an increase in autonomy through these waiver provisions would contribute to favorable outcomes such as higher student achievement and progress toward educational equity (Nathan 1996a). State law waiver provisions include automatic waivers, specified waivers, exemptions at the discretion of the state board of education, and waivers provided in each specific charter. We have no empirical or even strong theoretical basis to favor one type of waiver provision over another—particularly one that links back to the early goals of the charter school movement. Thus, we have decided to forgo the grading of these provisions.

*Public realm.*—In contrast, the public realm aspect of charter schools can be graded. For instance, the extensive involvement of private entities, such as educational management organizations (EMOs), in the provision of instructional services is contradictory to the goal of having charter schools remain within the public realm, as opposed to a shift from public to private in the provision of services. Early advocates of charter schools focused on the public nature of these schools, arguing that their creation would increase the parental choices for public education (Bulkley and Fisler 2002). The role of EMOs can vary widely, from contracting a specific service to managing the entire school (Bulkley and Fisler 2002). By definition, such privatization detracts from the public nature of charter schools (see Molnar [2001] for a more complete critique). Notwithstanding some potential advantages to private-sector involvement—primarily, the infusion of stronger market forces—laws (even those providing for public oversight) that allow for greater EMO involvement undermine the initial vision of charter policies as a public-realm, school-choice alternative to voucher policies. For this reason, we rewarded states that have legislative provisions prohibiting for-profit organizations from applying for charter schools. This reward was greater for states that go beyond prohibiting applications to also prohibiting for-profit organizations from operating or managing the schools under contract with the nominal applicant.

*At-risk access.*—Early advocates believed that the charter school movement would lead to increased access to opportunities for at-risk students, and whether charters are achieving this goal has been the subject of considerable research (see Bracey 2000; Gill et al. 2001; Nathan 1996a). In a nutshell, the variation among states is extensive. In states where charter schools tend to be located in suburban areas (e.g., Colorado), they enroll a relatively small percentage of students of color and students of poverty. In states where charter schools tend to be located in urban areas (e.g., Michigan), they enroll a relatively large percentage of such students. Yet the more important empirical question for those interested in issues of stratification is not at the state level; it is at the community level. How do charter schools compare to their neighborhood public schools in terms of enrollment of at-risk students? Local seg-

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regation associated with school choice appears to be happening in some, but not all, jurisdictions (see Bifulco and Ladd 2006; Booker et al. 2005; Weiher and Tedin 2002; Wong and Shen 2001).

As reflected in our grading procedures, state charter school laws themselves can advance the needs of at-risk communities by giving priority to schools that are specifically designed to address those needs, as well as by encouraging and favoring schools that are designed to limit segregation. Since our analysis looked at laws in effect prior to the 2007 Supreme Court case barring race-conscious student assignment policies (*Parents Involved in Community Schools v. Seattle School District*, 127 S.Ct. 2738, 168 L. Ed.2d 508 [2007]), we counted racial guideline provisions as indicators that the state is striving to make charter schools accessible to at-risk students. Specifically, it would be commendable for states to push for a charter's racial enrollment to reflect the surrounding school district. Federal regulations as well as equal protection jurisprudence essentially prevent states from requiring charter schools to use race or ethnicity as a selection criterion in making individual enrollment decisions. Under the federal regulations (applicable to charters that receive assistance through the federal charter school grants program), schools must use a random lottery when oversubscribed (the regulations allow some preferences for, e.g., children of a school's founders, but no preferences are allowed for at-risk students or for the promotion of a diverse student body; U.S. Department of Education 2004b). However, all charter schools can seek to increase applications by minority or underrepresented groups, as they are mandated to do in Connecticut (*Connecticut General Statutes*, sec. 10-66bb).

At-risk students may also be harmed if states allow preferential treatment in the charter school application process to one or more groups of privileged applicants. For instance, access for at-risk students tends to be hampered when charter schools grant a preference to students who are children of founders and teachers. Our ranking system reflects this concern. In contrast, we rewarded states that increase access to opportunities for at-risk students by creating charter schools that serve at-risk students or that recruit at-risk populations.

The accessibility of charter schools to at-risk students is also affected by the transportation accommodations for these students, as the lack of transportation can disproportionately prevent at-risk students from attending charter schools. Accordingly, our grading system rewards laws that require charter applicants to include a transportation plan in their applications, indicating an effort toward transportation accommodations for students. Even more important, some state laws provide transportation for charter school students residing within a certain distance of the school. Most impressively, the charter school law in Kansas has a transportation provision targeting low-income students.

A subset of the at-risk population is composed of students with disabilities.

