

**The Grinding Battle with Circumstance:  
Charter Schools and the Potential of School-Based Collective Bargaining**

**Jonathan Gyurko**

**Program in Politics and Education \***

**Teachers College, Columbia University**

**February 2008**

**PLEASE DO NOT CITE WITHOUT PERMISSION**

***Abstract***

*Despite its teacher union origins as a vehicle for teacher-led, bottom-up innovation and early bi-partisan support, the charter movement was adopted by political conservatives as a vehicle for market-oriented education reforms. In the process, teacher unions largely repudiated an idea they helped launch. Yet recently, a flurry of discussion has emerged regarding an evolving and potentially productive relationship between charter schools and teacher unions. These discussions were precipitated by the recent actions of a few notable policy entrepreneurs whose work may suggest political and policy alternatives that could advance and sustain the policies embedded in the charter model.*

*This paper chronicles the political history of the charter school movement in the United States, starting with ideas promulgated by the late American Federation of Teachers President Albert Shanker and continuing through the embrace of charter schools by political conservatives. Through a review of available research, the paper assesses the current state of the charter school movement, including an assessment of charter school achievement data and a critique of the charter school policy framework, with particular emphasis on charter school financing, philanthropic support, and access to human capital. The paper also describes the recent and politically counter-intuitive work by the United Federation of Teachers, New York City's teachers union, in founding two charter schools.*

*With the broad history and state of the charter school movement established, this paper analyzes recent events through the agenda setting frameworks developed by Baumgartner and Jones (1993) and Kingdon (1984). Specifically, the paper argues that the charter school movement may be approaching an instance of "punctuated equilibrium" due to the charter school movement's changing "policy image" and the loss of "monopolistic control" over the charter school agenda by a small interest group. The paper concludes that school-based collective bargaining may be a "new institutional structure" that could have transformative and productive consequences for the charter school movement.*

---

\* Jonathan Gyurko is a PhD Candidate in the Politics and Education Program at Teachers College, Columbia University. He is also Special Assistant for Charter School Development at the United Federation of Teachers. From 2002 to 2004 he directed the Office of Charter Schools at the New York City Department of Education. The opinions expressed in this paper are the author's and not necessarily those of the United Federation of Teachers.

## **I. A Nascent Transformation?**

In October 2005, the National Association of Charter School Authorizers invited the President of New York City's teachers union to address a gathering of over 300 charter school leaders on the topic of teacher unions and charter schools. This meeting, held at the Association's annual conference, was the first prominent engagement of this controversial topic and was covered by one of New York's daily newspapers (Williams 2005) and *Education Week* (Robelen 2005). The following spring, the Progressive Policy Institute and the National Charter School Research Project hosted a day-long meeting of twenty-five union and charter school leaders to discuss areas of agreement and disagreement; the unprecedented discussion was recorded and published with an analysis of the proceedings (Hill et. al. 2006). Later that month, the Minnesota-based think tank Education|Evolving hosted a similar two-day workshop for Midwestern education, business, and civic leaders entitled "New Schools, New Strategies, New Roles for Unions."

The tumultuous history and relationship between teacher unions and the charter school movement is well known, in the extreme characterized as "high-pressure union lobbying" against charters versus the hope by "many early charter advocates... to break the unions' power," (Rainey et. al. 2006). As such, these meetings represented a small but potentially groundbreaking shift in the politics and policies of America's charter school movement.

With fits and starts, this national dialogue continued. At the July 2006 convention of the American Federation of Teachers, attended by over 3,000 educators, charter schools were the subject of heated debate. But by the convention's end, a resolution was

adopted regarding non-union schools, taking the issue of school *type* off the table. In April 2007 at the annual conference of the National Alliance for Public Charter Schools, opening remarks included prominent mention of the late American Federation of Teachers (AFT) President Albert Shanker's role in launching the charter school movement. The conference also included a session on whether charter schools and teacher unions can "get along." In the conference bulletin, the AFT placed a full-page advertisement featuring a quote from current AFT President Edward J. McElroy stating: "*irrespective of the type of school, a real voice for teachers translates into students who excel*" (emphasis added, National Alliance 2007).

Then things began to pick up speed. In July 2007, the AFT's education conference featured sessions designed for union-members teaching in charter schools. In August, leaders of Chicago's small schools effort convened a panel, including the President of Chicago's teachers union, on the topic of charters. In October, a dinner for about a dozen of the leading charter school funders, advocates, and authorizers included a facilitated discussion of two questions: "Can the charter movement succeed if it works with organized labor? Can it succeed if it doesn't?"

Later that month, the Donnell-Kay Foundation, a leading supporter of public education in Denver, invited Randi Weingarten, President of New York's United Federation of Teachers (UFT), to discuss the union's work around charter schools at a monthly gathering of Colorado's business and civic leaders. In November 2007, the Coalition of Essential Schools hosted a discussion entitled "Building the Progressive Charter Schools Movement," moderated by Deborah Meier, one of the originators of the small school movement. And in December, the National Charter School Research

Project's annual report on charter schools gave close attention to the charter model first promoted by Shanker and how governance has evolved and can improve (Lake 2007).

• • •

In the study of education politics, policy change, and agenda setting, America's charter school movement offers a fascinating case. Despite its teacher union origins as a vehicle for teacher-led, bottom-up innovation (Shanker 1988, Hannaway and Rotherham 2006, Kahlenberg 2007) and early bi-partisan support (Nathan 1996, Schroeder 2004, Medler 2004, Ziebarth 2005), the charter movement was adopted by political conservatives as a vehicle for market-oriented education reforms (Henig, 2008). In the process, teacher unions largely repudiated an idea they helped launch (Kahlenberg 2007). Although this basic narrative may be more reflective of the philosophy and actions of the charter movement's leadership and top funders (Rainey et. al. 2006) as opposed to the broader diversity within schools (Carpenter 2006), this narrative largely has shaped an adversarial charter school debate (Weingarten 2006).

All this makes the recent discussions regarding the relationship between charter schools and teacher unions all the more fascinating. From where did these nascent discussions emerge, and what do they mean? The answer lies, by and large, with actions taken by a few notable policy entrepreneurs. Moreover, their work suggests political and policy alternatives that could advance the ideas embedded in the charter model toward sustainability. This political opening finds its origin in the earliest thinking that launched the charter school movement; to fully appreciate the current turn of events, it's useful to start with a 1988 speech by America's most famous teacher union leader.

## **II. A Bold Proposal for Reform through Professionalism**

The late American Federation of Teachers (AFT) President Albert Shanker was one of the first prominent supporters of charter schooling (Nathan 1996, Wilson 2006, Smith et. al. 2007). With ideas developed by educator Ray Budde in *Education by Charter: Restructuring School Districts* (1988), Shanker introduced the concept of charter schooling in a speech at the National Press Club (Shanker, March 1988). He further developed the concept in a *Peabody Journal of Education* article (Shanker, Spring 1988). The speech, article and other efforts laid the groundwork for a resolution supporting charter schooling at the AFT's 1988 national convention.

In his writing and speeches, Shanker outlined a system where educators would have greater autonomy to develop an innovative school proposal and receive a “charter” from an official government body to implement the plan. Regulations that stood in the way of the proposal would be waived, and the school would control its budget. It would be a publicly funded and non-discriminatory school of choice, where parents would choose to send their children and where teachers would choose to work. Periodic evaluations would ascertain if pre-determined goals were met and if the charter should be extended (Shanker, July 1988). This proposed “autonomy for accountability” arrangement was nothing less than the working definition of a charter school, some form of which now exists in 40 states.

Shanker's thinking was due, in part, to the nature of the times. Just five years earlier, *A Nation At Risk* warned that “the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people”(1983). Other reports, such as the 1986 Carnegie Forum on

Education and the Economy echoed the same sentiment, generated broad-base support for significant school reform. Shanker and the AFT were forthright in their openness to the reports, proposed new ideas to stimulate change, and aimed to guide the business community's involvement.

Starting in 1985, Shanker made a series of speeches outlining a vision that would “go beyond collective bargaining to the achievement of true teacher professionalism” (Kahlenberg 2006). His innovative proposals included peer review, board certification, and “the greatest possible choice among public schools.” Yet despite these and other reforms of the period, such as higher standards, increased salaries, stronger certification requirements, and standardized tests, Shanker came to believe that schools were still bypassing a majority of students.

On implementation, many of the reforms were top-down and regulatory, with “thick books of legislation telling everybody how many minutes there should be in a school day and the school year, how many hours there should be of this and that, and what should determine whether someone passes or fails” (Shanker, March 1988). Shanker and others, including John Chubb and Terry Moe (1990), argued that this bureaucratized approach wasn't working and instead Shanker proposed the charter restructuring as a way to stimulate bottom-up efforts in which new schools and approaches would be generated by educators based on their own experience and understanding of children. Pointing to a few examples in New York and elsewhere, Shanker suggested that a new policy framework would expand such approaches from a handful of school districts to thousands.

