



New York Charter Schools Association  
120 Broadway, Albany, New York 12204; Ph: (518) 694-3110; Fax (518) 694-3115

**TESTIMONY PRESENTED BY**

**WILLIAM A. PHILLIPS, PRESIDENT  
NEW YORK CHARTER SCHOOLS ASSOCIATION**

**to the**

**NEW YORK STATE DIVISION OF THE BUDGET**

**EMPIRE STATE PLAZA – HEARING ROOM 1  
ALBANY, NEW YORK**

**THURSDAY, DECEMBER 13, 2007**

**INTRODUCTION**

My name is Bill Phillips. I am President of the New York Charter Schools Association.

The New York Charter Schools Association is the statewide organization representing and advocating for public charter schools in state government.

I thank the Budget Division for permitting me to make this presentation today.

I will keep my remarks brief, with obviously the focus on the preparation of the 2008-09 Executive Budget. I also will be pleased to take any questions you may have.

**GRATITUDE & BEST WISHES**

First, allow me to congratulate Paul Francis on his appointment to Director of State Operations and for his leadership and accomplishments as Budget Director for the past year, which always is particularly challenging in an administration's first year.

And, our congratulations and best wishes also to Laura Anglin for her appointment as the new Director of the Budget.

To Governor Spitzer, let me say how impressive he has been with the leadership of his first year, particularly in education. We understand that public charter schools are a competitive challenge to existing school districts for the privilege of serving and educating children. As such, charter schools are not always welcome and much debated since their advent in New York a decade ago.

So, we are grateful for the Governor's position that charter schools have a role to play as part of the public education system, and for his leadership in raising the statutory cap to enable more charter schools.

Reform is typically difficult. Governor Spitzer has shown tremendous courage to advance public education reform—particularly charter schools—while providing additional resources to implement those reform ideas.

Today we seek to build on his success.

## **ACADEMIC RECORD OF CHARTER SCHOOLS**

The track record of charter schools is clear: they are improving the learning and achievement of New York's children, and they are serving primarily children in greater academic need than most students in their host school district.

The data has shown charter schools having typically lower student performance and a higher percentage of students qualifying for federal lunch programs than its school district average in the early years of its charter. In subsequent years, charter schools typically surpass the district's performance, as measured by the percentage of students meeting or exceeding state standards on English and math exams.

This very trend of improving student performance at a faster rate than their district counterparts was first identified by the State Education Department and discussed in its Five-Year Report to the Regents, Governor and Legislature, submitted in December of 2003.

Since then, for the last three years, a majority of charter schools have had a higher percentage of students meeting or exceeding state performance standards on English and math exams than their respective school districts, according to annual test data compiled by the State Education Department.

The level of accountability charter schools are legally held to is rigorous and successful, resulting, it should be noted, in the closure of eight of the state's charter schools due primarily to low academic achievement – thereby ensuring that underperforming charter schools do not continuously ill-serve our children's educational needs. This is in sharp

contrast to public district schools which are not typically held to the same rigorous standards. Though it should be noted, that Chancellor Joel Klein also has called for the closure of low-performing schools for the same reasons. This is one of the many reasons that it does surprise us to know that Chancellor Klein is a strong supporter of charter schools. In our opinion, he is a role model for other district superintendents.

A key reason for the success for the overall success of charter schools is that New York's Charter School statute enables school leaders and teachers to operate freely and flexibly to improve student learning and achievement, and holds them accountable for doing so.

It is therefore our fervent hope that those features of our law that provide for this vital operational freedom be maintained and—in some key areas—strengthened.

## **BACKGROUND ON CHARTER SCHOOLS**

As a reminder, State Education Law now provides for the creation of up to 200 new charter schools. In addition, an unlimited number of traditional public schools can be converted to public charter schools by parental vote.

This year there are 96 charter schools in operation throughout New York State. Nearly two dozen proposals for new charter schools have been approved by the Chancellor, SUNY Board of Trustees, and the Regents to open next fall or subsequently.