Because of real and perceived costs, some charter schools have attempted to avoid enrolling such students (Welner and Howe 2005). To prevent such behavior, federal law requires all charter schools to have nondiscriminatory admission procedures, and some states demonstrate commitment to this issue by expressly prohibiting discrimination in admissions on the basis of disability in their charter school laws. Furthermore, it is commendable when state laws favor applications that express a focus on accommodating special education students or that show a preference for at-risk students. States are also rewarded in our grading system for including provisions identifying at-risk students as target populations (Fiore and Cashman 1998).

*Accountability and evaluation.*—Charter schools were proposed as an innovation with the potential to improve education by shifting from bureaucratic accountability to performance-based accountability. Each charter contract would set forth how the particular school would be held accountable. Accountability, then, varied in its particulars from school to school, but the unifying constant was that charter schools would all be expected to demonstrate their performance.

An important factor, which we found only partially gradable, is related to charter revocation. Early charter school proponents believed that the fear of revocation would motivate schools to perform (Kolderie 1990). If promised outcomes are not achieved, then the school's side of the contract is not met, and the charter will be revoked or nonrenewed. Many states include boilerplate language concerning revocation. Most charter school laws (all except Maryland) list grounds for terminating a school's charter, and many are similar in content and phrasing (ECS 2006).<sup>2</sup> Inclusion of such provisions is a positive feature of laws, even if the language appears to be pro forma, since it provides criteria for determining whether to revoke a charter. Among other things, this helps to address due-process concerns about adequate notice.

Our grading procedure rewarded states that allow charter schools to have an opportunity to cure a violation. Evaluative procedures should be in place such that charter schools that are in danger of being revoked due to a violation are, except in extreme cases, notified in advance and thus have the chance to solve their problems. However, states must be willing to revoke charters if necessary; otherwise, charter schools are no longer held accountable. In this subcategory, we developed an index by dividing the percentage of revocations by the number of years that the state has had charter schools. The index represents the degree to which states enforce the closure of their schools. In addition, states that allow revocations to occur via voting procedures illustrate the degree to which they are willing to revoke. Specifically, some states indicate that they will terminate a charter school if there is a majority vote from the staff or parents in support of revocation.

The accountability of charter schools is also dependent on adequate mon-

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itoring and evaluative procedures. States should have a system in place that provides monitoring on a regular basis. Specifically, according to the Fordham Foundation, states vary in their ability to provide “periodic announced visits by authorizers,” to require “periodic financial audits and progress reports,” and to supply a method of reviewing reports, flagging problems, and notifying schools (Palmer and Gau 2003, 108). Moreover, monitoring should extend to the enforcement of school improvement actions and the oversight of academic achievement unrelated to No Child Left Behind (NCLB) academic performance goals (U.S. Government Accountability Office 2005).

A thorough evaluation of each school ensures accountability by encouraging the approval of only high-quality charter applications and the closure of schools that are performing poorly (Miron 2005). Until 2002, however, some states did not include charter schools in their standards-based testing policies (NCLB now effectively requires such inclusion). Moreover, while the accountability of charter schools is most often framed in terms of student achievement, charter school closures have more often been due to organizational problems such as management and fiscal failures than due to issues of achievement (Bulkley and Fisler 2002).

The above accountability and evaluation factors were graded as seven different items and used to generate an evaluation subscore. Similarly, three items of the accountability and evaluation category were graded as components of a subscore concerning issues of charter duration and caps. Contrary to CER’s view that states have strong charter school laws if they do not limit the number of charter schools to be formed, we believe that there should be a cap on the number of charter schools a state can have, in order to support the pilot study/evaluation aspect of the charter school movement (Miron 2005). Early charter school advocates believed in the evaluation of initial small-scale efforts to learn about the potential of charter school reform. Kolderie, for instance, described a “gradual development” of a system of charter schools, including a process of “evaluating the performance” of the reform as it moves along (1990, 9). Given that extant research findings raise serious questions about the effects of charter policies, the initial ideas favoring pilot studies and careful evaluation are still salient. Although caps constrain free-market pressures and effectively reduce parental choice, states’ failure to place a cap on the number of charter schools creates an unregulated environment that can be detrimental to students and to the long-term success of the charter school movement. A cap provision may allow only a certain number of charter schools within a geographic region, may allow the number to increase incrementally, or may set an absolute cap statewide. All of these types of caps allow for some control over the development of charter schools, although a true cap provides the most concrete regulation.