Shanker spent much of his career fighting to increase teacher professionalism (Kahlenberg 2007), and his charter proposal was cut from the same cloth. In much of his work, he argued that excellence could not be regulated; that top-down micro-management could not replace the on-site judgment of professional educators; that teachers should have the opportunity to innovate. All in, he maintained that a more professional enterprise would attract the more capable workforce needed to meet the growing demands on public schools. His argument has been supported by a variety of evidence suggesting that schools marked by high quality instruction and teacher voice—the hallmarks of professionalism—do better in the long run (Chubb and Moe 1990; Wohlstetter and Sebring 2000, Wohlstetter et. al. 1997, Carey 2004, Hunt et. al. 1996).

Confident that his charter proposal would deepen teacher professionalism and improve student achievement, he said that the AFT intended to “go to each and every one of our locals across the country” to “make it possible for any group of six, seven, eight, nine, twelve or more teachers who want to do this to do it.” He added:

*...this proposal will take us from the point where the number of real basic reform efforts can be counted on the fingers of two hands to the point where, if we meet here again a few years from now, we'll be able to talk about thousands and thousands of schools in this country where people are building a new type of school that reaches the overwhelming majority of our students (Shanker, March 1988).*

• • •

Revisiting the earliest founding of the charter school movement is more than a trip down memory lane. The recent union-charter discussions were prompted by new developments in the charter school movement, and these developments, described below, claim to be premised on Shanker’s original conceptualization. If, as I argue, these

developments may lead to broader application and sustainability of the principles of chartering, then it is not only important to understand Shanker's ideas and rationale but to also understand why he and his union largely withdrew their support for charter schools.

### **III. The Great Reversal**

In some ways, Shanker got exactly what he called for. What started as one school in Minnesota in 1992 has grown to over 4,000 charter schools educating a million students in what is (second to the standards movement) the “most important education reform ongoing today” (Kahlenberg 2007). But the charter movement quickly diverged from his original vision. Instead of a structural reform aimed to promote student achievement through professionalism and innovation, the structural change *became* the innovation, prompting much of the unions' opposition.

While it is impossible to pinpoint the moment when Shanker and his colleagues withdrew their advocacy for charters, three key events mark the evolution of the charter school idea. The first was John Chubb and Terry Moe's *Politics, Markets, and America's Schools* (1990), described as “the most important intervention into the debate about public schools and marketplace mechanisms since Milton Friedman's initial voucher proposal” (Fruchter 2007). Chubb and Moe argue for the benefits of choice and competition, concluding with a set of sweeping recommendations to restructure public education on market principles. Although Chubb and Moe proposed a voucher-based and largely unregulated system of schooling, many similarities, particularly in regard to school autonomy, existed between their recommendations and the charter school concept. As a result, their ideas and metaphors supplied education reformers, including supporters

of the budding charter movement, with a theoretical context and market orientation (Henig 1994).

The second event was Minnesota's 1991 passage of the nation's first charter school law. Shanker advised Minnesota's earliest charter advocates, and the state's progressive charter law was passed with bi-partisan support (Nathan 1996). But in a break with Shanker's thinking, the law constituted charters as independent educational corporations autonomous from the school district and exempt from pre-existing collective bargaining agreements.

The loss of collective bargaining rights unless reactivated by union organizing was a clear setback to the teacher union movement, birthed just thirty years prior. Although Minnesota's law requires teachers to constitute a majority of the school's board of trustees, concerns were raised by labor leaders about the impact of less concentrated unionization on unions' ability to pursue political, economic, and social goals. Indeed, as charter laws rolled-out across the country, political conservatives were "quite open about the fact that that charter school laws provided a critical end-run around teacher unions" (Kahlenberg, 2007).

The third event was the launch in 1991 of Edison Schools, an education management company that promised to "transform American education" (Wilson 2006). Although Edison planned to open a nationwide chain of private schools, the "difficulty of raising the required billions of dollars" turned Edison towards management of public schools under contract with a district. Opening and managing charter schools provided Edison and other companies like it with additional business opportunities. Although the education sector is replete of for-profit textbook publishers, service vendors and the like,

Shanker worried that “for-profit companies [performing education’s core functions] would care more about looking after their shareholders than educating children,” or even worse would become a “gimmick” for “hucksters” (Kahlenberg 2007).

Chubb and Moe fueled the charter movement with marketplace theories and metaphors. The loss of pre-existing collective bargaining rights was a setback to unions’ hard-won gains. And the ambitions of for-profit management companies invited questions about motives and priorities. Over time, these and other factors led Shanker to believe that his charter proposal was “hijacked by [political] conservatives” and transformed into something akin to “a private-school voucher plan” aimed “to smash the public schools” and “undermine unions and collective bargaining” (Kahlenberg 2007). Shanker voiced these concerns in a number of his weekly columns in the *New York Times* (July & December 1994; November 1995) and in other forums. Ultimately, and in a great reversal, Shanker led his union and its affiliates in opposition to the charter school movement he helped to launch.

#### **IV. *Yesterday’s* Charter School Movement**

In 1997, Shanker commented that the evolution of the charter concept and movement “would ultimately limit the [its] effectiveness,” arguing that as an anti-union weapon, any growth would be opposed by unions and lessons learned would be resisted, undercutting a chief rationale for experimentation (Kahlenberg 2007). There is ample evidence that his prediction was correct.

In the face of perceived and real threats posed by charter schools to teachers’ right to bargain collectively and the civic influence associated with high-density unionization,

union opposition has been pronounced. Some of the more dramatic examples include Detroit Public Schools teachers' one-day walk-out to protest charter school expansion (Associated Press 2003) and the Ohio Federation of Teachers' lawsuits challenging charter schools' constitutionality (American Teacher 2001; Rainey et. al. 2006).

This contentiousness removed any possibility of developing a broad coalition in support of charters and forced political compromises when charter laws were adopted. In many instances, these compromises force charter schools to operate within a framework of broken policies characterized by inadequate funding, a dependence on private philanthropy, and politically-generated barriers to human resources. Each of these three factors is explored below.

A comprehensive study of charter school funding commissioned by the Thomas B. Fordham Institute (Hassel et. al. 2005) examined charter school funding in 16 states and the District of Columbia, as well as in 27 school districts within those states. At the time, these jurisdictions enrolled 84 percent of the country's charter school students. This study found that charters were under-funded in 26 of the districts and in 16 of the states, with gaps ranging from \$414 per pupil in North Carolina to \$3,638 in Missouri. In Fordham's report, outspoken charter advocate Chester Finn warned that "the finance ground rules appear designed to produce failure... If the resources charter schools need to succeed can be kept away from them, they will eventually falter, weaken, and wither... few will remain standing."

These findings align with my analysis of charter school operating funding in New York City (Jacobowitz and Gyurko, 2004). In this paper, we compared the City's average expenditure on students at different grade levels and abilities to the bundle of

public resources (including district-provided services) available to a hypothetical charter school educating an identical student body. Moreover, we limited our comparison to operating (i.e. non-capital) funds, given that many of the City's charters are located in public buildings. We found that state statutes entitle the City's charter schools to fewer public operating resources than comparable public schools, with disparities at all education levels and for both general and special education students.

Inequitable funding has forced charter schools to seek the support of private philanthropy, and conservative foundations, viewing charters as a vehicle for market-based reform, provided generous support. The best but by no means only example is the Walton Family Foundation. As described in "Big Box: How the Heirs of the Wal-Mart Fortune Have Fueled the Charter School Movement" (Hassel and Toch 2006), the Walton Foundation "has played a central role in [the charter school] education revolution." Based on "John Walton's faith in the power of competition," the foundation "promotes vouchers, tax-credits, and charter schools with equal enthusiasm," and "hasn't hesitated to influence the organizations it has helped to create," with strategic planning "facilitated by consultants hired by the foundation."

Since 1998, Walton has spent \$150 million incubating 600 charter schools across the country, and Walton's work is not limited to schools. Spending over \$50 million a year, "the foundation has funded hundreds of new individual charter schools, a number of charter school management companies, an array of national, state, and local charter advocacy organizations, numerous technical assistance organizations, and a wide-range of charter school research."

Walton is not alone, and the charter movement's affiliation with conservative philanthropies and think-tanks, such as the Heritage Foundation, the Center for Education Reform, and Fordham have given credence to Shanker's original concerns. These relationships, coupled with the presence of for-profit school operators in states like Michigan (Mead 2006) and Ohio (Russo 2005), cemented perceptions of the charter movement as a front in a conservative effort to privatize public education and marginalize teacher unions. In many states, including Florida, Ohio, and New York, the prominence of ideology has impeded legislative solutions to funding shortfalls, charter "caps," and other issues (Hassel et. al. 2006; Bischoff 2007; Stulberg 2007).

The third and inter-related component of charter schools' broken policy framework pertains to the difficulty in recruiting and retaining teachers. Discounted funding immediately places charters at a competitive disadvantage, as in Michigan where experienced charter teachers are paid less (Mead 2006). The politicization associated with charters' perceived connection to privatization may also dissuade educators from seeking employment in these schools. These observations fit with reports from the leaders of prominent charter management organizations (CMO), as learned through personal communication. Not only do these CMOs rarely hire teachers from the school district, at least one leader was surprised by the lack of job applications from teachers currently employed by the district.

