Spending Blind

The Failure of Policy Planning in California Charter School Funding

IN THE PUBLIC INTEREST | APRIL 2017

About the Author

Gordon Lafer, Ph.D., is a political economist and is an Associate Professor at the University of Oregon's Labor Education and Research Center. He has written widely on issues of public policy, and is author of The One Percent Solution *(Cornell University Press, 2017). Lafer has served as Senior Policy Advisor for the U.S. House of Representatives' Committee on Education and Labor, and has testified as an expert witness before the U.S. Senate, House of Representatives, and numerous state legislatures.*

***The author thanks Camila Alvarez, Jennifer Smith, and Joe McLaughlin for valuable contributions to this research.*

About In the Public Interest

In the Public Interest is a research and policy center committed to promoting the common good and democratic control of public goods and services. We help citizens, public officials, advocacy groups, and researchers better understand the impacts that government contracts and public-private agreements have on service quality, democratic decision-making, and public budgets. Our goal is to ensure that government contracts, agreements, and related policies increase transparency, accountability, efficiency, and shared prosperity through the provision of public goods and services. For more information, please visit www.inthepublicinterest.org.

We would also like to thank Terry Lutz for designing this report.

Any errors or omissions in this report are the sole responsibility of In the Public Interest.

About this report

From less than 200 schools in 1998, the California charter school industry has grown by more than 600%, to over 1,200 schools serving nearly 600,000 children, or nearly 10% of the state's students. One of the sources fueling this growth is an extensive network of government programs that provide public funding or tax subsidies for charter school buildings. Over the past 15 years, California charter schools have received over $2.5 billion in tax dollars or taxpayer subsidized funds to lease, build, or buy school buildings. This report finds that this funding is almost completely disconnected from educational policy objectives, and the results are, in turn, scattershot and haphazard. Hundreds of millions of dollars are being spent each year without any meaningful strategy. Far too much of this public funding is spent on schools built in neighborhoods that have no need for additional classroom space, and which offer no improvement over the quality of education already available in nearby public schools. In the worst cases, public facilities funding has gone to schools that were found to have discriminatory enrollment policies and others that have engaged in unethical or corrupt practices.

Executive summary • 3

Introduction • 10

SECTIONS

1 Overbuilding: How many schools are too many? • 19

2 Educational Quality: Funding mediocrity • 25

3 The costs of unregulated building • 31

4 Funding small start-ups or corporate chains? • 36

5 Public dollars for private property • 37

6 Taxpayer-funded discrimination • 42

7 Policy recommendations • 45

Conclusion • 47

Appendix A: Sources and methodology • 50

Notes • 54

Executive summary

The California charter school industry has been growing rapidly for the past twenty years. From less than 200 schools in 1998, the industry has grown by more than 600%, to over 1,200 schools serving nearly 600,000 children, or nearly 10% of the state's students.[1] And this growth is poised to continue, with the California Charter Schools Association (CCSA) declaring a goal of serving one million students by 2022.[2]

One of the sources fueling this growth is an extensive network of government programs that provide public funding or tax subsidies for charter school buildings. Over the past 15 years, California charter schools have received over $2.5 billion in tax dollars or taxpayer subsidized funds to lease, build, or buy school buildings.

Table 1: Public funding for California charter facilities

Funding program	Funding provided	Cost to taxpayers	Years included
Charter Facilities Grant Program (SB740)	$391,156,711	$391,156,711	2009–17
California general obligation bonds	$446,888,396	$446,888,396	2003–17
Los Angeles School District bonds	$67,217,419	$67,217,419	2004–17
San Diego School District bonds	$102,535,315	$102,535,315	2011–17
Conduit bonds – CSFA	$704,651,292	$100,412,809	2010–16
Conduit bonds – CSCDA	$102,937,000	$14,668,523	2011–17
Conduit bonds – CMFA	$368,280,000	$52,479,900	2006–17
New Market Tax Credits - Qualified Investment	$318,660,510	$124,277,599	2005–14
Federal Facilities Incentive Grants	$24,756,017	$24,756,017	2010–16
Revolving Loan Fund	$142,700,000	N.A.	2011–15
Total	$2,569,782,661	$1,324,392,689	

But has this money been spent wisely? Are tax dollars serving to open schools where they are needed most? Does funding encourage start-ups and innovative models? Is it producing schools with superior performance? Is it serving to create schools that offer specialty subjects or new models of instruction not otherwise available?

Unfortunately, the central conclusion of this analysis is that funding for charter facilities is almost completely disconnected from educational policy objectives, and the results are, in turn, scattershot and haphazard. Hundreds of millions of dollars are being spent each year without any meaningful strategy. Some of this money benefits schools that offer high quality education; but this is as much by chance as by design. Far too much of these public funds are spent on schools built in neighborhoods that have no need for additional

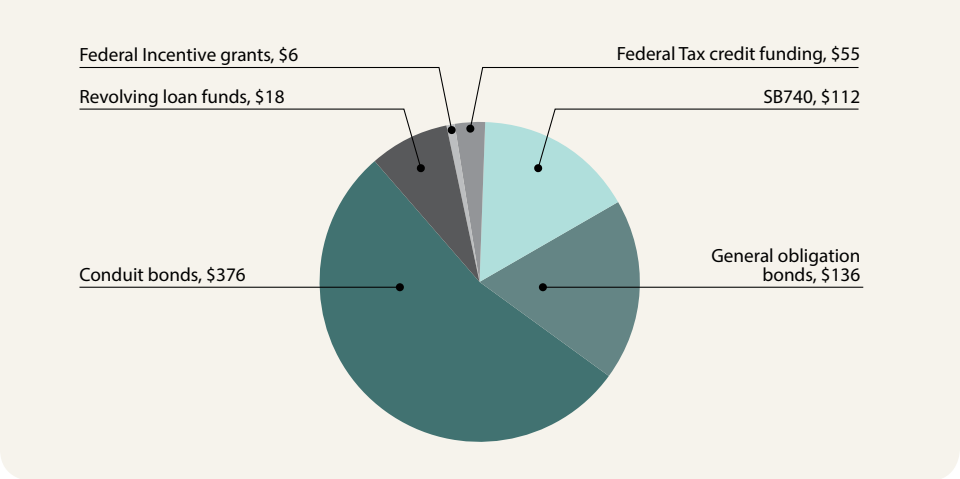
classroom space, and which offer no improvement over the quality of education already available in nearby public schools.

