

12-11-2014

Testimony on Charter Applications and Legislative Intent

My name is David Lapp and I have worked with charter schools in a variety of roles for virtually my entire professional career. First, as a teacher, then as a board member, and currently as a staff attorney at the Education Law Center where I frequently represent students in both district and charter schools.

There is tremendous promise in the theory of independently-operated public schools that are accountable for equitably serving all kinds of students, achieve superior results, and ultimately increase quality educational options in the larger system of public education. Unfortunately, we do not have such a system in Philadelphia. Until we do, the district is fully within its legal right to restrict charter school growth. Indeed, in order to comply with the legislative intent of the charter school law and with our state constitutional mandate for a “thorough and efficient system of public education,” the district is legally compelled to restrict charter growth.

The district can only approve an application if it “conforms to the legislative intent” of the charter school law. *See* 24 P.S. § 1717–A(e)(2). That legislative intent, which is provided below in its entirety, depends on there being a robust “existing system.” 24 P.S. § 17-1702-A.¹ The explicit statutory intent is that charter schools will “improve pupil learning” and “increase opportunities” and “expand” choices. There is no dispute that the district currently is not in a financial position to afford more charter schools without damaging the “existing system.” Quite simply, the approval of more charter schools in this financial climate will decrease the quality of district schools and, thus, harm “pupil learning,” reduce “opportunities,” and decrease the number of quality “choices.”

¹ It is the intent of the General Assembly, in enacting this article, to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from *the existing school district* structure as a method to accomplish all of the following:

- (1) **Improve** pupil learning.
- (2) **Increase** learning opportunities for all pupils.
- (3) Encourage the use of different and innovative teaching methods.
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
- (5) Provide parents and pupils with **expanded choices** in the types of educational opportunities that are available **within the public school system**.
- (6) Hold the schools established under this act **accountable** for meeting measurable academic standards and provide the school with a method to establish **accountability** systems. (emphasis added).

There is a vacuum of actual evidence that the charter sector, taken as a whole, is producing any better results than the school district. Recently, charter advocates from the Philadelphia Schools Partnership published a report in which they cherry picked data from the state's School Performance Profiles to bolster their position that the district should dramatically expand charter schools, regardless of cost. In particular, PSP highlighted 17 schools serving higher than 80% economically disadvantaged students that still score higher than 70 on the SPP and noted that 12 of these are charter schools. No doubt many of the 12 charter schools PSP highlights are excellent. But it's noteworthy that of the 40 applicants before you, only three operators are represented in this list. And only one of those operators, Mastery Charter, has achieved those high grades while operating neighborhood catchment schools.²

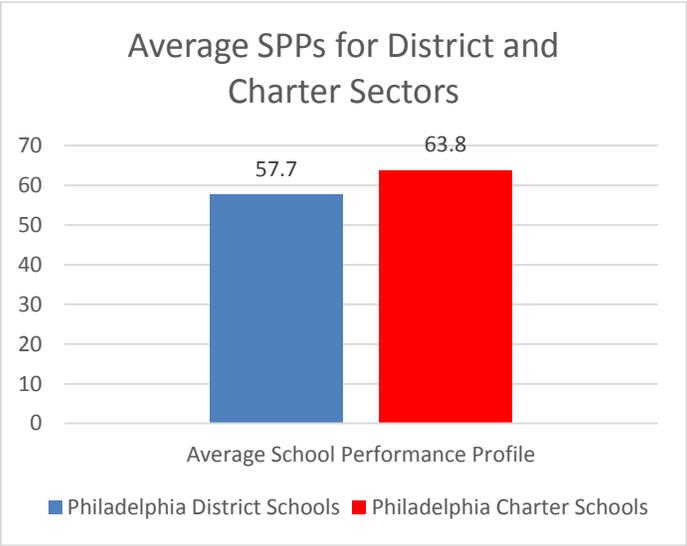
A more comprehensive review of SPP scores demonstrates that the charter sector, taken as a whole, does not appear to be performing any better, and may actually be performing worse, than the district. First, it's important to recognize that SPP scores are negatively correlated to the number of vulnerable students served in an individual school. Economic disadvantage is one proxy for vulnerable students, but there are other proxies as well, including student with disabilities, ELLs, students experiencing homelessness or foster care, and students connected to the delinquency and dependency systems.

There is great variety in the kinds of students that are considered "economically disadvantaged." For example, a student experiencing homelessness and a student from a two parent household that receives reduced price lunch are both "economically disadvantaged." Such students require different kinds of services—and resources—to meet their unique challenges. As I'll explain, data from the Chop PolicyLab suggests that district schools have much greater concentrations of students in "deep" poverty as compared to the charter sector.