The duration of a charter is also indicative of a good law. Longer charters



undermine two goals: (1) pilot study/evaluation and (2) accountability for obligations in the charter contract. Even charter schools that have been in existence for a substantial period of time should have relatively short charter terms since the accountability design for all charters requires the monitoring and evaluation that takes place during reauthorization. States should also require meaningful reviews before the charter term expires. Each of these factors is included in the caps/duration subscore.

*Achievement.*—Our sixth main category focuses on issues of student achievement. The need for increased student achievement was a main impetus of early charter school advocates, who argued that improvements would result from autonomy, competition, innovation, and accountability (Bulkley and Fislter 2002).

We have, however, not included a score for achievement because valid outcome measures at the state level are largely unavailable. The issue of how to best measure achievement outcomes is itself the subject of a great deal of controversy. Most studies reporting on charter achievement have little value because they simply compare average scores of students in each sector (charters and noncharters) without accounting for differences in the enrolled students. Not surprisingly, in states such as Michigan, where charters are located in lower-scoring urban areas, the charters do less well; in states such as Colorado, where charters are located in higher-scoring suburban areas, charters do better.

Higher-quality longitudinal and cross-sectional studies control for such enrollment differences (e.g., Bifulco and Ladd 2003; Braun et al. 2006; Finnigan et al. 2004; Lubienski and Lubienski 2006; Sass 2006; U.S. Department of Education 2004a) and have tended to show that charter schools perform less well or at the same level as compared to other public schools (see discussion in Carnoy et al. [2005]). At least one study reached the opposite conclusion (Hoxby 2004; for a critique of Hoxby's analysis, see Roy and Mishel [2005]). For our purposes, we think it most important simply to note that any attempt to judge the success of a given state's charter school policy should include a rigorous examination of student outcomes. In this regard, we stress that outcomes studied should move beyond achievement tests to include other outcomes of importance such as graduation, matriculation to college or obtaining of employment, as well as attendance and dropout rates.

### *The Results of Our Ranking System*

The big winners under our ranking system were Nevada, Louisiana, and New Jersey; those faring the worst were led by Missouri, Alaska, Michigan, and Utah (see fig. 1, as well as the appendix in the electronic version of this article). Because the criteria we have chosen derive from our perspective and values,

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these same findings could be honestly presented as, “The charter school laws in the states of Nevada, Louisiana, and New Jersey best reflect the original goals of charter policies that we have identified.” Alternatively, an advocacy approach to reporting our findings might be worded as, “The charter laws in Missouri, Alaska, Michigan, and Utah all earned a grade of F. Lawmakers in those states would do well to reform their policies to better serve at-risk children, forbid EMO involvement, and so on.” In the final section of this article, we discuss the reasons why authors sometimes decide to present findings using this latter, advocacy approach—and we discuss the policy-discourse repercussions of those decisions.

### The Appeal of Rankings

The recent critiques of CER’s approach by Miron (2005), Scott and Barber (2002), and Witte et al. (2003) went largely unnoticed. Perhaps this is in part because none of these reports included state-by-state rankings or grades of their own. For the media, they offered no hook, no lede, and no headline. In contrast, the CER rankings allow a newspaper an obvious headline and an easy local angle: “Michigan Charter Schools Get an ‘A’” or “Illinois Charter Law Earns ‘C’ on National Report Card.” Consider the following article published in the *Pueblo Chieftain*, titled, “Pueblo Charter Schools Help State Rank High in Evaluations”:

Pueblo, with its Connect School and the Pueblo School for Arts and Sciences, was an early entry in the American trend toward the charter school. . . . Earlier this month, the Center for Education Reform in Washington, D.C., released its third ranking of evaluation of [*sic*] charter school laws. Colorado moved up to 11th from 14th in the CER’s assessment of state-law effectiveness. . . . Twenty-three of the laws, including Colorado’s, were assessed as being strong or moderately strong, by the CER. . . . The evaluation is based on 10 categories and a detailed, individual profile on each law, said Jeanne Allen, CER president. . . . Allen said that in some states, red tape cripples charter laws from the outset. She claims that traditional public school people fight against making the new schools successful. (*Pueblo Chieftain* 1998)

If CER and its president had merely sent out an essay condemning red tape or attacking “traditional public school people” or had sent out a press release consisting simply of criticism and praise for various states, such newspaper articles would likely not be written. Accordingly, the organization chose a more newsworthy approach; each state was given a rank and then a grade.

Judgments were quantified, generating winners and losers, with the final grade giving these judgments an aura of objectivity.