The most fundamental question to ask about any type of school construction is: how many schools are needed for the number of students we have? For public school districts, the California Department of Education compares existing classroom space with the student population projected over the next five years; if a district already has enough space for its projected student body, it is ineligible to receive state bond funds to build a new school. But no such requirement applies to charter schools. As a result, nearly 450 charter schools have opened in places that already had enough classroom space for all students—and this overproduction of schools was made possible by generous public support, including $111 million in rent, lease, or mortgage payments picked up by taxpayers, $135 million in general obligation bonds, and $425 million in private investments subsidized with tax credits or tax exemptions.[3] Moreover, since this data was available for only a portion of the state's charter schools, the real amounts of funding devoted to schools in communities that had no need for more classrooms is almost twice as great.[4]

Presumably, charter construction is not limited to places where more classrooms are needed because the rationale for charter schools is not that they supply needed seats but that they provide a model of education that is new, different, and better than otherwise available. However, this presumption is not written in to any of the charter facility financing laws. As a result, hundreds of low quality charter schools are supported by taxpayers.

Figure 1

Public funding for charter schools in areas that already had sufficient classroom space for all students *(millions of dollars)*.



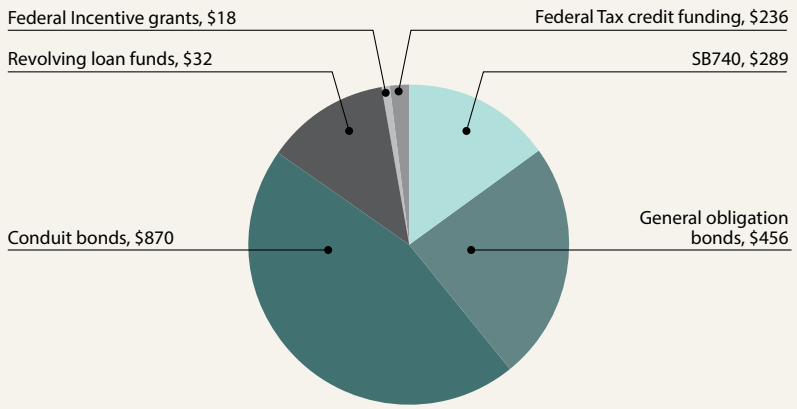
The most commonsense question for policy makers to ask when considering funding a new charter school is: will this school provide a quality of education that is superior to that currently available in nearby public schools? Surprisingly, this question is never asked, nor has the data been assembled to easily answer it.[5] This report answers that question for the first time, and for three-quarters of California charter schools, the answer is negative—that is, the quality of education they offer is worse than that of a nearby traditional public school

that serves a demographically similar population. Again, the public has paid dearly for these disappointments, providing these schools with an estimated three-quarters of a billion dollars in direct funding and an additional $1.1 billion in taxpayer-subsidized financing.[6]

Finally, the data suggest that at least 30% of charter schools fail both tests—they were opened in places that had no need for additional seats, and they failed to provide an education that was superior to that offered in nearby public schools. Due to multiple limitations on available data, the actual share of such schools is almost certainly higher. But even by this limited measure, assuming such failures are evenly distributed across all schools, Californians provided these schools combined facilities funding of over $750 million, at a net cost to taxpayers of nearly $400 million.[7]

Figure 2

Public Funding for charter schools with lower performance than nearby traditional public schools that serve similar student populations *(millions of dollars)*.



These misspent funds result from the fact that no education policy goals have been written into charter facility funding programs; as long as a charter school is competent, financially sound, and legally compliant, it is eligible for facility funding—regardless of its location, program, or performance.[8] Indeed, the CCSA has identified 161 schools that last year ranked among the worst of the worst—scoring in the bottom 10% of similar schools.[9] But this has not prevented these schools from collecting $44 million in lease payments, $57 million in general obligation bonds, $40 million in tax-credit investments, and $85 million in conduit bond financing.[10]

Such indiscriminate funding comes at a time when schools across the state face urgent needs that are going unmet due to budgetary shortfalls. Parents, teachers, superintendents, and school board members alike point to model programs in danger of closure; oversubscribed schools that can't afford to expand; overcrowded classrooms that make personal attention impossible; and insufficient funding for school counselors, social workers, special education, and English language learners.

When California legislators first created charter schools, their intent was clear. They sought to empower small groups of educators to launch a wide variety of innovative start-ups that, by experimenting with new approaches to education, would develop superior models fit

to meet the needs of the diverse students that make up state's school population. Thus, the San Francisco Chronicle heralded the 1992 law for empowering teachers to become "pioneers in an educational system freed from heavy controls that can stifle creativity."[11]

However, because legislators' vision for charter schools has not been incorporated into funding formulas, the hundreds of millions of dollars spent annually on charter facilities have not created the hoped-for incubator of innovation and continual improvement. While some charter schools have proved exemplary, much of the industry has become dominated by the same types of organizations legislators had sought to reform: large chains of schools where materials, methods, and evaluation are centrally dictated and teachers lack the power to set the curriculum; Charter Management Organizations (CMOs) that replicate a single model over and over again with little variation; and schools whose quality of education is no better than that of nearby public schools, and who do not serve to spur improvements in the wider system.

"In short: instead of innovation, we have repetition; instead of local start-ups, we have corporate chains; instead of empowered teachers, we have executive rule; and instead of excellence, we have mediocrity. And all of this is not the result of poor planning—it's the result of no planning, of the failure to write legislators' policy goals into the criteria for school funding."

Finally, the overbuilding of charter schools not only wastes tax dollars, but it also imposes significant costs—above and beyond the direct costs of charter facility financing—on traditional public schools and school districts, as well as on competing charter schools in the area. Studies estimate that between 33%-55% of school budgets are dedicated to fixed costs such as buildings, student transportation, and central administration that cannot be reduced when enrollment declines due to a surplus of charter schools.[12] Furthermore, many charter schools receive full funding for special education but enroll students with disproportionately mild needs, leaving the school district to serve the neediest children but without the resources to do so. As such schools proliferate, they create a growing crisis for traditional public schools and students. Yet there is no place in charter facility funding policy for these impacts to be taken into account or mitigated.

It is not too late to shift course. With $500 million in newly appropriated general bond funding waiting to go out the door, now is the time for legislators to establish spending rules to guarantee that available funds serve to meet the most critical needs of California students. It is my hope that this report may help shed some light on this pressing issue.