Although more research is needed to determine if these anecdotes represent a larger trend, consensus exists on the typical profile of charter school teachers. The National Charter School Alliance reports that charters "employ teachers who attended more selective colleges... but who are also younger and less experienced in the

classroom. This provides a unique vibrancy... but at the same time leads to greater turnover” (Renewing the Compact, 2005). Another paper indicates that “charter school teachers are more likely to lack traditional school of education backgrounds and less likely to hold master’s degree”(Christensen and Lake, 2007).

Researchers at Western Michigan University found that the attrition rate for new charter school teachers “is close to 40 percent annually,” which may impede schools’ ability “to build professional learning communities and positive and stable school cultures” (Miron and Applegate, 2007). The authors of the National Charter School Research Project’s 2006 report openly wonder how charter schools can develop a “sustainable teacher force,” noting that human resource constraints are likely to become a “much bigger” problem in the next five years (Lake and Hill, 2006).

## **V. Predictable Results**

After fifteen years, with nearly 4,000 schools educating over one million students, the record of charter schools is mixed. Chester Finn concedes as much, commenting that “some are fantastic, some are abysmal, and many are hard to distinguish from the district schools to which they’re meant to be alternatives” (Finn 2006). In some respects, mixed results are predictable—or even an accomplishment—given the barriers posed by charters’ framework of broken policies and highly-charged politics.

Moreover, the heated politics surrounding charters only exacerbate the debate over achievement and impede efforts to form even a scholarly consensus (Nelson et. al, 2004; Hoxby 2004; Carnoy et. al. 2005; Roy and Mishel 2005; H. Braun et. al. 2006; Henig 2008). Although the quality of charter school studies is less than ideal and “none

of them is definitive” (Hill and Betts, 2006), there is aggregate evidence to support Finn’s assessment.

In an effort to provide a “full and fair picture” of charter performance, the National Alliance for Public Charter Schools periodically reviews the available research. In 2007, the advocacy group examined 70 comparative analyses of charter school and traditional public school performance (Hassel et al. 2007). Overall, the report found that of the 40 studies that sought to “make some attempt to look at change over time in student or school performance,” 21 found “gains in charter schools [that] were larger than other public schools... ten [studies where] charter school gains were higher in certain significant categories of schools... five [finding] comparable gains in charter and traditional public schools... [and] four [that] find that... overall gains lagged behind.”

Although the “What We Know” paper does not include the methodology used to code each study as better, comparable, or lagging behind, the report’s back-up tables can be analyzed. Given that the back-up tables include a brief description of each study’s major findings, I coded each finding, assigning a one (1) to a positive finding, a zero (0) to a neutral, comparable or gap closing (but not exceeding) finding, and negative one (-1) for each negative finding. Once all the individual findings were scored, a simple average gave each study an overall score somewhere on a scale from 1 to -1.

Although this methodology assigns equal weight to different findings, such a coding provides a numerical comparison of the studies. As snapshot studies fail to examine progress over time, they are removed from the analysis as are seven studies that make no mention of statistical significance. The remaining 36 are shown in Table 1.

**Table 1: "Charter Achievement: What We Know, 2007" Recoded, Panel and Change Only**

Type	Authors	Year	State	Score <sup>1</sup>	Description
Change	EdSource	2005	CA	1.00	Better
Change	Greene, Forster, & Winters	2003	Multiple	1.00	Better
Change	Slovacek et. al.	2002	CA	1.00	Better
Panel	Hoxby & Murarka	2007	NYC	1.00	Better
Change	Carr & Staley	2005	OH	0.67	Comparable-Better
Change	Miron	2005	CT	0.67	Comparable-Better
Change	Miron, Coryn, & Mackety	2007	Multiple	0.67	Comparable-Better
Panel	Massachusetts Department of Education	2006	MA	0.67	Comparable-Better
Panel	Florida Department of Education	2004	FL	0.60	Comparable-Better
Change	Shapley et. al.	2006	TX	0.50	Comparable-Better
Panel	Booker et. al.	2004	TX	0.50	Comparable-Better
Panel	Miron et. al.	2006	DE	0.38	Comparable-Better
Panel	Miron et. al.	2007	DE	0.38	Comparable-Better
Change	Miron & Horn	2002	CT	0.33	Comparable-Better
Change	Raymond	2003	CA	0.33	Comparable-Better
Change	Loveless	2003	Multi	0.25	Comparable
Panel	Gronberg & Jansen	2005	TX	0.25	Comparable
Panel	Hoxby & Rockoff	2004	Chicago	0.25	Comparable
Panel	Solmon & Goldschmidt	2004	AZ	0.25	Comparable
Panel	Sass	2006	FL	0.20	Comparable
Change	Bettinger	2005	MI	0.00	Comparable
Change	Metis Associates	2004	KC, MO	0.00	Comparable
Change	Zimmer et. al.	2003	CA	0.00	Comparable
Panel	Ballou, Teasley, and Zeidner	2006	ID	0.00	Comparable
Panel	FL Off. of Prog. Policy Anal. & Gov. Acc.	2005	FL	0.00	Comparable
Panel	Gronberg & Jansen	2001	TX	0.00	Comparable
Panel	Hanushek, Kain, & Rivkin	2002	TX	0.00	Comparable
Panel	Miron	2004	DE	0.00	Comparable
Panel	Zimmer et. al.	2003	CA	0.00	Comparable
Change	Miron et. al.	2007	DE	-0.29	Comparable-Worse
Change	Miron & Nelson	2002	MI	-0.50	Comparable-Worse
Change	Miron, Nelson & Risley	2002	PA	-0.50	Comparable-Worse
Change	Rogosa	2003	CA	-0.50	Comparable-Worse
Change	Henig et. al.	2001	DC	-1.00	Worse
Panel	Bifulco & Ladd	2004	NC	-1.00	Worse
Panel	Noblit & Dickson	2001	NC	-1.00	Worse

<sup>1</sup> 1.00 to 0.75 = Better; 0.74 to 0.26 = Comparable-Better; 0.25 to -0.25 = Comparable; -0.26 to -0.74 = Comparable-Worse; -0.75 to -1.00 =Worse

This coding indicates that 15 studies show charters out-performing their comparison schools and 21 with comparable or worse achievement than their district school counterparts.

Looking a little more closely under the hood further muddies the picture. For example, “What We Know” reports five positive findings for the 2005 EdSource’s report on California’s charter school achievement (EdSource 2005). Yet EdSource’s paper

includes at least 16 codable findings, changing the overall score from a perfect 1.00 (better) to 0.45 (comparable-better). Similarly, “What We Know” reports only one finding in Hoxby’s study of New York City charter schools, although the original report concludes that “some schools... have a strong positive effect [on achievement] and others have a modest positive effect... Most have an effect that is moderate... [and] a small share of students... attend a school that is estimated to have a modest to moderate negative effect.”

Coming to a “bottom line” on charter school achievement is not only complicated by methodology but also by differences in state charter laws and regulatory environments. Instead, it’s likely to be more important to understand the characteristics and practices of effective schools, regardless of their type. As one EdSource report concludes, “students... would be better served if charter schools were instead seen as laboratories of school improvement that add to the information researchers, educators, and policymakers can use to make sure that every child has an opportunity for academic success”(2005). Moreover, identifying best practices is irrelevant without the political support and policy mechanisms to share these innovations with other charter schools and with the 98 percent of public school students who are not enrolled in a charter. It is to these politics and mechanisms that I turn next.

## **VI. Gridlock?**

Despite the efforts of charter advocates like the National Alliance to put the best face on available evidence, the charter record, though encouraging, is not the breathtaking success that many predicted. In return for autonomy from school district

regulations and collective bargaining agreements, charters promised high-levels of achievement. But such results have not yet materialized consistently or at scale and no one in the charter movement set out to be “comparable.”

Some charter leaders are beginning to reflect on the state of the movement to determine what’s going “wrong” (Finn 2007). In 2005, the National Charter School Alliance held a “leadership summit” to “plan for the next generation of charter schooling”(Chartering 2.0, 2006). The gathering’s “frank and, at times, politically incorrect” discussion “provided valuable guidance on how to improve charter quality.” About the same time, the Alliance released “Renewing the Compact,” a report on charter school quality and accountability, as “too often, the charter compact [of accountability and achievement in return for autonomy] is not being fully realized” (Renewing the Compact, 2005).

In the meantime, charters continue to operate within a broken policy framework. If these policies can take some of the blame for charters’ mixed achievement, then repairs are in order. Additionally, there is some agreement on the different policies and practices needed to improve quality (Palmer et. al. 2006; Gau et. al. 2006; NACSA 2007). But policy recommendations alone are insufficient. Enacting better policies requires political action, and the evidence suggests that charter leaders remain unwilling to adopt new political strategies and form new alliances.