When comparing the average SPP score of all charter schools to the average SPP score of all district schools, it appears at least marginally favorable to the charter sector on first glance. By my calculations, charters average 63.8 and district schools average 57.7, a difference of 6.1 on the SPP.³

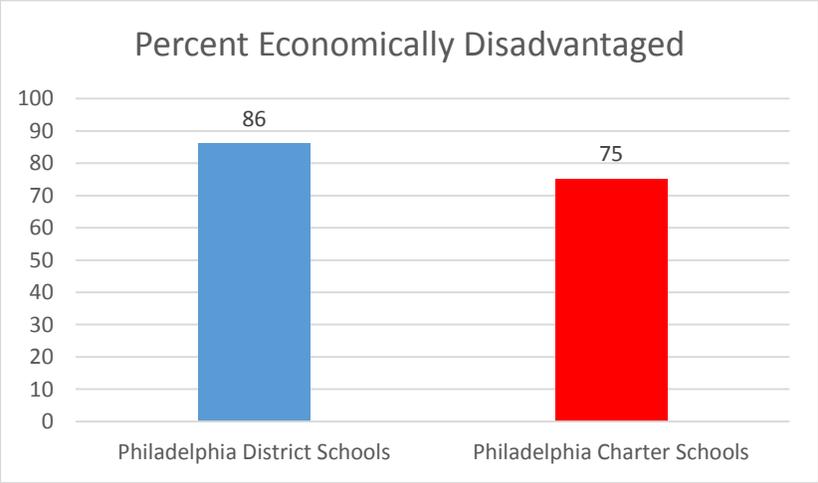
² PSP didn't mention that the district schools on that list all have 94% or higher economically disadvantaged populations, while all but three of the charter schools are in the low to mid 80% range and none higher than 92%. Actually the district doesn't have many schools in the 80-90% range, only 16 schools. The charter sector has 28 schools in that range, so there are much greater odds that there would more charter schools that fit their criteria. Meanwhile, the district does have a lot of schools that are 100% economically disadvantaged – 89 such schools! The charter sector has only two such schools. PSP also didn't mention that there if you change the criteria to 90% economically disadvantaged, there are only six schools with higher than a 70 on the SPP. Five of those six schools are district schools.

³ The data for the SPP scores, economically disadvantaged students, and ELLs all comes from the spreadsheets available on <http://paschoolperformance.org/>. The SPP calculation for the district sector does not include The Workshop School or the Philadelphia Virtual School as those school have incomplete SPP scores. The SPP calculation for the charter sector does not include Belmont Academy Charter School or Youth Build Philadelphia Charter School as those schools did not receive any SPP score. The economically disadvantaged calculation for the charter sector does not include Universal Audenried Charter School or Universal Alcorn Charter School as the state reported data appears inaccurate.

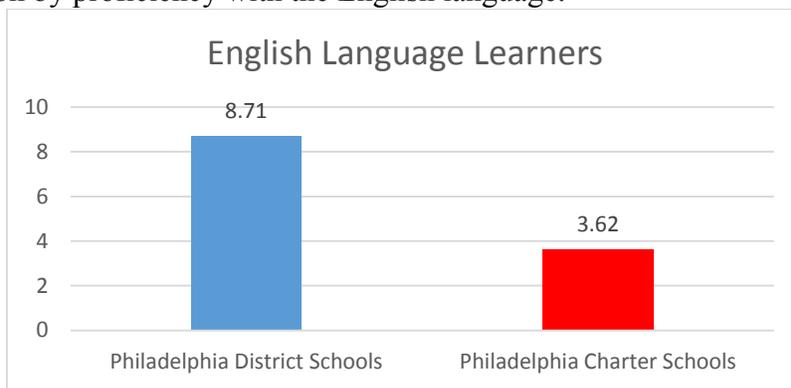


However, reviewing demographic data suggests that these different SPP scores are not related to the particular model of school -- district or charter -- but rather to the different needs of students served by each respective sector.

For example, 86 percent of students in the district as a whole are considered economically disadvantaged compared to 75% of students in the charter sector. The intent of the charter school law is not to increase economic segregation.