Additional background information on charter schools is included in my written remarks, and which I will skip.

## **INNOVATION IN CHARTER SCHOOLS**

Charter schools add innovation to the public education mix of school options for families.

Since the innovative aspect of charter schools is typically disputed by charter opponents, and the point easily conceded by supporters, let's briefly discuss the concept. In our opinion the best and simplest definition of innovation is the one offered by Peter Drucker: *Change that creates a new dimension of performance.*<sup>1</sup> Specifically, we focus on charter school features that are uncommon in a district-run public school. Examples could include the following:

- (1) If a charter has figured out how to have a longer school day or year or school on Saturdays, and the public schools in the host district have shown for years or decades that they cannot do the same, then the practices are innovative;

---

<sup>1</sup> It's also worth noting that innovation is frequently confused with invention. By "innovation," we are not talking about the invention of an idea, but instead the first attempt to put an idea into practice in the host district.

- (2) If a charter has figured out how to get its parents and students to buy into the concept of school uniforms, and the public schools in the host district have shown for years or decades that they cannot do the same, then the practice is innovative;
- (3) If a district is incapable of serving students who perform better without the distractions associated with gender, then a charter school that offers single-sex education is innovative;
- (4) If a district is incapable of giving children in SURR schools another option, then the mere existence of a charter school that provides another option is innovative;
- (5) If a charter school authorizer shows that it is possible to consistently create, measure for academic performance, and in the event of failure, close a school within the span of five to seven years, and that practice does not occur elsewhere in the State's public education system, then the practice is innovative.<sup>2</sup>

## EXECUTIVE BUDGET PROPOSALS

With Governor Spitzer's leadership in securing the opportunity to open another 100 charter schools, we recommend the following provisions be included in the Executive Budget to strengthen the next generation of charter schools, and improve the performance of existing schools so that innovation can thrive and children can reach greater academic achievement.

- **Access to Facilities.** Several measures are needed to enable charter schools to access more suitable and affordable space for buildings, including, most importantly, facilities-based funding and access to public authority backed financing through the Dormitory Authority of New York State. Providing such aid is key to closing the funding inequity between district-operated and charter-operated public schools.

As a primary concern in securing facilities aid is to avoid any imposition of mandates, including a time-consuming approval process through the State Education Department, our preference is for a state-financed annual supplement equivalent to district per pupil capital and debt expense.

The absence of facilities aid has caused most charter schools to accept less than adequate space or—in all cases—to use operational funds for classroom and students to be put instead toward paying a lease or mortgage.

Charter schools in New York City, especially, have acute building needs and a shortage of space. In numerous cases, schools have been unable to expand or add grades as a result.

---

<sup>2</sup> Essentially, the basic principles of chartering are innovative for New York State's public education system. We recognize that touting the ability to address failure is likely to be taken out of context, if not mocked. In response, we suggest that charter detractors review the size and scope of the state's "failing schools" list (and check for school longevity) to better appreciate the consequence of timid responses to public school failure.

Chancellor Klein has been very helpful in mitigating this problem for many charter schools by making district-owned space available, typically by sharing existing school buildings with district-run schools. But much more needs to be done.

- **Stimulus Fund:** At a minimum, the State Stimulus Fund general fund appropriation of \$6 million must be maintained, in light of the fiscal restraints projected for 2008-09. This modest amount is the only source of public funding charter schools have to make capital improvements in the absence of facilities aid. This funding level has existed since the 1999-2000 school year when only three charter schools were open and it's more critical since there will be more than 100 schools in operation in September 2008.

If charter schools remain ineligible for facilities aid it becomes more critical to increase the Stimulus Fund appropriation to reflect a much larger number of charter schools.

I would further note that a doubling of the Stimulus level, for example, to \$12 million, would remain considerably below what school districts – the entities that no longer serve the children (who enrolled in the charter school) -- receive in the form of transitional aid for charter school payments.