For example, many in the charter movement maintain a prominent anti-union posture. In 2005, the Atlantic Legal Foundation released *Leveling the Playing Field: What New York Charter School Leaders Need to Know About Union Organizing* (Jackson Lewis, LLP 2005). This how-to guide in avoiding unionization was drafted by the law

firm Jackson Lewis. The firm is notoriously and admittedly anti-union (Greenhouse 2004; Jackson Lewis 2007), and the report included back-cover praise from nationally-known charter advocates, describing the booklet as a “must read” and “indispensable resource” for any charter “targeted” for unionization.

Market metaphors continue to frame the debate and nurture suspicions of privatization. The Charter Alliance has stressed the importance of learning “the language of investment capital” to communicate with investors looking for “a return” and recommends training on “investment analysis and education marketing” (Renewing the Compact, 2005). Although some influential charter supporters have raised concerns that the market-metaphor is inadequate (Manno 2006; Stern 2008), a competitive framing remains prevalent.

A recent *Education Next* article (Smarick 2007) about the future of the charter movement offers a case in point. In this essay, the author calls for “every urban public school [to become] a charter.” Harkening back to Chubb and Moe, the proposal rests on the claim that “the system is the issue” and the answer is “an entirely different delivery system” that “capitalizes on market forces largely absent from district systems, such as constant innovation, competition, and replication.” Adversarial tactics are recommended for advocates and funders to “target” specific systems, “recruit” operators from other areas and engage “allies” to supply manpower until charters are “dominant.”

Such hawkish tactics are likely to impede the broad-based political support needed to pass pro-charter legislation and implement supportive policies. Continued use of market-based theories of change confirms fears about privatization. Despite the high aspirations of charter advocates, merely trying to “redouble efforts” (Renewing the

Compact, 2005) is unlikely to change the political landscape. Instead, and as counterintuitive as it may seem given the tumultuous history, an opening to a new set of politics may exist with a hithertofore unlikely partner: the teacher unions.

## **VII. “The Only Union-Operated Charter Schools in the Country”**

Despite a short-lived foray into the charter arena by the National Education Association in 1996 to “help teachers trying to create charter schools” (National Education Association 1996; Nathan 1996), most teacher union locals followed Shanker’s reversal on this issue. Then in 2004, Randi Weingarten, President of New York City’s United Federation of Teachers (UFT), convened a Charter School Task Force. Composed of charter school supporters and skeptics from within the union’s membership, the group studied the feasibility of UFT-founded charter schools. Given the decade of battles between the charter advocates and teacher unions, the UFT’s Charter School Task Force was something of a paradox. More contradictory was the Task Force’s unanimous recommendation to found two charter schools. How did this come about?

In 2002, New York City’s public schools were placed under mayoral control. Seen by the City’s administration as a once-in-a-generation opportunity to reform the school system from top to bottom, the City set out on an ambitious path, making fundamental changes to nearly every aspect of the nation’s largest school system. Thirty-two community school districts were consolidated into ten regions. A uniform reading and mathematics curriculum was implemented. The high school admissions process was changed to mirror the process used by the American Medical Association to assign

residencies. School bus routes were streamlined and school food service was overhauled. Moreover, the creation of new small schools—both district and charter—became a centerpiece of reforms.

Unlike previous administrations, the UFT largely was excluded from the City’s discussion, planning, and implementation of reforms. At the same time, the union and City were locked in protracted contract negotiations. In an effort to win major concessions, the City painted the teachers’ contract as the cause of much of the school system’s failure. Among numerous responses to this characterization, the UFT sought a mechanism to implement their ideas for schooling and debunk the derogatory claims about the teachers’ contract. A UFT-run charter school, authorized by state authorities and outside of the City’s direct authority, provided such a vehicle.

In studying their options the UFT’s Charter School Task Force returned to Shanker’s original charter proposal, particularly his emphasis on bottom-up innovation and greater professionalism. Accustomed to thinking about the “privateness” of charters (such as their independent board, school-specific lottery, and ability to expel students), Task Force members began to appreciate the “publicness” of the model, including a charter schools’ accountability through state assessments, non-discrimination requirements and the applicability of public “sunshine” laws. After months of debate, Task Force members unanimously agreed to found two charter schools.

Planning committees were established and site visits conducted to some of the region’s top charter and district public schools. Planning meetings were also held with the State University of New York (SUNY) Charter Schools Institute, one of the nation’s leading authorizers. The result was two 500-page proposals, one for an elementary

school and the other a secondary. Both included carefully selected curricula, detailed plans to cultivate a school culture dedicated to excellence and citizenship, innovations such as a longer school-day, team teaching, student advisories and community service. All of the schools' unique design features worked within the terms of the collective bargaining agreement between the UFT and the City of New York.

Prior to submission to state charter authorities, the proposals were carefully explained to UFT members throughout the City's five boroughs. The Task Force conducted information sessions, distributed summaries, and ran stories in *New York Teacher*, the UFT's in-house newspaper with a circulation of over 80,000. Nationally, Weingarten discussed the two schools with her peers on the AFT's Executive Council—a body of over 50 teacher union leaders from across the country. In these discussions, Weingarten explained how the effort was founded on Shanker's original charter model and was consistent with the goal of greater professionalism. Arguably, this outreach to UFT members and national colleagues was one of the most far-reaching charter school information campaigns within teacher unions since the build-up to the AFT's 1988 charter resolution. As a result, the UFT's charter initiative received the AFT's blessing and was endorsed with overwhelming support from the UFT's 3,000-person Delegate Assembly.

In July 2005, the proposals were approved by the State University of New York Trustees and New York Board of Regents. The UFT Elementary Charter School opened two months later with 150 students in kindergarten and 1<sup>st</sup> grade with plans to grow over five years to include 450 students enrolled through 5<sup>th</sup> grade. In September 2006, the UFT Secondary Charter School opened with 125 students in 6<sup>th</sup> grade and will grow over

seven years to enroll approximately 760 students through 12<sup>th</sup> grade. Both are located in East New York, Brooklyn.

More than 600 teachers applied for the twelve original positions, and over the first two years 700 students applied for 350 seats (Weingarten 2006). The elementary school will take its first battery of state tests in the spring of 2008 and the school reports encouraging results from their early-grade diagnostic and progress data. The secondary school administered a baseline assessment in January 2007 with scores comparable to district schools; this coming year's assessments will be the first real test for what both schools have accomplished.

### **VIII. Breaking the Logjam?**

Two new small schools in Brooklyn, amidst the City's opening of over 200 new schools in a system of 1.1 million students, is significant to the students enrolled but typically would make few other ripples. But the story is different if the two schools are charters, founded by the nation's largest union local, at a time when the charter movement was struggling with growing pains, and in the nation's largest media market.

Although local politics drove the UFT's charter project, the union was aware of the national implications. Other cities including Detroit, Washington D.C., Los Angeles, Philadelphia, and Chicago have a growing non-union charter sector. As the teacher unions in these cities are affiliates of the American Federation of Teachers (AFT), to which the UFT also belongs, relationships within the labor community gave the UFT's charters a national resonance.

In the 25 months between August 2004, when the UFT launched its Charter School Task Force, and the opening of the Secondary School in September 2006, over 79 local and national newspaper articles were published about the effort, and at the time of writing, a Google search for “UFT Charter School” yielded 1,160 hits. In January 2006, an Associated Press story was picked-up by CNN.com and other local outlets (Toosi 2006). *Education Week* published a feature on the schools the following month (Robelen 2006). These figures do not include numerous on-line commentaries on sites like Eduwonk.com, *The Education Gadfly*, and the Center for Education Reform’s *Newswire*. Regardless of support or opposition to the project, this volume of discussion suggests that the UFT had interjected something new into the nation’s charter school debate.

The work of Frank R. Baumgartner and Bryan D. Jones, in their influential book *Agendas and Instability in American Politics* (1993), provides a useful framework to understand the impact of the UFT’s two schools on the charter movement. Their book advances a model of policy change through “punctuated equilibrium,” where “the emergence of policy issues” is associated with the creation of “new institutional structures” through changing access to the political agenda. They explore the influence of “policy monopolies,” sought out by “every interest, every group, [and] every policy entrepreneur” through exclusive control over “political understandings concerning the policy of interest and an institutional arrangement that reinforce that understanding.” By changing “policy images” and “venues,” it is possible to break the monopoly, often through swift or “punctuated” change. John Kingdon’s earlier and complementary work in *Agendas, Alternatives, and Public Policies* (1984) adds the idea of “policy entrepreneurs” seizing “windows of opportunity.”

Despite its union-origin and early bi-partisan support, political conservatives quickly established a “monopoly” over the charter school movement. This monopoly was reinforced by institutional structures that included a national network of charter associations, conservative think-tanks and support organizations, the coordinating influence of conservative philanthropies, and the Republican leadership in states where chartering flourished.

But by 2004, the luster of the charter school “policy image” had begun to fade. The high-profile fight over charter school NAEP data was one of numerous discussions challenging the success of charter schools. Disagreements within the charter movement became more pronounced, with “one of the key dividing lines” separating supporters of “quality and accountability” versus the other side “focused on choice and competition” (Russo 2007). Reflective documents such as the Charter Alliance’s “Chartering 2.0” and “Renewing the Compact” were in some respects candid admissions of the need to re-tool.