The report's key findings

- Over the past 15 years, California charter schools have received over $2.5 billion in tax dollars or taxpayer subsidized funds to lease, build, or buy school buildings.
- Nearly 450 charter schools have opened in places that already had enough classroom space for all students—and this overproduction of schools was made possible by generous public support, including $111 million in rent, lease, or mortgage payments picked up by taxpayers, $135 million in general obligation bonds, and $425 million in private investments subsidized with tax credits or tax exemptions.
- For three-quarters of California charter schools, the quality of education on offer is worse than that of a nearby traditional public school that serves a demographically similar population. Taxpayers have provided these schools with an estimated three-quarters of a billion dollars in direct funding and an additional $1.1 billion in taxpayer-subsidized financing.
- Even the worst charter schools receive generous facility funding. The California Charter Schools Association identified 161 charter schools that ranked in the bottom 10% of schools serving comparable populations last year, but even these schools received over $200 million in tax dollars and tax-subsidized funding.
- At least 30% of charter schools were both opened in places that had no need for additional seats and also failed to provide an education superior to that available in nearby public schools. This number is almost certainly underestimated, but even at this rate, Californians provided these schools combined facilities funding of over $750 million, at a net cost to taxpayers of nearly $400 million.
- Public facilities funding has been disproportionately concentrated among the less than one-third of schools that are owned by Charter Management Organizations (CMOs) that operate chains of between three and 30 schools. An even more disproportionate share of funding has been taken by just four large CMO chains—Aspire, KIPP, Alliance, and Animo/Green Dot.
- Since 2009, the 253 schools found by the American Civil Liberties Union of Southern California to maintain discriminatory enrollment policies have been awarded a collective $75 million under the SB740 program, $120 million in general obligation bonds, and $150 million in conduit bond financing.
- CMOs have used public tax dollars to buy private property. The Alliance College-Ready Public Schools network of charter schools, for instance, has benefited from over $110 million in federal and state taxpayer support for its facilities, which are not owned by the public, but are part of a growing empire of privately owned Los Angeles-area real estate now worth in excess of $200 million.

Table 2: Public funding for California charter facilities

			Estimated or actual public funding received*	
	# of schools identified in available data	% of all schools identified in available data	Direct taxpayer funding	Taxpayer-subsidized financing
All charter schools	1,672	100%	$1,032,553,859	$1,494,528,802
Charter schools opened in places where there was no need for additional classroom space	447	48%	$495,625,852	$717,373,825
Charter schools whose performance was worse than that of nearby public schools serving similar students.	471	74%	$764,089,855	$1,105,951,314
Charter schools that ranked in the bottom 70% of schools serving similar populations in 2015-16 according to the California Charter School Association.	645	63%	$477,842,457	$861,413,179
Charter schools found by the ACLU to maintain discriminatory policies or practices.	253	20%	$194,394,934	$180,819,833

* Dollar amounts for schools opened where no classrooms were needed, and for those with better-performing nearby public schools are estimates based on the sample of available data. Dollar amounts for schools ranked in the bottom 70% by CCSA and those found by the ACLU to maintain discriminatory practices are actual funding amounts identified with these schools.

Direct taxpayer funding includes SB740, general obligation bonds and federal incentive grants. Taxpayer-subsidized funding includes conduit bonds and tax-credit financed investments.

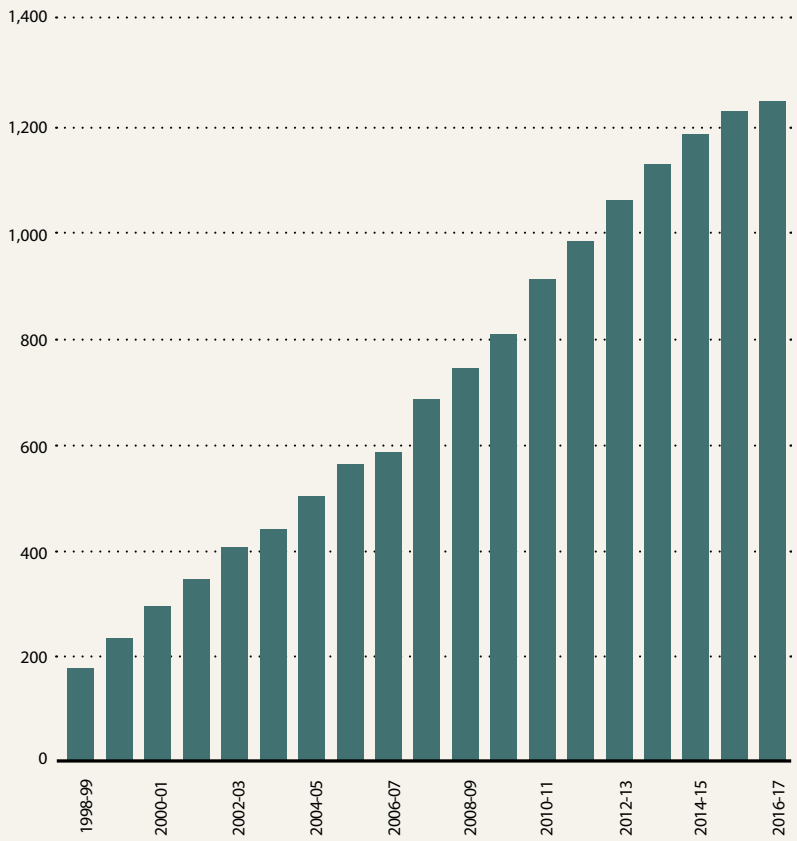
Sources for all data are detailed in Appendix A.

Introduction

The California charter school industry has been growing rapidly for the past twenty years. From less than 200 schools in 1998, the industry has grown by more than 600%, to over 1,200 schools serving nearly 600,000 children, or nearly 10% of the state's students.[13] And this growth is poised to continue into the future, with the California Charter Schools Association (CCSA) declaring a goal of serving one million students by 2022.[14]

Figure 3

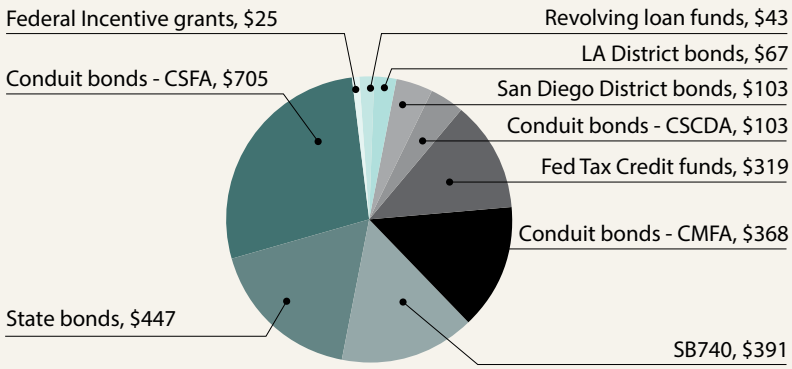
California charter schools, 1998-2017



One of the sources fueling this growth is an extensive network of government programs that provide public funding or tax subsidies for charter school buildings. Over the past 15 years, California charter schools have received over $2.5 billion in tax dollars or taxpayer subsidized funds to lease, build, or buy school buildings.[15]

Figure 4

Public funding for charter school buildings *(millions of dollars)*



This report is not a critique of charter school facility funding per se. There are clearly good and bad charter schools, just as there are good and bad schools within public school districts. Rather, this report aims to help policy makers answer a central question: at a time of increasingly scarce resources, are funds devoted to charter school facilities being wisely spent? Are tax dollars serving to open schools in the places where they are most needed? Does funding serve to encourage start-ups and innovative models? Is it producing schools with superior performance or specialty subjects not otherwise available?