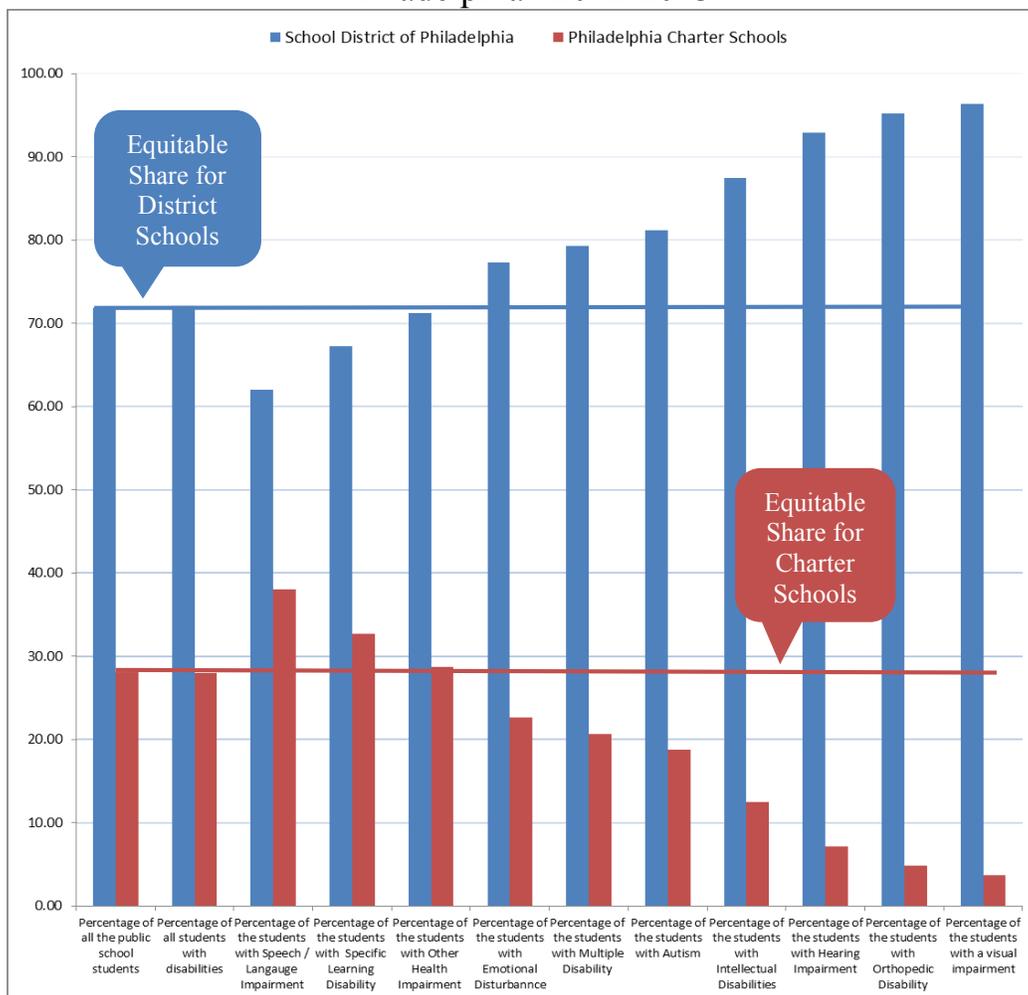


With regard to ELL students, 8.7% of students served by the district are English language learners, compared to only 3.6% of students in charter schools. The intent of the charter law is not to increase segregation by proficiency with the English language.



The data for students receiving special education requires a deeper look. Both the district and charter sector serve similar overall numbers, around 14-15% of each sector’s total population. The difference is in the kind of disabilities.

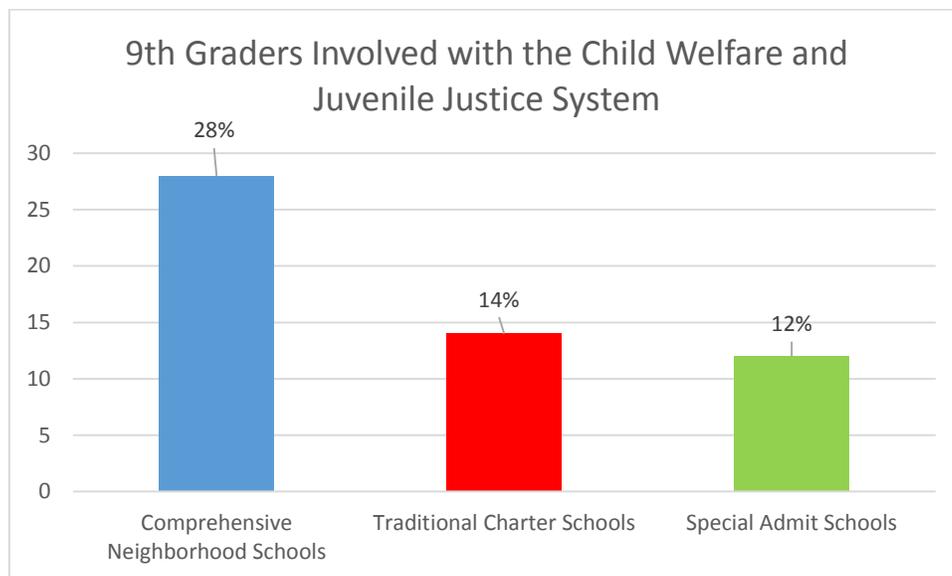
Disproportionality by Type of Disability Philadelphia –2012-2013