The changing policy image and internal disagreements created a window of opportunity to challenge the monopoly held over the charter movement. Although the UFT’s charter initiative was prompted by local politics, its launch during a period of increased reflection within the charter movement increased the impact and consideration of the UFT’s schools and ideas. This impact was noted in commentaries such as an opinion in the *New York Post* by the president of the conservative Foundation for Education Reform and Accountability describing the UFT’s charter initiative as “a remarkable turn of events” with “huge political risk” (Carroll 2004), and a press statement by the Charter School Leadership Council applauding the UFT leadership for putting their political capital on the line (CSLC 2005).

A change in venue also explains the disproportionate impact of the UFT's two schools. Until 2004, teacher unions had engaged the charter school debate through legislative action, research, and teacher organizing. With the two schools, a teachers union became a charter school *operator*. This not only legitimized the union's engagement with the issue but also legitimized charter schooling; at least in New York, no longer was the debate about the validity of charter schools but rather about *how* they should best operate (Lake 2007, Rainey et. al. 2006).

Since 2004, the UFT advocated a reconceptualization of charter schooling, closely along the lines first articulated by Shanker. In Baumgartner and Jones' nomenclature, the UFT, acting as a "policy entrepreneur," has taken concerted steps to alter the charter school "policy image," from one about markets and competition to a focus on innovation and professionalism. For example, in a paid advertisement in the *New York Times*, Weingarten called to "take the politics out of charter schools," and shift "the debate over charter schools... back to best practices in education—just as Al Shanker intended" (Weingarten 2006). Weingarten struck the same theme nine months later in another *Times* column about the UFT's partnership with Green Dot Public Schools as "illustrative of the charter school idea that the late Al Shanker... promoted and popularized" (Weingarten, September 2007). The same themes appear in a lengthy "guest blog" on Eduwonk (Weingarten, August 2007) and in other places. To further promote the schools and change the policy image, the UFT made a 45-minute documentary about their efforts, hosted a gala premiere at the Tribeca Film Festival, and took the show on the road with a Washington, DC screening for education advocates and funders in January 2006.

Arguably, the growing national discussion about unions and charters, as catalogued in the opening of this paper, can trace its origin to the policy gridlock and window of opportunity within the charter movement that served to magnify the impact of the UFT's charter schools. Or in the words of the leader of a national charter school support organization, the charter-union debate took a turn for the better on the first day of school of the UFT Elementary Charter School. Yet despite this pronounced instance of punctuated equilibrium, will more permanent and productive changes take hold? Will “new institutional structures” arise to develop and reinforce a working relationship between union leaders and charter advocates, in an effort to advance the set of ideas embedded in the charter model?

### **IX. Professionalism, Power, and School-Based Collective Bargaining**

The UFT and other teacher unions argue that increased professionalism is a prerequisite for student achievement, and “decades of research” suggest that schools are more effective when they involve teachers in decisions, rather than keeping “a sharp line between labor and management”(Smith et. al. 2007). Implied in this theory of change is the need to attract, retain and develop an increasingly capable teaching force. On the issue of professionalism, charter advocates and union leaders agree (Hill et. al. 2006), despite a range of evidence that some charter teachers have greater influence “on curriculum, school practice, and policy” (Christensen and Lake 2007) while in other charters “teachers [are] treated as... employees” (Smith et. al. 2007).

Although the premium placed on professionalism is an important area of common ground between charter and labor leaders, there is less agreement on the issue of power

and specifically the appropriate distribution of ownership necessary to develop a professional workplace. On this issue, charter advocates typically echo Chubb and Moe's contention that exclusive authority must reside with the principal, in that "it is the principal's concentrated authority that frees him to... grant teachers discretion in their work... [given that] the effectiveness and success of the organization are heavily dependent on [teachers'] expertise and professional judgment" (1990). By hand-picking a team of "right-thinking" teachers, Chubb and Moe argue that the principal establishes an informal social contract that promotes professionalism. Moreover, this perspective typically views teacher unions as an external third-party to a school's labor-management relationship.

From labor's perspective, power should be broadly and contractually distributed throughout an organization, and collective bargaining is an indispensable mechanism to vest teachers with greater ownership over their enterprise. This perspective is akin to the power that doctors, lawyers and entrepreneurs hold when they are partners in their practice or firm. Such empowerment is not an absence of management, nor does collective bargaining demand teacher input on all of a school's day-to-day decisions. But it does envision that educators, like professionals in other walks of life, will influence the major decisions facing their school.

Also, and perhaps the cause of much misunderstanding between the charter and labor leaders, teachers' ability to unionize is constitutionally-protected and collective bargaining is (in many states) a statutory *right*, not merely a policy *option* or management's *choice*. Moreover, labor leaders insist that unionization does not

introduce a third-party to the labor-management relationship but merely balances the power between the two parties.

The debate on which arrangement of power works better and whether collective bargaining promotes professionalism and subsequently increases student achievement is too long to catalogue here and more often driven by ideology than evidence.

Additionally, the recurrent criticism of traditional industrial-style unionism, in which teachers and boards are pitted against each other, ignores the historical factors and working conditions that launched teacher unionism and underestimates the influence of scale when negotiations occur at the district-level.

Moreover, in recognizing the importance of school-level decision-making, teacher contracts including the UFT's contain language to operationalize school-based variation when supported by a majority of on-site teachers. In 2005, UFT President Randi Weingarten opened contract negotiations with a proposal for school-based contracts. Nationally, the late AFT President Sandy Feldman made a similar call for school-based agreements at the organization's biennial professional development conference.

Given the unions' belief about arrangements of power, it is not surprising that the unfettered ability to unionize and bargain collectively is central to their position on charter schools. In recognition of a charter school's autonomy from the school district, and as an extension of the movement towards school-level variation, the UFT advocates school-based collective bargaining for individual charter schools. As envisioned, this site-based bargaining formalizes a process for charter boards of trustees to involve teachers in decision-making, distributes power more appropriately, and broadens ownership.

Returning to Jones and Baumgartner's nomenclature, school-based collective bargaining can be considered a type of "new institutional arrangement" that operationalizes the recent developments in the charter-union policy debate. This arrangement preserves teacher unions' core belief about power and professionalism and is premised on a conception of charter schools as vehicles for accountable teacher-led innovation. Such an arrangement is in practice at Amber Charter School in East Harlem, where educators joined the union in 2004 and have a 15-page contract. The same school-specific arrangement will be in place at a school founded by the UFT and Green Dot Public Schools, scheduled to open in 2008. Throughout New York, the UFT's statewide affiliate has adopted a similar approach at charter schools where teachers chose to unionize including Roosevelt Charter School on Long Island, Maritime Academy Charter School in Buffalo, and the Charter School for Applied Technology in Tonawanda (Saunders 2007).

School-based collective bargaining is similar to what Julia Koppich calls "reform contracts" that "blur the lines of distinction between union and management... are negotiated using a process of labor-management cooperation... and expand the scope of negotiations to include issues of educational policy" (Koppich 2006). While some skeptics doubt that reform contracts, also known as interest-based bargaining, would work (Moe 2006), Koppich points to examples across the country where "reform unions have bridged what conventional wisdom would have us believe is the unnatural divide between classic wages, hours, and conditions of employment and issues central to building a quality profession." Her cases include Denver's performance-based compensation system, Minneapolis' merit-based tenure, and Toledo's award-winning

peer review program (Johnson and Donaldson 2006). Other examples include Milwaukee’s teacher co-operatives (Williams 2007) and New York City’s successful efforts to turnaround low-performing schools (Phenix et. al. 2004).

Moreover, a recent examination of collective bargaining across 20 districts found that the typical complaints that contracts “usurp managerial authority, stifle creative staffing, protect ineffective educators, prevent rewarding talent, and produce massive inefficiencies” are “at best an incomplete account and at worst a misleading characterization” (Hess and Kelley 2006). The paper found “substantial ambiguity in contract language” and questioned “how much responsibility district leadership, implementation, and execution should bear” for operational “inflexibility.”

As to the question of achievement, the two UFT charter schools do not yet have achievement results other than baseline data. But some of New York State’s other unionized charter schools consistently rank among the top performing charters, as depicted in Table Two:

**Table 2: Rank of Top Performing Unionized Charter Schools**

	English Language Arts							
	4th Grade				8th Grade			
	2003-'04	2004-'05	2005-'06	2006-'07	2003-'04	2004-'05	2005-'06	2006-'07
KIPP Academy Charter School	n/a	n/a	n/a	n/a	1	1	3	1
Roosevelt Children's Academy Charter School	1	2	2	19	n/a	n/a	n/a	4
Renaissance Charter School	7	3	4	4	3	3	2	2
Beginning with Children Charter School	9	7	5	10	4	7	4	9
Total Number of Schools Reporting	35	39	38	45	12	15	19	26
	Mathematics							
	4th Grade				8th Grade			
	2003-'04	2004-'05	2005-'06	2006-'07	2003-'04	2004-'05	2005-'06	2006-'07
KIPP Academy Charter School	n/a	n/a	n/a	n/a	1	1	1	3
Roosevelt Children's Academy Charter School	7	7	3	23	n/a	n/a	n/a	15
Renaissance Charter School	2	6	8	2	4	4	2	7
Beginning with Children Charter School	9	8	17	26	2	2	3	4
Total Number of Schools Reporting	35	38	40	44	13	15	21	25

[www.nysed.gov](http://www.nysed.gov)

KIPP's nearly uninterrupted reign at #1, Roosevelt Academy's solid performance at the elementary level (this past year excluding), and Beginning with Children and Renaissance's success in 8<sup>th</sup> grade make it harder for critics of unions to claim that teacher contracts inhibit high-achievement.