To answer these questions, this report brings together a wide array of data that makes it possible—for the first time—to see the broad patterns of how charter facility funding is being spent: what type of schools are being supported, what quality of education they offer, and how well their programs match the needs of local communities. Unfortunately, the central conclusion of this analysis is that funding for charter facilities is almost completely disconnected from educational policy objectives, and the results are, in turn, scattershot and haphazard.

When charter schools were initially created in the early 1990s, lawmakers articulated clear goals for the new system. They aimed to create experimental schools where innovative educators would be freed from bureaucratic regulations to develop superior models of education. They stressed the importance of raising academic standards, expanding the range of educational models parents might choose from, and creating a system that allows authorities to shift resources over time from more disappointing to more promising school models. And both then and now, education planners aim to prioritize facility funding in communities that lack sufficient classroom space. But none of these criteria have been written into the laws governing charter facility funding. None of the funding for opening new charter schools is conditioned on whether the schools empower educators, demonstrate superior performance, or offer a pedagogical model not otherwise available in a community. As a result, hundreds of millions of dollars are being spent each year without any meaningful strategy. Some of this money benefits schools that offer high quality education; but this is as much by chance as by design. Far too much of these public funds are spent on schools built in places that don't need them, and which offer no improvement over the quality of education already available in nearby public schools.

To be clear, this failing is not the fault of the California School Finance Authority (CSFA) or other state agencies charged with overseeing facility funding. These staff are tasked with providing an efficient stream of funding and guaranteeing that recipients meet the legal and financial requirements set by program regulations. By all accounts, this work is carried out in a highly professional manner. But the staff of CSFA and other facilities funding agencies are not educational policy makers; they rely on lawmakers for such guidance. Yet while legislators have articulated a vision of the purposes charter schools should serve, this vision has not been translated into laws or regulations governing facility financing. As a result, there is no effective policy guidance—other than ensuring recipients are financially sound, competently managed, and legally compliant—for large sums of taxpayer dollars that annually pay for the lease, construction, and purchase of charter school buildings. In terms of educational policy, there effectively is no targeting for charter facilities funding. It's as if legislators turned on a faucet of money and then just walked away.

"It's as if legislators turned on a faucet of money and then just walked away."

Understanding the landscape of charter facility funding

Over the past 15 years, taxpayers have either directly paid or subsidized more than $2.5 billion in financial support for California charter school facilities. There are multiple sources of public funding from both the state and federal government aimed at helping charter schools build, purchase, or lease facilities, with most programs under the roof of the CSFA. School construction may simply be paid for by California taxpayers, through general obligation bonds. Or it may be paid for by private investors who build charter schools at no cost to the charter operators, in return for generous federal tax credits.[16] In other cases, schools may be built with conduit bonds—to be paid off by the charter company rather than the public, but subsidized by taxpayers. For schools having trouble accessing the bond markets on favorable terms, the state administers a federal Credit Enhancement Program, which uses public resources to boost the credit rating of charter operators, enabling them to obtain bond funding at lower interest rates. And those bonds—or any other facility costs—may be largely paid off by taxpayers, through federal and state programs that reimburse up to 75% of a charter school's facility costs.

This report tracks funding from seven sources of public support for California charter facilities (see Appendix A for detail on sources of information for each program):

- **Start-up loans.** The Charter School Revolving Loan Fund, operated by CSFA, provides low-interest loans of up to $250,000 to cover general operations costs of new charter schools, with priority given to recently opened schools.
- **California general obligation bonds.** Beginning in 2003, voters approved a series of ballot initiatives to authorize increased bond funding for school construction, with a portion set aside for charter schools.[17] These are general

obligation bonds, meaning that funds are raised by selling bonds that are repaid by taxpayers. These bonds are administered by CSFA through its Charter School Facilities Program. In November 2016, voters approved Proposition 51, which authorized an additional $500 million for this program.[18]

- **Local school district general obligation bonds.** Both the Los Angeles and San Diego Unified School Districts issue their own general obligation bonds to fund school construction, including that of charter schools. The cost for these bonds is paid by Los Angeles and San Diego taxpayers.
- **Conduit bonds.** Schools that cannot obtain general obligation bond funding may raise funds for school construction through the sale of publicly subsidized bonds that the charter operator, rather than state taxpayers, is responsible for repaying. Three different organizations serve as the primary "conduits" for these bonds, allowing charter operators to finance construction with tax-exempt bonds. Because bond buyers are not taxed on their earnings, the interest rate that charter operators must pay on these bonds is lower than it would be if the bonds were taxable. Thus, while there is no direct state funding involved, there is a cost to the public in the amount of the tax exemption provided to bond buyers. Conduit bonds for charter school facilities are issued by the California Statewide Community Development Authority (CSCDA) and the California Municipal Finance Authority (CMFA), as well as CSFA.
- **Rent, lease, and mortgage reimbursement.** Under CSFA's Charter School Facility Grant Program (commonly known as the SB740 program for its authorizing legislation), a charter school may be reimbursed for up to 75% of its facilities costs, or up to $750 per student, whichever is less. To be eligible for these funds, at least 55% of a charter school's student body must qualify for free or reduced-priced meals.[19] These are direct taxpayer expenditures. While the law creating this program mandates that funds can only be used for "rents or leases" rather than mortgage payments, charter schools have found a way around this regulation: they create a limited liability corporation (LLC) which, in turn, is owned by the charter's parent company. The LLC becomes the legal owner of the building, which the school "leases" from the LLC. In this way, the SB740 program has provided a reliable source of public funding used to purchase private property owned by charter corporations.[20]
- **Federal facility reimbursement.** The federal government operates a Facilities Incentive Grants program that plays a similar role to CSFA's Facilities Grant Program. This program, too, is administered in California by CSFA. The federal grant program pays up to 75% or $750 per student for lease, development, or purchase of charter school facilities, with a maximum payment of $250,000 per year to any school. Due to the similarity of programs, schools are restricted from receiving funds under this program if they are also being funded under the state Facilities Grant Program.
- **Investor tax credits.** The federal New Markets Tax Credit (NMTC) program, established in 2000, provides a 39% federal tax credit for investors who fund the construction of charter schools in low-income areas. Because the credits are

so lucrative, and there is competition among investors to participate in NMTC-qualified projects, investors sometimes agree to turn over their ownership interest to charter operators at no charge upon completion of the seven-year tax credit period.[21] This allows charter companies to have a school built for them at little or no cost—but at significant public expense in foregone tax revenue.