In the newspaper business, there is a world of difference between “Bob Is a Good Student” and “Report Card Gives Bob an A.” Readers like concrete competitions. They like following their team’s standings and the horse-race aspect of election news coverage. They like movie ratings on a scale of 1–10 (or a mere thumbs up or down). At a more sophisticated level, they like the decision-making assistance provided by rankings in *Consumer Reports*. Ratings, rankings, and grades offer a shorthand allowing for quick, easy assessments and conclusions. For those with little interest in a subject or for those who simply do not have time to invest in learning about the subject in depth, nuance is the enemy. Lists, grades, and rankings are not just an efficient way to present information; they are also often enjoyable to compile and read.

The field of education is home to one of the most successful and influential rankings franchises. *U.S. News and World Report* annually ranks colleges and universities for undergraduate education as well as individual graduate programs. These rankings have drawn considerable criticism, focused on the arbitrariness of the (often-changing) formula used to calculate the rankings and focused also on the resulting distorted decision making by prospective applicants and higher-education institutions (Clarke 2004; Gottlieb 1999). Higher education rankings, however, are not limited to *U.S. News*. Shanghai’s Jiao Tong University’s ranking of the top five hundred public and private universities worldwide is now a regular newsworthy event (Economist 2005; see also <http://ed.sjtu.edu.cn/ranking.htm>). The *Times* of London’s Higher Education Supplement rankings (<http://www.thes.co.uk/worldrankings/>) covers much of the same ground. The National Center for Public Policy and Higher Education grades state higher education systems on a variety of indicators including affordability, preparation, and completion (National Center for Public Policy and Higher Education 2004). The Education Trust recently issued a report assigning grades to flagship public universities, based on the degree to which they equitably serve the minority and low-income students in their states (Gerald and Haycock 2006).

In recent years, schooling at the K–12 level has been subject to similar treatments. In addition to the charter school rankings discussed above, the Friedman Foundation grades each state’s movement toward vouchers and similar free-market approaches (Enlow 2004). The Manhattan Institute produced a grading system using what it called the “Freedom Index,” a free-market ranking that attempts to cumulatively account for vouchers, charter schools, and other forms of choice (Greene 2000). The Fordham Foundation has graded charter school laws on the diversity and efficacy of allowed authorizers (Palmer and Gau 2003). Another Fordham report grades state teacher

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credentialing, giving higher grades to those states favoring the free market over professionalization (Finn et al. 1999).<sup>3</sup>

Governmental and private organizations and publications have also released so-called report cards that rank states based on various criteria. States are graded on accountability, finance systems, and other factors by *Education Week's* "Quality Counts" (*Education Week* 2005). Governments and newspapers grade and rank schools and school districts based on standardized test scores (Colorado State Board of Education 2005; Dedman 2004). Attempting to develop a franchise analogous the *U.S. News* higher education rankings, *Newsweek* now ranks top high schools based on student participation in advanced placement (AP) and international baccalaureate (IB) courses.<sup>4</sup> Not to be outdone, *U.S. News* just began its own high school rankings, based on standardized test scores and rates of participation and achievement in AP courses (but, apparently, not IB courses).<sup>5</sup> The approach also took into account the percentage of economically disadvantaged students at each school and the performance of black, Latino, and poor students.

Our examination of these rankings and reports yields mixed conclusions. The compilation of data underlying the efforts is admirable and valuable. But the grades themselves have great potential to cheapen the discourse around important issues. Complex matters of social policy are transformed into an ordinal competition. At a basic level, none of these rankings offer incorrect information (at least, we assume that none do so intentionally). If they are harmful, that harm comes about because of two other factors: (1) they can prompt changed behavior by readers and policy makers, and (2) they can be misleading, if readers do not understand the bases for the rankings. We contend that it is this second factor that most deserves attention and remediation.

The first factor can be subdivided into "intended change" and "unintended change." Intended change would include, for example, the lifting of restrictions on charter school laws in response to the CER rankings or increased AP and IB enrollment in response to the *Newsweek* rankings. Such intended changes are not harmful from the perspective of the producers of the rankings. And their harm from the perspective of others is no different from the "harm" caused by any successful policy advocacy.

Unintended change would include the increased use of early college admissions as a way to increase the "yield rate" that formerly was included in the *U.S. News* calculations (*Christian Science Monitor* 2003). But this phenomenon of unintended consequences is hardly unique to this type of policy document; attempts to change policy are rarely so refined that they only create intended effects. This does not mean that unintended consequences should be shrugged off—only that addressing them (i.e., by tinkering with the policy along the way) is common.