School-based collective bargaining may offer the charter school movement something akin to the best of all possible worlds. As many of the challenges constraining charter schools require political solutions, détente with teacher unions would be helpful if not a pre-requisite. As collective bargaining is the *sine qua non* of the union's productive engagement with the charter school movement, school-specific arrangements, in the tradition of reform unionism, may offer a "new institutional arrangement" that is consistent with the conception of charter schools as a vehicle for teacher-led innovation. The achievement of unionized charter schools should give pause to critics who reflexively blame unions for schools' poor performance, and these results lend credence to the union's philosophy about distribution of power and ownership within a school.

In practice, school-based contracts would take a variety of forms. Agreements could be specific to a single school or apply to school networks. The variety of employers (be they charter management organizations or stand-alone boards of trustees), the different approaches to schooling (such as traditional, progressive, vocational, or otherwise) and the desire of educators for site-specific innovation would generate a fair amount of variation across contracts. Regardless of the variation, teacher unions would likely insist that agreements share three core principles of professionalism: fair pay with compensation based on what is appropriately within a teacher's control, fair treatment

with a contractual guarantee of due process, and mechanisms to stimulate and heed the voice and judgment of employees.

Finally, unique characteristics of the charter framework align school-based collective bargaining towards innovation and achievement. For example, a school's legally-binding charter can serve as a "constitution" governing operation, terms of employment, and collective bargaining agreements. As charter trustees are not elected, they are not subject to the criticism that "school board elections offer teachers unions the unusual opportunity to influence the makeup of the management team they will face at the bargaining table" (Hess and Kelley 2006). As charter schools operate on a fixed budget and without taxing authority, wage and benefit negotiations are limited to certain financial assumptions and contextualized within a school's competing priorities.

If school-based collective bargaining provides a mechanism to normalize charter-union relations, the macro benefits of labor-management collaboration should not be underestimated. For example, in the years that charter advocates and detractors waged a "brutal" fight to lift New York's charter cap (Stulberg 2007), the UFT worked with an education non-profit to develop over 80 new high schools (New Visions 2007). While charter advocates continued to lobby for facilities financing, the union and City passed a five-year, \$13 billion capital plan for City schools. While charters operate with discounted funding, a broad coalition of public education supporters won a landmark Campaign for Fiscal Equity. In all of these instances, the UFT was fighting on behalf of its members; increasing the number of *charter school* members can increase the union's responsibility to advocate for charter-specific concerns.

## **X. Novelty or Breakthrough?**

Only time will tell if the years from 2004 to 2007 marked a radical change in the nation's charter school movement, away from its early ideology of markets and competition to something closer to its original conception as a mechanism for professionalism, teacher-led innovation, and achievement. The coming years will reveal if the dialogue between charter and union leader was simply a "one-day ceasefire" (Rainey et. al. 2006) or a movement towards partnership through a broad endorsement of collective bargaining and school-based teacher contracts.

At the grassroots, charter school teachers are expressing interest in joining or forming a union. Recent focus groups of non-union charter school teachers in three major cities found participants "receptive" to joining a union and expressed "a basic confidence that—under the right circumstances—a union can be a positive and effective presence in their lives" (internal AFT report, 2007). Similar views were expressed in surveys and focus groups of New York City charter school teachers, in which 80 percent of respondents expressed "some" or a "large" need for "some kind of organized representation" (internal UFT report, 2007).

The story of Green Dot Public Schools is another case in point (Williams and Mirga 2006; Dillon 2007). Founded in 2000 by activist Steve Barr, Green Dot currently operates twelve high schools in Los Angeles. Unlike most charter school operators, Barr encouraged his teachers to form a union. With the support of the California Teachers Association, Green Dot's teachers negotiated a 30-page school-based contract with higher rates of pay than the Los Angeles Unified School District, a just-cause standard for employment, and a "professional" workday. Green Dot's leaders credit their mission-

driven organization, emphasis on teacher professionalism, and commitment to fairness with their successful recruitment efforts. In 2006-2007, 800 teachers applied for 80 positions; the prior year the ratio was 12 to 1.

But at the same time, transformative changes in the political alignments supporting charter schools may remain elusive. For example, in November 2007 at Merrick Academy Charter School in Queens, New York, an overwhelming majority of employees petitioned for representation by the UFT (Green 2007). Yet four days after the teachers' petition was filed with the State's labor board, the school's Trustees hired Jackson Lewis as their representative and a number of anti-union tactics were initiated, including ad-hoc mandatory meetings, one-on-one consultations, and literature aimed to discredit the union.

In other situations learned through personal correspondence, teachers at charter schools in New York City have considered forming a union to gain a greater say in the direction of their practice. But when they weigh the perceived costs of winning real voice, many teachers decide that it's not worth the time, energy, and emotional strain, particularly given potential or real employer retaliation. Instead, they vote with their feet, opting to "exit" at the end of the school year and seek employment elsewhere. If this is indicative of a larger trend, it may offer another explanation for charter schools' high turnover and may pose on-going challenges to improving school quality.

On the national level, the Charter School National Alliance continues to adopt a competitive framing. For example, in their 2007 annual report, the Alliance notes that "charters are opening doors for children previously 'left behind' by traditional public

schools” (National Alliance, December 2007). The report goes on to state that charters must do better than “failing neighborhood schools.”



In the December 13, 2007 issue of the Thomas B. Fordham Foundation’s *Education Gadfly*, long-time charter school advocate Chester Finn penned an astonishing essay on the state of the charter school movement. Although focused on Ohio’s charter experience, Finn’s conclusions have national resonance and echo many of the assertions in this paper:

*Why are so many charter schools inadequate, even mediocre? What went wrong? ... ..those charged with ensuring the competence and viability of wannabe school operators, monitoring their performance and intervening when results are weak have been negligent... Only a handful of independent (aka "mom and pop") charters have the scale, resources, and sustainability to deliver high quality education year in and year out... regional and national operators, both the for-profit and non-profit kind... certainly haven't put their best foot forward... some are simply greedy... Ohio charters are under-funded, plain and simple, by several thousand dollars per pupil per year compared with adjoining district schools. They don't get facilities funding, either (though the state is spending billions on new district schools)...Too many Ohio charter operators... appear to believe that as long as parents are content with a school, it's good enough. This leads to inadequate emphasis on academic results... ..a plague of union-initiated lawsuits and angry local school systems created insecurity, ill-will, and a bunker mentality among charters while scaring off potential supporters, operators, and school staffers...Ohio's charter legislation... has also led to some truly dysfunctional policies and practices... ..we should have made some different decisions in Ohio. I'm as much to blame as anyone. The current political situation makes it harder to recover. But the problems remain solvable—and the time for tackling them is now.(2007)*

Finn goes on to point to Fordham Foundation's reports on how to improve the situation, including their *Turning the Corner to Quality: Policy Guidelines for Strengthening Ohio's Charter Schools* (Palmer et. al. 2006). Although this report includes seventeen recommendations for change, not one speaks of ways to improve the state's political climate. It's possible that such sensitive tactics simply don't get put in writing. Alternately, the climate in Ohio (and elsewhere) may be too hot to think about grand bargains, *détentes*, and alliances. Regardless, Finn's public admissions will be applauded by some as a step toward real change (while condemned by others for giving too much ammunition to "charter foes").

Finn's candor is reminiscent of recent discussions with noted educator Deborah Meier. At one time opposed to charters, she has come to appreciate their value as a mechanism for innovation and dissent outside of a school district's auspices. Also a staunch defender of public education's role in cultivating democracy and a firm believer in collective action through teacher unionism, Meier has started a dialogue on this topic among non-union charter schools within the Coalition of Essential Schools (Gyrko 2007).

Perhaps it will take the grand lions of education reform, like Finn and Meier, to help salvage chartering's powerful ideas from the warfare of partisan politics and in the process end the refrain that Al Shanker's early endorsement of charter schools is little more than "abiding irony" (Wilson 2006; Nathan 1996). Policy change also requires entrepreneurs, and the work of young tigers like Weingarten and Barr provides existence proofs and models to debate, challenge, and possibly replicate. Moreover, school-based collective bargaining may provide an essential "third way" mechanism to bridge teacher

unions' philosophy about power, professionalism, and teacher-led innovation with charter advocates' firm belief in site-based autonomy and accountability.

An opportunity for détente from the confrontations that have characterized the charter school movement should be seized by all sides as a rare and fleeting opportunity to achieve lasting change. Doing so will require leadership, risk-taking, and trust. Failing to do so will only exacerbate the internecine war that prevents educators from rallying around their common purpose, and lost to the battle will be millions of children who continue to receive something less than the best education.