For many of these programs, funding data is available for only a limited number of years. Therefore, the numbers in this report do not represent 100% of taxpayer support for charter facilities. Nonetheless, they paint a clear picture of how significant sums are being spent. The table below shows the total sums from each major program, noting the years of data included in this analysis. Even by this incomplete account, charter schools have received over $2.5 billion in public funds or taxpayer subsidized financing over the past 15 years. Because conduit bonds and investment tax credits entail a tax expenditure but not direct government spending, the cost to taxpayers for these programs is less than the total funding provided to charter schools.[22] Taking this calculation into account, the cost to taxpayers for providing this level of support totals $1.3 billion.

Table 3: Public funding for California charter facilities

Funding program	Funding provided	Cost to taxpayers	Years included
Charter Facilities Grant Program (SB740)	$391,156,711	$391,156,711	2009–17
California general obligation bonds	$446,888,396	$446,888,396	2003–17
Los Angeles School District bonds	$67,217,419	$67,217,419	2004–17
San Diego School District bonds	$102,535,315	$102,535,315	2011–17
Conduit bonds – CSFA	$704,651,292	$100,412,809	2010–16
Conduit bonds – CSCDA	$102,937,000	$14,668,523	2011–17
Conduit bonds – CMFA	$368,280,000	$52,479,900	2006–17
New Market Tax Credits - Qualified Investment	$318,660,510	$124,277,599	2005–14
Federal Facilities Incentive Grants	$24,756,017	$24,756,017	2010–16
Revolving Loan Fund	$142,700,000	N.A.	2011–15
Total	$2,569,782,661	$1,324,392,689	

Unfortunately, these funds are being spent without any meaningful criteria for selecting which projects to fund or how long to continue subsidizing a given school. This policy vacuum is produced in two stages: first, there are few effective requirements for determining which charter operators are authorized to open schools,. Secondly, once authorized, every charter school is eligible for facility funding as long as it is financially sound and managerially competent. Together, these two decision points—or, in reality, non-decision points—combine to produce a flood of indiscriminate funding for building, buying, or leasing private real estate at public expense.

Charter School Authorization: Few effective criteria for opening new schools

California law requires that charter operators supply extensive information and detailed plans as part of the application process. However, as long as charter companies submit the required information, school boards have little leeway in judging the merits of a given school. School districts cannot deny a charter application, for instance, on the grounds that there are already too many schools for the number of students in the district; or that there are too many of the same type of school a company proposes to open; or that the proposal replicates methods already widely in use and offers no innovations; or that there's no evidence the company will provide education that is superior to other schools in the district. Under current law, none of these is a legitimate reason for a school board to withhold charter approval and the sizable flow of public resources that accompanies it.

"School districts cannot deny a charter application, for instance, on the grounds that there are already too many schools for the number of students in the district; or that there are too many of the same type of school a company proposes to open; or that the proposal replicates methods already widely in use and offers no innovations; or that there's no evidence the company will provide education that is superior to other schools in the district."

State law requires that school boards operate with a strong presumption that all charter applications should be approved unless there are exceptional reasons for one to be rejected. By law, school districts must be "guided by the intent of the Legislature that … the establishment of charter schools should be encouraged."[23] A school district "shall not deny a petition" for a charter, the law explains, except for one of two reasons: if "the charter school presents an unsound educational program," or "the petitioners are demonstrably unlikely to successfully implement the program set forth in the petition."[24] There is thus no need for charter schools to be new, different, or better. Their plan of instruction must simply be "sound," and they must be capable of carrying it out.

In a traditional school district, one of the responsibilities of administrators is to balance the number of schools of various kinds in order to guarantee that all students in the district receive the education they need. But districts have no ability to reject a charter school on the basis that similar programs are offered elsewhere or that too many similar schools might waste resources and undermine the viability of the broader school system. The California School Board Association's manual stresses that in judging "sound educational practice," a school board "is not allowed to consider the potential impacts a charter school would have on the other educational programs of a distinct or the district's fiscal health or state of its facilities."[25] Thus, one of the key policy judgments normally at the heart of education planning—how to balance a district's school portfolio to meet the needs of the overall student body—has been declared off limits for state and local elected officials.

"Thus, one of the key policy judgments normally at the heart of education planning—how to balance a district's school portfolio to meet the needs of the overall student body—has been declared off limits for state and local elected officials."

The small number of charter schools whose applications are rejected by their local school districts retain the option of appealing to a County or State Board of Education. One might think that county and state boards would require stricter evidence of educational excellence in order to approve charters whose applications were rejected by district officials. In fact, the standards for charter approval at these higher levels are not more strict, but more minimal: the State Board of Education's ability to reject charter appeals is even more narrowly restricted than that of local officials. As with local school districts, state authorities can reject a charter only if it presents an "unsound" model or is incompetent to run its school. But where "soundness" remains a definition open to interpretation by district officials, it has been clearly delimited for state officials—in extremely narrow terms. According to state regulations, the State Board of Education will consider a charter school to be offering an "unsound educational program" only if it "present[s] the likelihood of physical, educational, or psychological harm to the affected pupils" or if its program is "not to be likely to be of educational benefit for the pupils that attend."[26] Thus, as long as they don't harm students, and provide some benefit compared with not attending school at all, charters are to be approved. It may be unsurprising, then, that when the Los Angeles school board voted not to renew the charters of schools found to have illegally used school funding for non-educational purposes, the Chief Executive Officer (CEO) of the schools' parent company declared that she was "very optimistic" that the company would "be successful at making our case at the county level or the state level." After all, she explained, "we've done that before."[27]

Once a company's charter is approved, the educational standards for renewing its charter every five years are even lower. The five-year review is not treated as an opportunity to promote exceptional schools and weed out the disappointments. On the contrary, state law mandates that a charter's academic performance be deemed worthy of renewal unless it falls below the 40th percentile of schools serving similar populations.[28] Thus, a school that is worse than nearly 60% of comparable schools in the state is deemed "sound" and, by law, must be approved for renewal. Under current law, state officials have little choice but to maintain a steady flow of funds to such schools.

Legislators' intent compared with current reality

When California legislators first created charter schools, their intent was clear. They sought to free small groups of creative educators to launch innovative start-ups that, by experimenting with new approaches to education, could develop superior models fit to meet the needs of the diverse groups of students that make up the state's school population. The San Francisco Chronicle heralded the 1992 law for enabling teachers to become "pioneers in an educational system freed from heavy controls that can stifle creativity."[29] Legislators never contemplated the creation of corporate Charter Management Organizations (CMOs) with large chains of schools that replicate a single educational model over and over again. Instead, the statute declares: "the intent of the Legislature" was "to provide opportunities for teachers, parents, pupils and community members to establish … schools that operate independently."[30] In encouraging a wave of new start-ups, the legislature's clearly stated aims were to:

- Improve pupil learning.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers, including [being] responsible for the learning program at the school site.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available…[and]
- Provide vigorous competition within the public school system to stimulate improvements in all public schools.[31]

But none of these criteria are built in to the mandates for charter school facility financing. There is no requirement that charter schools receiving public funding offer education that is an improvement over what is already available in existing public schools; nor that they offer novel teaching methods not already in use; nor that they provide a new program that expands the range of school models parents may choose from; nor that they serve to raise standards in area public schools by setting a higher competitive standard; nor that they empower teachers rather than administrators to make curricular decisions.