In 2012-13, Philadelphia charters served approximately 28 percent of all the city’s public school students. Charters also served about 28 percent of the city’s students receiving special education. But the charter sector mostly served students with mild, less costly disabilities and fewer of the students with severe disabilities.⁴ For example, charters served 38 percent of the city’s students diagnosed with a speech and language impairment, but only 13 percent of the students with intellectual disabilities and 5 percent of the students with orthopedic disabilities.⁵

Of course, it is not the intent of the charter school to segregate students by severity of disability.

Finally, this summer the Children’s Hospital of Philadelphia (CHOP) PolicyLab published a report entitled, “Supporting the Needs of Students Involved with the Child Welfare and Juvenile Justice System in the School District of Philadelphia.”⁶ The report included data that demonstrates that our most needy students – students experiencing abuse, neglect, homelessness, or contacts with the delinquency system – are heavily concentrated in neighborhood schools. In contrast, the traditional charter sector is more akin to the special admission school sector in serving these students.



Overall, the available demographic data shows that both district and charter sectors are serving high numbers of vulnerable students, **but the district’s burden is significantly higher.** It is highly likely that these demographic differences more than account for the marginally higher SPP scores in the charter sector. Indeed, it may suggest that the charter sector is actually underperforming district schools.

⁴ Disability data comes from http://penndata.hbg.psu.edu/documents/PennDataBooks/Statistical_Summary_2012-2013_Final.pdf. The numbers for the charter schools were calculated by taking the totals for Philadelphia County’s public schools (which includes all district and charter schools) and subtracting the totals for the School District.

⁵ In a recent article, I explained how this phenomenon is also skewing charter school special education tuition payments in Philadelphia in a way that harms students with disabilities in district schools. Available at <http://thenotebook.org/december-2014/147977/state-needs-rational-fix-its-method-funding-charter-students-disabilities>.

⁶ June 2014, available at http://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_Report_Supporting_Students_Involved_with_Child_Welfare_June_2014.pdf

Beyond these demographic disparities, there are numerous additional unfair competitive advantages in school operation that the district and the state have permitted in the charter sector that likely contribute to differences in SPP scores.⁷ The most obvious advantage is that many charter schools, including a number of the applicants before you, restrict their admission to early grades or particular times of the year and do not permit new students to enter when it is less convenient for the school. For example, many charter high schools only admit new students in 9th grade. The result is that struggling students withdraw from charters and enter district schools, but the charter does not back-fill those seats with any new students leaving district schools. Some of the applicants before you actually factor this type of attrition into their financial plans. Anyone who has ever worked in a school will attest that having new students enter in the middle of a school year or at a later grade can be a major disruption to learning for all students. This practice is beneficial to the charter schools and for the stability of the students who stay enrolled, but it is harmful to district schools and to our entire system.

Perhaps most importantly, it is not a practice that is innovative in any way that is systemically replicable. In other words, it does not teach anything about how to improve public education, because if that practice were adopted on a system wide scale, we would have thousands of students each year with no access to any public school at all. Instead, we've created a caste system in our city in which charter schools can control and limit enrollment while district schools must enroll new students, including students expelled from charter schools, in any grade at any time of the school year for any reason.

It is easy to see how these unfair competitive advantages and demographic differences can drive many parents to leave district schools for charter schools. These differences are likely more impactful on issues of "choice" than any differences in curriculum or pedagogy.

In conclusion, some of the schools applying for new charters may be doing great work. But the unlevel playing field and distinct demographics differences belie claims that charters out-perform district schools. Until the law creates an accountability framework that strengthens the authority of the district to hold charters accountable for serving all kinds of students better than district schools and makes revoking a charter an easier, less costly, and less time consuming process, it is unlikely that increasing the number of charter schools will "improve" public education as required by the charter law itself. To the contrary, charter expansion at this time will siphon crucial resources out of district schools and ultimately reduce the number of quality public school options — the opposite of the charter school law's legislative intent.

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⁷ For a more detailed explanation of the charter school unfair competitive advantages see the following recent amicus brief from ELC at <http://www.elc-pa.org/cases/sdp-v-walter-d-palmer-charter-school-amicus-curiae-pa-supreme-court/>.