In his landmark study of the British Empire, noted historian A.P. Thornton wrote that “ideas in politics, as elsewhere, are forced to fight a grinding battle with circumstance”(1959). Time will tell if a set of ideas about ownership and innovation, professionalism and accountability, and freedom and achievement will be ground up and piled on the ash heap of reform or made “strong enough to force circumstance itself to obey its dictation.”

## Works Cited

Associated Press, "Teacher Strike over Charter Schools Shuts Down Detroit Schools," *The Michigan Daily*, Sept. 25, 2003.

Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics*, (The University of Chicago Press, Chicago, IL, 1993).

Laura A. Bischoff, "Charter School Moratorium Divides," *Dayton Daily News*, March 15, 2007.

H. Braun, F. Jenkins, and W. Grigg, *A Closer Look at Charter Schools Using Hierarchical Linear Modeling* (NCES 2006-460, U.S. Dept. of Education, National Center for Education Statistics, Institute of Educational Sciences, Washington, DC, U.S. Government Printing Office, 2006).

Ray Budde, *Education by Charter: Restructuring School Districts* (Andover, MA: Regional Laboratory for Educational Improvement of the Northeast and Islands, 1988).

Kevin Carey, "The Real Value of Teachers: Using New Information about Teacher Effectiveness to Close the Achievement Gap," in *Thinking K-16*, (The Education Trust, Washington, DC, 2004).

Carnegie Forum on Education. *A Nation Prepared: Teachers for the Twenty-First Century* (The Report of the Task Force on Teaching as a Profession, New York: Carnegie Foundation, 1986).

Dick M. Carpenter II, "Playing to Type? Mapping the Charter School Landscape," (Thomas B. Fordham Foundation & Institute, Washington, DC, 2005).

Thomas Carroll, "Randi's Big Gamble: UFT's Bid for a Charter School," *New York Post*, December 7, 2004.

"Chartering 2.0: Leadership Summit Proceedings Document," (National Alliance for Public Charter Schools, Washington, DC, January 2006).

Jon Christensen and Robin J. Lake, "The National Charter School Landscape in 2007," in *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2007*, Robin J. Lake, ed. (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2007).

John E. Chubb and Terry M. Moe, *Politics, Markets and School Reform*, (The Brookings Institution, Washington, DC, 1990).

Martin Carnoy, Rebecca Jacobsen, Lawrence Mishel, and Richard Rothstein, *The Charter School Dust-Up: Examining the Evidence on Enrollment and Achievement* (Economic Policy Institute and Teachers College Press, New York, 2005).

"CSLC Applauds New York City Teachers Union to Vote to Create Two Public Charter Schools in Brooklyn," (Charter School Leadership Council, Washington, DC, February 10, 2005).

Sam Dillon, "Maverick Leads Charge for Charter Schools," *The New York Times*, July 24, 2007.

EdSource, "How Are California's Charter Schools Performing?" (Mountainview, CA: EdSource Report, May 2005). [http://www.edsource.org/pub\\_edfct\\_charter\\_summary.cfm](http://www.edsource.org/pub_edfct_charter_summary.cfm).

Chester E. Finn, Jr., "All Aboard the Charters? The State of a Movement," *National Review*, October 9, 2006.

Chester E. Finn, Jr., "Sources of Charter School Mediocrity," *The Education Gadfly*, (Thomas B. Fordham Foundation, December 13, 2007).

Norm Fruchter, *Urban Schools, Public Will: Making Education Work for All Our Children* (New York: Teachers College Press, Teachers College, Columbia University, 2007).

Rebecca Gau, Chester E. Finn, Jr., Michal J. Petrilli, *Trends in Charter School Authorizing*, (Thomas B. Fordham Institute, Washington, DC, May 2006).

Elizabeth Green, "UFT's Drive for Charters Nears a Success," *The New York Sun*, November 28, 2007.

Steven Greenhouse, "How Do You Drive Out a Union? South Carolina Factory Provides a Textbook Case," *New York Times*, December 14, 2004, Sec. A p. 30 Col. 1.

Jonathan S. Gyrko, "We Are All Responsible," *Edwise.org*, November, 2007.  
<http://edwise.org/we-are-all-responsible>.

Jane Hannaway and Andrew J. Rotherham, eds. *Collective Bargaining in Education: Negotiating Change in Today's Schools* (Harvard Education Press, Cambridge, MA, 2006).

Bryan C. Hassel, Michelle Godard Terrell, Ashley Kain, and Todd Zeibarth, "Charter School Achievement: What We Know, 4<sup>th</sup> Edition," (National Alliance for Public Charter Schools, Washington, DC, October 2007).

Bryan C. Hassel, Michelle Godard Terrell, and Julie Kowal, "Florida Charter Schools: Hot and Humid with Passing Storms," (Education Sector, Washington DC, May 2006).

Bryan Hassel, Michelle Godard Terrell, and Sheree Speakman, *Charter School Funding: Inequity's Next Frontier*, (Thomas B. Fordham Institute, Progress Analytics Institute, and Public Impact, August 2005).

Bryan C. Hassel and Thomas Toch, "Big Box: How the Heirs of the Wal-Mart Fortune Have Fueled the Charter School Movement," (Education Sector, Washington, DC, November 2006).

Jeffrey R. Henig, *Rethinking School Choice: Limits of the Market Metaphor* (Princeton University Press, Princeton, NJ, 1994).

Jeffrey R. Henig, *Spin Cycle: How Research Is Used in Policy Debates--the Case of Charter Schools* (Russell Sage Foundation Publications, 2008).

Frederick M. Hess and Andrew P. Kelly, "Scapegoat, Albatross, or What? The Status Quo in Teacher Collective Bargaining," in *Collective Bargaining in Education: Negotiating Change in Today's Schools*, Jane Hannaway and Andrew Rotherham, eds. (Harvard Education Press, Cambridge MA, 2006).

Paul T. Hill and Julian Betts, "Improving State and Local Assessments of Charter School Performance," in *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2006*, ed. Robin J. Lake and Paul T. Hill (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2006).

Paul T. Hill, Lydia Rainey, Andrew J. Rotherham, *The Future of Charter Schools and Teacher Unions*, (National Charter School Research Project, Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, October 2006).

Caroline M. Hoxby, "Achievement in Charter Schools and Regular Public Schools in the United States: Understanding the Differences," (Harvard University and National Bureau of Economic Research, Cambridge, MA, December 2004).

James B. Hunt, Jr., Chair, *What Matters Most: Teaching for America's Future*, (The National Commission on Teaching and America's Future, New York, 1996).

Jackson Lewis, 2007.

<http://www.jacksonlewis.com/pa/pa.cfm?paid=12>

Jackson Lewis, LLP, *Atlantic Legal's Guide To Leveling the Playing Field: What New York Charter School Leaders Need to Know About Union Organizing* (Atlantic Legal Foundation, New York, 2005).

Robin Jacobowitz and Jonathan S. Gyurko, "Charter School Funding in New York: Perspectives on Parity with Traditional Public Schools," (Institute for Education and Social Policy, Steinhardt School of Education, New York University, New York, March 2004).

Susan Moore Johnson and Morgaen L. Donaldson, "The Effects of Teacher Bargaining on Teacher Quality," in *Collective Bargaining in Education: Negotiating Change in Today's Schools*, Jane Hannaway and Andrew Rotherham, eds. (Harvard Education Press, Cambridge MA, 2006).

Richard D. Kahlenberg, "The History of Collective Bargaining among Teachers," in *Collective Bargaining in Education: Negotiating Change in Today's Schools*, ed. Jane Hannaway and Andrew J. Rotherham (Cambridge, MA: Harvard Education Press, 2006).

Richard Kahlenberg, *Tough Liberal: Albert Shanker and the Battles over Schools, Unions, Race, and Democracy* (Columbia University Press, New York, 2007).

John W. Kingdon, *Agendas, Alternatives, and Public Policies*, (Addison-Wesley Educational Publishers, Inc. 1984).

Julia Koppich, "The As-Yet-Unfulfilled Promise of Reform Bargaining: Forging a Better Match Between the Labor Relations System We Have and the Education System We Want," in *Collective Bargaining in Education*, Jane Hannaway and Andrew Rotherham, eds. (Harvard Education Press, Cambridge MA, 2006).

Robin J. Lake, ed. *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2007*, (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2007).

Robin J. Lake and Paul T. Hill, "Lessons Learned—and Tomorrow's Battles," in *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2006*, ed. Robin J. Lake and Paul T. Hill (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2006).

Bruno V. Manno, "Measurement and Metaphor: Comments on Hopes, Fears, and Reality—What Do I Still Want to Know?" (National Alliance for Public Charter Schools, Washington, DC, December 7, 2006).

Sara Mead, "Maintenance Required: Charter Schooling in Michigan," (Education Sector, Washington DC, October 2006).

Alex Medler, "The Charter School Movement: Complementing or Competing with Public Education?" in *The Emancipatory Promise of Charter Schools: Toward a Progressive Politics of School Choice*, Eric Rofes and Lisa M. Stulberg, eds. (State University of New York Press, Albany, NY 2004).