Because legislators' vision for charter schools has not been incorporated into the funding formula, the hundreds of millions of dollars spent annually on charter facilities have not created the hoped-for sector of continual innovation driven by empowered educators. While some charter schools have proved exemplary, much of the sector has become dominated by the same types of organizations legislators had hoped to reform: large chains of schools where materials, methods, and evaluation are centrally dictated and teachers lack the power to set the curriculum; CMOs that replicate a single model over and over again with little variation; and schools whose quality of education is no better than that of existing public schools, and who do not serve to spur innovation or improvements in the wider school system.

In the sections that follow, this report outlines a series of concerns surrounding charter facility funding. Any time there is a low bar of entry for firms seeking to access government funds, one can expect to find corruption, and the charter industry is no exception—including funds going to a school whose CEO earns over $450,000 per year, another that spent nearly $1 million importing foreign teachers, and a third where SB740 funds went to pay rents three times the market rate to a landlord with a history of business ties to the school's CEO. But the most serious concerns raised by the pattern of charter facility funding are not the rare cases of corruption but the systemic—and perfectly legal—outlay of hundreds of millions of dollars on institutions that do not serve the purpose for which charter schools were created.

In what follows, I first examine the indiscriminate funding of charter schools that neither add needed classroom space nor provide a level of education superior to that available in nearby public schools, and assess the costs that such overbuilding imposes on local school districts. I then evaluate the extent to which facility funding has been captured by large chain schools rather than innovative start-ups. As part of the focus on the larger CMOs, I address the problem of public funding used to purchase school buildings that become private property. Finally, I describe two types of illegal activity plaguing the charter industry: the American Civil Liberties Union's (ACLU) finding of widespread discrimination in charter admission policies, and the more mundane phenomenon of charter operators enriching themselves at public expense. Illegal activities are not the primary focus of this report, but they dramatically illustrate the lax regulation that characterizes the charter school industry.

Section 1
Overbuilding: How many schools are too many?

The most fundamental question to ask about any type of school construction financing is: how many schools are needed for the population? Paying for more schools than are needed wastes taxpayer dollars. Furthermore, an oversupply of schools serves to undermine the viability of any individual school. School funding is provided on a per-pupil basis; when there are too many schools for the student population, many schools may lack the funding to support building and administrative costs. In extreme cases, unregulated charter school growth can create a destructive climate where financially insecure schools raid each other for students and funding. Earlier this year, for instance, the *New York Times* reported that in the city of Detroit, "the unchecked growth of charters has created a glut of schools competing for some of the nation's poorest students, enticing them to enroll with cash bonuses, laptops, raffle tickets for iPads and bicycles. Leaders of charter and traditional schools alike say they are being cannibalized, fighting so hard over students and the limited public dollars that follow them that no one thrives."[32] Thus, it is critical for policy makers to answer a central question about charter schools: how many are the right amount, and how many are too much?

California has not reached Detroit's level of crisis. But it's not inconceivable that it might be coming, because here too, charter growth is entirely unregulated. As long as a charter operator can become authorized, it can access state facility funds. There is no point in any of the programs that fund charter facilities at which agency staff are required to determine whether an additional school is warranted in the proposed location. Again, the problem is not that agency staff are making the wrong decision. Rather, they are simply not required—nor authorized—to make any decision at all regarding potential overbuilding.

Needless to say, the existence of a "waiting list" is not in itself evidence that a new school is warranted. Such anecdotal evidence is unreliable for several reasons. First, when exploring options for their child, families typically consider multiple schools at once—both public and charter—which means potential interest in a given school cannot be taken as a reliable population count. Secondly, multiple studies find that charter schools spend a significant share of their funding on marketing efforts—unmatched by public school districts. The only known survey of charter school principals on this issue—conducted in the all-charter district of New Orleans—found that principals were driven to expand market share, disconnected from any focus on educational innovations. "Every kid is money," principals explained. "We all want our [student] numbers up so we can get more money, more funding." The primary response to this competition was not to improve academic standards, but to invest in marketing—including hiring branding consultants, putting up billboards, and retaining celebrities to promote one's name.[33] In the context of such advertising campaigns, waitlists are a particularly poor measure of demand. Thus in Detroit, even while the school district estimated it had 30,000 more classroom seats than there were students, charter schools were still reporting waitlists.[34] Clearly, this cannot be taken as a sign that the city needs to build more charter schools. Of course, many traditional public schools also

have waitlists, with particularly fierce competition for spots in magnet schools.[35] But in the public system, the mere existence of a waitlist does not trigger new facility funding. Instead, elected officials consider the needs of the district as a whole—which schools of which types in which locations are needed, and whether funding is better spent building new schools or in improving the performance of existing schools.

When school districts want to build a new school, they typically must first show that there is a need for additional classroom space in their district. The construction of public schools is most commonly financed by general obligation bonds through the California Department of Education (CDE).[36] When a district applies bond funding, the CDE first determines whether or not such investment is warranted by comparing the current number of classroom seats with the expected population of students.[37] State regulations stipulate that, in order to be eligible for construction financing, "a district must demonstrate that existing seating capacity is insufficient to house the pupils existing and anticipated in the district using a five-year projection of enrollment."[38] A district that already has enough seats for all its students is ineligible for new construction funding.

Charter schools, by contrast, are not subject to this constraint, and are frequently built in districts that already have enough seats for the entire projected population. By examining the time and place of school openings, it is possible to gauge the number of charter schools that were built in places where public school construction would not have been authorized.[39] The results are concerning: a total of 447 California charter schools have opened in places where there already were seats available for every student—representing 48% of all schools for which data is available. Furthermore, significant public funds were committed to make these schools possible. Together, they received $111 million in rent lease and mortgage subsidies under the SB740 program, $135 million in general obligation bonds, $345 million on conduit bond financing, and $55 million in tax-credit subsidized investments.

"School districts can generally only build a new school if the state certifies that there is a need for more classroom space to serve the student population. But charter schools are not subject to this constraint."