In contrast, there is a unique aspect to the misleading nature of grades and

rankings used for policy advocacy. A value-laden report presented as objective research and accepted as such by media outlets—and given a great deal of attention because of the reader-friendly ratings/grades—clouds discourse around the issue. We suggest the following, which we think will enhance the likelihood these reports will be more critically presented and consumed. The primary responsibility lies with the reports' authors, who should clearly state limitations and explain underlying values and assumptions. But a strong secondary responsibility lies with mediating institutions. The audience for these reports is really not those who read the documents themselves; instead, readers of newspapers, and consumers of other media, learn of the content only as it is reported. Even if a report is intended to deceive, it can only do so when reporters and their editors fail to provide a critical filter. The solution to the misleading aspect to these reports thus devolves to the difficult task of working with these reporters and editors, helping them to present accurate and complete stories. Much confusion could be eliminated by two sentences near the outset of a newspaper story, reading simply, "The report card was issued by the Center for Education Reform, an advocacy group for charter schools that favors fewer regulations of those schools. States were given higher grades if their charter school laws included only minimal regulations."

We look primarily to the media because novice readers of ranking or grading reports should not be expected to understand, or even to be aware of, countervailing perspectives. Nor should they be expected to know the policy objectives of a given organization. However, we note that readers can, with little effort, learn a great deal by quickly looking to the underlying criteria. A reader who is a policy maker should be expected, at a minimum, to ask about those criteria.

## Conclusion

The merits of important academic studies are tested through peer review and challenged by subsequent studies and publications. No reliable academic counterpart to this rigorous process, however, has emerged for reports issued by advocacy organizations that project their efforts directly into the policy arena.<sup>6</sup> Yet such advocacy documents are often more influential than even the most careful academic research. By issuing report cards, rankings, and grades, organizations have found that they can make their primary arguments easily understood and can gain influence in policy debates.

A grades- or rankings-based approach of evaluating charter school laws is necessarily value dependent. Rankings are only useful to those who understand the values underlying the exercise; otherwise, they are likely to be misleading.

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The CER rankings, in particular, have received most of the publicity yet are poorly presented.<sup>7</sup>

Each of the six ranking systems discussed above uses different criteria to determine what makes a good charter school law, and each yields different results. Not surprisingly, our own ranking system, using criteria aligned with the initial mission of the charter school movement, produced very different grades than that of CER. The examples presented in this article underscore the problems inherent in trusting such value-dependent and inconsistent grading approaches. Yet because grades are likely to remain a popular assessment tool in the educational realm, we hope that this analysis contributes to a better understanding of these limitations.

### Notes

1. The use of the terms “strong” and “weak,” as applied to charter school laws, likely originated with Millot (1994) and Wohlstetter et al. (1995).

2. Miron (2005, 4), however, notes that Connecticut’s successful charter policy includes rigorous oversight and that a “large proportion of poor performing [charter] schools . . . have closed.” He also notes that the state imposed a temporary moratorium on the granting of new charters.

3. For an excellent example of uncritical news coverage, see the *Rocky Mountain News* article about this report, which identifies the Fordham Foundation merely as “a private Washington-based foundation that backs education research and reform” (Associated Press 1999). Nowhere in the article are readers given any information that would help them understand that the grade (Colorado received a B– in this case) was grounded on a controversial ideological goal for teacher certification.

4. *Newsweek’s* rankings are derived by dividing the total number of AP or IB tests given at a school in May by the number of seniors graduating in June. Interestingly, while the National Research Council has criticized the *Newsweek* rankings for inappropriate (invalid) uses of the tests and for the potential that the popular rankings have to distort educational practices (Gollub et al. 2002, 185ff.), Jay Mathews, the person behind the *Newsweek* rankings, views more widespread enrollment in such classes as a benefit (Mathews 1998). That is, the rankings may prompt changed school practices, but that would be a positive outcome.

5. The ranking approach is described by Morse (2007). Since the approach accounts for test scores and student demographics but not selectivity (by either school selection or student self-selection), choice schools and test-based schools are notably overrepresented. According to Rotherham, fully 20 percent of the schools on the list select students based on academic merit (Rotherham 2007). Schools located in wealthy, suburban areas also appear to do very well in the new ranking.

6. We recently have helped start up the Think Tank Review Project (at <http://www.thinktankreview.org>), which publishes reviews—comparable to peer reviews—addressing the quality of reports issued by think tanks (Welner and Molnar 2007).

7. Robert Fox (2005) has been pursuing an ambitious project whereby he hopes to put online, as a resource to accompany the annual CER report card, a comprehensive summary of each state’s charter school law and a content analysis and comparison of

issues such as application procedures, renewal and revocation regulations, and collective bargaining requirements.

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