Gary Miron and Brooks Applegate, "Teacher Attrition in Charter Schools," (Education and the Public Interest Center, Western Michigan University, May 2007) 2.

Terry M. Moe, "Union Power and the Education of Children," in *Collective Bargaining in Education*, Jane Hannaway and Andrew Rotherham, eds. (Harvard Education Press, Cambridge MA, 2006).

Joe Nathan, *Charter Schools: Creating Hope and Opportunity for American Education* (Jossey-Bass Inc., San Francisco, CA 1996) p. xvi.

National Alliance for Public Charter Schools, *2007 National Charter School Conference Bulletin*, (Albuquerque, NM, April 2007).

National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, Chicago, IL, 2007.

National Commission on Excellence in Education, *A Nation At Risk: The Imperative for Educational Reform*, April 1983, <http://www.ed.gov/pubs/NatAtRisk/risk.html>.

National Education Association, "The NEA Charter School Initiative Forum," San Diego, CA, November 1996.

F. Howard Nelson, Bella Rosenberg, and Nancy van Meter, "Charter School Achievement on the 2003 National Assessment of Educational Progress," (American Federation of Teachers, Washington, DC, August 2004).

New Visions For Public Education, "The New Century High School Initiative," 2007. <http://www.newvisions.org/schools/nchs/index.asp>.

"Ohio Federation Challenges Illegal Charter Schools," *American Teacher*, (American Federation of Teachers, May/June, 2001).

Louann Bierlein Palmer, Michelle Godard Terrell, Bryan C. Hassel, and C. Peter Svahn, *Turning the Corner to Quality: Policy Guidelines for Strengthening Ohio's Charter Schools*, (Thomas B. Fordham Institute, National Association of Charter School Authorizers, and National Alliance for Public Charter Schools, October 2006).

Deinya Phenix, Dorothy Siegel, Ariel Saltzman, Norm Fruchter, "Virtual District, Real Improvement: A Retrospective Evaluation of the Chancellor's District, 1996-2003," (Institute for Education and Social Policy, Steinhardt School of Education, New York University, June 2004).

Lydia Rainey, Andrew J. Rotherham, and Paul T. Hill, "A One-Day Ceasefire: What Charter School and Teacher Union Leaders Say When They Meet," in *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2006*, Robin J. Lake and Paul T. Hill, eds. (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2006).

"Renewing the Compact: A Statement by the Task Force on Charter School Quality and Accountability," (National Alliance for Public Charter Schools, Washington DC, August 9, 2005).

Erik Robelen, "UFT Head Tells Charter Leaders: Teachers' Unions Are Not Your Foe," *Education Week* (Editorial Projects in Education, November 2, 2005).

Erik Robelen, "A School of Their Own," *Education Week* (Editorial Projects in Education, February 22, 2006).

Joydeep Roy and Lawrence Mishel, "Advantage None: Re-Examining Hoxby's Finding of Charter School Benefits," (Economic Policy Institute, EPI Briefing Paper #158, April 15, 2005).

Alexander Russo, "A Tough Nut To Crack in Ohio: Charter Schooling in the Buckeye State," (Progressive Policy Institute, Washington DC, February 2005).

Alexander Russo, "The War Within the Charter Movement: Quality vs. Choice," in *This Week in Education* (Education Week, Editorial Projects in Education, August 2007).

Sylvia Saunders, "Buffalo, NYC Charter School Teachers Join Union," *New York Teacher*, November 9, 2007.

Jon Schroeder, "Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State," (Progressive Policy Institute, Washington, DC, 2004).

Albert Shanker, "Restructuring Our Schools," *Peabody Journal of Education* 65, no. 3, 1988.

Albert Shanker, "Trying to Improve Schools: The Second Reform Movement," (National Press Club, Washington DC, March 31, 1988).

Albert Shanker, "Where We Stand: A Charter for Change," *New York Times*, July 10, 1988.

Albert Shanker, "Where We Stand: A Charter for Change (Cont'd.)," *New York Times*, July 17, 1988.

Albert Shanker, "Where We Stand: Noah Webster Academy," *New York Times*, July 3, 1994.

Albert Shanker, "Where We Stand: Every School a Charter," *New York Times*, December 11, 1994.

Albert Shanker, "Where We Stand: Questions about Charters," *New York Times*, December 18, 1994.

Albert Shanker, "Where We Stand: Parents Under Contract," *New York Times*, November 19, 1995.

Andy Smarick, "Wave of the Future: Why charter schools should replace failing urban schools," *Education Next* (Hoover Institution, Leland Stanford Junior University, Palo Alto, CA, Winter 2008).

Joanna Smith, Priscilla Wohlstetter, and Dominic J. Brewer, "Under New Management: Are Charter Schools Making the Most of New Governance Options?" in *Hopes, Fears, and Reality: A Balanced Look at American Charter Schools in 2007*, Robin J. Lake, ed. (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, December 2007) p. 18.

Sol Stern, "School Choice Isn't Enough," *City Journal*, Winter 2008, Vol. 18 No. 1.

Lisa Stulberg, "Beyond the Battle Lines: Lesson's From New York's Charter Cap," (National Charter School Research Project Center on Reinventing Public Education, Daniel J. Evans School of Public Affairs, University of Washington, Seattle, WA, June 2007).

A.P. Thornton, *The Imperial Idea and Its Enemies: A Study in British Power*, (Macmillan and Company, Ltd. 1959).

Nahal Toosi, "Union Run Charter School In New York Draws Scrutiny From All Sides of Debate," Associated Press, January 2006.

"*Toward Quality and Growth: The National Alliance and the Charter School Movement 2007*," (National Alliance for Public Charter Schools, Washington DC, December 2007).

Randi Weingarten, "Chartering Educational Excellence: Why Teachers Matter Most," Eduwonk.com, August 24, 2007. [http://www.eduwonk.com/archives/2007\\_08\\_19\\_archive.html](http://www.eduwonk.com/archives/2007_08_19_archive.html).

Randi Weingarten, "It's Time to Take the Politics Out of Charter Schools," paid advertisement in *The New York Times*, December 2006, [http://www.uft.org/news/randi/ny\\_times/what\\_matters\\_most4.pdf](http://www.uft.org/news/randi/ny_times/what_matters_most4.pdf).

Randi Weingarten, "A Unique Partnership for a New school Year," paid advertisement in *The New York Times*, September 2007, [http://uft.org/news/randi/ny\\_times/uft\\_wmm\\_Sept07\\_v3.pdf](http://uft.org/news/randi/ny_times/uft_wmm_Sept07_v3.pdf).

Joe Williams, "Revolution from the Faculty Lounge: The Emergence of Teacher-Led Schools and Cooperatives," *Phi Delta Kappan*, November 2007.

Joe Williams, "UFT Willing to Barter on Charters," *New York Daily News*, October 25, 2005.

Joe Williams and Tom Migra, "L.A. Story: Can a Parent Revolution Change Urban Education's Power Structure?" (Education Sector Reports, Education Sector, Washington DC, July 2006).

Steven F. Wilson, *Learning on the Job: When Business Takes on Public Schools* (Cambridge, MA: Harvard University Press, 2006).

Priscilla Wohlstetter, Susan Albers Mohrman, and Peter J. Robertson, "Successful School-based Management: Lessons for Restructuring Urban Schools," in *New Schools for a New Century: The Redesign of Urban Education*, Diane Ravitch and Joseph P. Vitteritte, eds. (Yale University Press, New Haven, CT, 1997).

Priscilla Wohlstetter and Penny Bender Sebring, "School-based Management in the United States," in *The Governance of Schooling: Comparative Studies of Devolved Management*, Margaret A. Arnott and Charles D. Raab, eds. (London: Routledge, 2000).

Todd Ziebarth, "Peaks and Valleys: Colorado's Charter School Landscape," (Progressive Policy Institute, Washington, DC, 2005).

Todd Ziebarth, "Top 10 Charter Communities by Market Share," (National Alliance for Public Charter Schools, Washington, DC, October 2007).

@inproceedings{Montao2012BecomingUI, title={Becoming Unionized in a Charter School: How Charter School Teachers Navigate the Culture of Choice}, author={Elizabeth Monta{~n}o}, year={2012} }. Elizabeth Monta{~n}o. Published 2012.Â The Grinding Battle with Circumstance: Charter Schools and the Potential of School-Based Collective Bargaining. Jonathan S. Gyurko. Political Science. Ct orders New Orleans charter school operator to bargain with union , finding it wasn't a 'political subdivision', covered by the NLRA.Â Voices objected on the ground that the NLRB lacked jurisdiction because Voices was not a private employer subject to the NLRA but a political subdivision of the State of Louisiana. Voices{â€™} position was rejected by a hearing officer and the NLRB. Specifically, the NLRB determined that Voices was not a political subdivision of the State of Louisiana as it {â€™}was neither created directly by the state of Louisiana so as to constitute a department or administrative arm of the government nor administered by individuals who are responsible to public officials or the general electorate.â€™ The NLRB also r