But these numbers represent only those school districts for which sufficient data was available to compare student population and classroom space. Because such data is unavailable for close to half the state's charter schools, the numbers cited above represent a sample, rather than the total amounts spent on charter schools opened in places that had no need for additional classroom space.[40] If we assume the sample is representative of charter schools as a whole, these findings suggest that as many as 800 California charter schools may have been opened under such conditions. Assuming they received a proportionate share of facility funding, these schools received nearly $190 million in rent, lease, or mortgage reimbursement under the SB740 program, nearly $300 million on general obligation bonds, $150 million in tax-credit financed investments, and over

$560 million in conduit bond financing. At no point in the disbursement of any of these funds did any agency determine whether more seats were warranted in a given district, or whether building a new school in a given location was the best use of education dollars.

Charter advocates sometimes insist that no regulation whatsoever is warranted for charter school construction—that schools function best in a free market with no barriers to entry. But the charter sector is not a free market—it is heavily subsidized by taxpayer dollars. A decision to open the spigot of public funding with no plan and no limitations would be an abrogation of fiduciary responsibility. Indeed, such a suggestion is inconceivable in almost any other type of public services. To put such a proposition in context, imagine if the transportation department announced that it would no longer plan what roads to build, but instead would allow any private contractor to build a road wherever it wanted. Cars would be tracked by GPS and the state transportation budget would be doled out on a per-car-mile basis to whatever privately owned roads people chose to use. Let them vote with their steering wheels! If six different companies all decide to build a freeway from Los Angeles to San Diego—even though travel data showed that traffic was sufficient to sustain only two such roads—no problem; whoever ends up being most attractive will win, and the others will gradually be abandoned and crumble to dust. It's inconceivable that the state might distribute hundreds of millions of taxpayer dollars in such an untargeted fashion. But this is frighteningly close to what we are doing in our school system.

Table 4: Sample of public funding for charter schools opened in communities that had no need for additional classroom space

School	City	Rent/Lease Reimbursement (SB740)	General Obligation bonds	Conduit bonds	Fed Tax Credit-Backed Investments	Federal Facilities Incentive Grant	Revolving Loan Funds
Antioch Charter Academy II	Antioch	$186,737					
Village Charter Academy	Canoga Park	$326,973					$250,000
Lifeline Education Charter	Compton	$1,257,903					
Wonderful College Prep Academy	Delano	$2,255,567					
Ballington Academy for the Arts and Sciences	El Centro	$909,090					
Valley Arts and Science Academy (VASA)	Fresno	$675,414					
New Millennium Secondary	Gardena	$637,921					
Aspire Pacific Academy	Huntington Park	$1,447,167		$8,317,000		$680,186	
KIPP Comienza Community Prep	Huntington Park	$1,266,362					
Animo Leadership High	Inglewood	$733,469	$10,258,974				
PUC Lakeview Charter Academy	Lakeview Terrace	$1,322,211	$187,132	$4,830,280			
Alliance Luskin Academy High	Los Angeles	$1,605,195	$559,135	$9,265,000	$10,587,459		
Camino Nuevo Charter Academy	Los Angeles	$2,705,046	$29,557,192	$7,245,000			
Celerity Dyad Charter	Los Angeles	$2,249,613	$688,728				
KIPP Empower Academy	Los Angeles	$1,179,518			$7,181,250	$20,000	
Aspire Summit Charter Academy	Modesto	$1,343,903			$1,028,684	$242,514	
Magnolia Science Academy 7	Northridge	$797,868			$392,333		
ARISE High	Oakland	$797,985					
Oakland Charter High	Oakland	$926,901					$272,250
Montague Charter Academy	Pacoima	$433,414	$78,466				
Richmond Charter Academy	Richmond	$522,595				$31,060	$250,000
New Vision Middle	San Bernardino	$851,503					
Albert Einstein Academy Charter Middle	San Diego	$986,055		$15,605,000			
Health Sciences High	San Diego	$2,668,816	$7,800,000				
Urban Discovery Academy Charter	San Diego	$1,689,743		$11,425,000			
PUC Nueva Esperanza Charter Academy	San Fernando	$1,304,283					
KIPP Bayview Academy	San Francisco	$649,011					
Rocketship Alma Academy	San Jose	$1,792,758		$10,764,885			
Orange County Educational Arts Academy	Santa Ana	$2,516,870		$10,836,833		$710,106	
Roseland Charter	Santa Rosa	$1,814,013	$2,605,896				
TEAM Charter	Stockton	$1,119,668		$4,962,000			
Academia Moderna	Walnut Park	$1,077,286		$7,600,000			

Section 2:
Educational Quality: Funding mediocrity

Presumably, charter construction is not limited to places where more classrooms are needed because the rationale for opening charter schools is not that they supply needed seats but that they provide a model of education that is new, different, or better than that otherwise available in district schools. However, this presumption is not written in to any of the charter facility financing laws. There is no requirement in any of the funding programs that charter schools offer a teaching model, subject specialization, or standard of excellence not found in nearby public schools. Nor, unfortunately, is there any evidence that they do so.

"There is no requirement in any of the funding programs that charter schools offer a teaching model, subject specialization, or standard of excellence not found in nearby public schools."

Measuring the quality of education provided by a given school is a notoriously difficult undertaking. It is clear that standardized test scores are not an accurate measure, despite often being used for this purpose. Such tests typically measure only reading and math, measure test-taking skills more than educational content, and have no way of capturing the many dimensions of academic and personal development that can't be reduced to multiple-choice exams. Research shows that the "subjective" grades given by high school teachers are a better predictor of college success than the "objective" SAT or ACT exams—presumably because teachers' evaluations are based on a broader understanding of students' capacities, progress, and personalities.[41] So too, recent data suggests that even when charter schools succeed in raising high school students' test scores, this "success" has no discernible impact on students' subsequent career prospects—suggesting that the schools may have gotten good at drilling for tests, but not at preparing students for life.[42]

There is even more reason to discount the meaning of test scores when comparing charter with traditional public schools. Many factors outside of school impact test scores—most importantly, a student's socio-economic status. To compare schools' test scores in a meaningful way, it is necessary to hold constant a range of demographic factors—economic class, racial and ethnic background, parents' education, and more—in order to isolate the role of the school itself. In the past, the CDE created a "Schools Characteristic Index," which captured student demographic data and was used to measure a given school's test scores against a cohort of schools that serve similar populations.[43] This system was in use through 2012-13, when the CDE began work on a more sophisticated measure, which had its preliminary release last month. In the absence of the CDE's rankings, the California Charter Schools Association (CCSA) developed its own set of demographic controls and produced "similar schools" rankings for 2014-15 and 2015-16.[44] Both these measures, of course, control only for those characteristics that are measurable. But in so

doing, they ignore critical ways in which charter and public school students differ from one another. One recent statistical study concluded that most of the apparent advantage of charter schools—after controlling for demographic factors—was due to factors such as student motivation and parental involvement; when these were statistically accounted for, the gap between charter and traditional public school performance evaporated entirely. Comparing test scores using only measurable demographic controls, the author concluded, "artificially inflates the measured performance of … charter schools while disadvantaging students in [traditional public schools] for reasons that have nothing to do with the quality of the education they provide to their students."[45]

For all these reasons, test scores are not a reliable basis for comparing schools. Nevertheless, in the section that follows I use test scores—with demographic controls—to examine the profile of schools that have received public funding for charter facilities. My intention is not necessarily to designate which schools are better than others, but to illustrate the extent to which the quality of education offered by charter schools has been completely ignored as a criteria for facility funding—even by the metrics established by the CDE and the charter industry.