- **Universal Pre-K:** We support the Governor's expansion of universal pre-k but to be truly "universal," charter schools should be eligible to provide this important service for needy children. Existing law does not explicitly authorize charter schools to directly serve this student population. Such authorization also would have to include access for charter schools to pre-k funding streams in the same or similar manner as school districts, which is different than traditional K-12 funding of both charters and districts.

Importantly, authorizing charter schools to provide this vital service for children automatically expands the number of eligible providers of pre-k, and would extend charter schools' strong accountability component to the provision of pre-k services.

- **Replication of Successful Models:** To strengthen charter school governance and replicate high-quality, innovative schools, charter school authorizers (i.e., Regents, SUNY or NYC Chancellor) should be allowed to authorize a charter board of trustees to govern more than one charter school.

Each school overseen by a single board would continue to count against the charter school cap of 200.

## CONCLUSION

In conclusion, thank you for conducting this hearing today, and allowing me to present these proposals for your consideration as you prepare the Executive Budget. The New York Charter Schools Association stands ready to provide any assistance and further information you may need as you prepare your recommendations to the Governor.

This concludes my remarks, and I would be pleased to respond to any comments or questions you may have.

Thank you again for this opportunity to appear before you today.

## ADDITIONAL BACKGROUND

The state legislature adopted the New York Charter Schools Act—the current charter school statute—in December 1998, over eight years ago. New York was the 34th state in the nation to do so.

First and foremost, all charter schools are *public* schools.

This is what Education Law stipulates, and it is how they operate. The primary differences between public charter schools and traditional public schools are that:

- they are independent and autonomous public schools from a school district; and
- they operate under a performance contract, or “charter,” for a term of up to five years.

As public schools, charter schools are open to all children eligible to attend a public school in New York State. In the event applications exceed capacity, children must be admitted by a random selection process.

Public charter schools can be authorized by a district board of education, the New York City Schools Chancellor, the State University Board of Trustees, or directly by the State Board of Regents.

Each public charter school is governed by a board of trustees in the same way as nonprofit organizations and is directly accountable to their respective authorizing entity and to the Board of Regents.

Every charter school operates under a contract—its charter—with its authorizing entity which sets forth the terms and conditions between the school and its authorizer, including student academic goals and objectives.

The process by which charter schools are created is an arduous one. Proposals for new schools undergo a detailed, months-long, multi-step review by its authorizing entity—the Chancellor, SUNY Board, or the Board of Regents—and every charter school proposal is subject to final comment and action by the Regents.

School districts, as well, are invited to comment on every charter school application.

Similarly, charter schools are subject to regular oversight visits from their authorizer, and at least every five years must undergo an extensive charter renewal process to continue to operate. While most schools have had their charters extended or renewed, several have been closed as a result of not meeting these renewal requirements.

As public schools:

- Charter schools serve all children, including students with special needs, subject to the Individualized Education Plan prepared by the committee on special education of the students’ district of residence. It should be noted that charter schools cannot create or amend these plans, but must make any recommendations to the district’s CSE.

- Charter schools are funded by the school district in which each enrolled charter school student resides, and are therefore counted in the districts' enrollment count for state school aid, though charter schools do not receive building aid and are ineligible for most categorical aids.
- Charter schools are subject to all laws, rules and regulations having to do with health, safety and civil rights which govern public schools. They also are subject to compulsory attendance laws; the Freedom of Information and Open Meetings laws; and are subject to the Taylor Law.
- Finally, charter schools are subject to the Regents performance standards as they must administer the state exams in grades 3 through 8 and Regents exams, and must provide an annual *School Report Card* in the same manner as district public schools.

You can see how carefully the New York Charter Schools Act defines the nature and educational goals of charter schools, and how the law was conscientiously crafted to provide substantial oversight of all charter schools.