The most commonsense question for policy makers to ask when considering funding a new charter school is this: will this school provide a superior quality of education to what is already available in nearby public schools? Surprisingly, this question is never asked, nor has the data been assembled to easily answer it. This report answers that question for the first time, and for three-quarters of California charter schools, the answer is negative

To address this question, I used data from the most recent year calculated by the CDE (the 2012-13 school year), and compared a school's Academic Performance Index (API) score with those of schools that serve a demographically similar student population and are located within ten miles. The CCSA defines ten miles as the distance within which schools may be considered to draw on the same body of students.[46] Because many schools' populations are too small to carry out the demographic calculations needed, this data is not comprehensive. However, data are available for 635 charter schools, representing 60% of all charters open in 2012-13. For only 163 of these schools—or 25.6%—did the charter produce test scores that were superior to those of nearby public schools serving similar students. For three-quarters of these schools—or 471 schools in total—the charter did not produce a quality of education superior to that already being provided to similar students in the surrounding public school system.

These results are not surprising. National data show that while both charter and public schools can be excellent or inferior, charter school performance on average is no better than that of traditional public schools. [47] By failing to establish standards of excellence that charter schools must meet in order to qualify for public facilities funding, taxpayers have been spending huge sums on schools that do nothing to raise education standards. The 471 schools that are known to have produced test scores no better than those in nearby public schools received $540 million in direct taxpayer funding—$190 million in SB740 facility grants and $350 million in general obligation bonds—in addition to over half a billion dollars

in conduit bond financing and $238 million in tax-credit financed investments. If we assume that these schools are representative of charter performance as a whole, this suggests that an estimated 1,200 of the nearly 1,700 California charter schools that have been opened in the past 25 years have failed to provide superior performance to that already available in nearby public schools. And the public has paid for these schools' buildings at an estimated cost to taxpayers of nearly $1 billion.[48] This is simply an astounding amount of money to have spent with no preconditions for educational performance.

Table 5: Sample charter schools with nearby traditional public schools that serve a similar student population and produce higher test scores

School	City	Rent/Lease reimbursement (SB740)	General Obligation bonds	Conduit bonds	Federal Tax-Credit Backed Investments
Blue Oak Charter	Chico	$1,294,808			
Lifeline Education Charter	Compton	$1,257,903			
Imagine Schools at Imperial Valley	El Centro	$3,082,748			
Heritage K-8 Charter	Escondido	$3,131,423		$17,400,400	
Valley Arts and Science Academy (VASA)	Fresno	$675,414		$0	
New Millennium Secondary	Gardena	$637,921		$0	
Alliance Collins Family College-Ready High	Huntington Park	$1,898,087		$2,789,286	
Animo Inglewood Charter High	Inglewood	$2,465,223		$8,260,000	
New City	Long Beach	$1,333,874			
Alliance Ouchi-O'Donovan 6-12 Complex	Los Angeles	$3,309,298	$608,934	$15,795,000	$17,537,000
Camino Nuevo Charter Academy	Los Angeles	$2,705,046	$29,557,192	$7,245,000	
KIPP Academy of Opportunity	Los Angeles	$1,097,385	$372,941	$4,631,667	
Aspire Summit Charter Academy	Modesto	$1,343,903		$1,028,684	
Aspire ERES Academy	Oakland	$345,384	$7,412,382	$1,509,934	
Lighthouse Community Charter	Oakland	$1,102,500		$12,000,000	
Bert Corona Charter	Pacoima	$1,274,300	$660,152		
School of Arts and Enterprise	Pomona	$1,974,690			
Magnolia Science Academy	Reseda	$1,958,433		$6,412,333	
Richmond College Preparatory	Richmond	$139,030			
Oasis Charter Public	Salinas	$918,625			
Hardy Brown College Prep	San Bernardino	$1,266,310			
Health Sciences High	San Diego	$2,668,816	$7,800,000		
King-Chavez Preparatory Academy	San Diego	$1,399,333	$4,800,000	$19,580,000	
Rocketship Discovery Prep	San Jose	$1,592,311		$1,659,885	$10,500,000
High Tech High North County	San Marcos	$519,367		$9,775,000	
Orange County Educational Arts Academy	Santa Ana	$2,516,870		$10,836,833	
Aspire River Oaks Charter	Stockton	$1,106,967		$6,845,000	

Unethical Practices: Case Studies

Because it is almost impossible to prevent companies from opening charter schools in California, and because charter operators are able to access large public subsidies without having to offer a superior educational product, the charter industry has become an attractive site for hucksters, charlatans, and a parade of characters seeking to enrich themselves at public expense. In Fall 2016, *The Washington Post* ran a four-part series describing a "never-ending stream of charter scandals coming from California."[49] Dispersed throughout this report are three examples, all from the past year, of charter operators engaged in practices that district, state, or federal officials found unethical, but that did not prevent them from receiving generous public financing for school facilities. These stories do not, of course, represent the majority of charter schools—but they serve as a critical warning of insufficient regulatory oversight in this industry.

Case Study 1 – Magnolia Schools: Importing foreign teachers

The Magnolia CMO is a chain of 11 charter schools with reputed ties to the international movement headed by Turkish cleric Fethullah Gulen.[50] In recent years, the Federal Bureau of Investigation (FBI) has raided charter schools with ties to Gulen in Louisiana, Ohio, Indiana, and Illinois, suspecting that money intended for education was instead being siphoned off to support the Gulen movement. A Georgia audit found three schools engaged in bid-rigging to vendors with Gulen ties. A New York audit found one school had leased its building in a manner that netted millions of dollars for a local company with ties to Turkey. In Illinois, a charter group tied to Gulen is under federal investigation for funneling more than $5 million in federal grant money to insiders and away from the intended purpose of extending internet access to schools with low-income students.[51]

Among the concerns is that Gulen-affiliated charter schools have a practice of recruiting large numbers of teachers from Turkey, who are brought to work in American charter schools on H-1B visas. There is no clear pedagogical reason to employer Turkish rather than American staff—the Gulen schools do not offer Turkish language instruction and there is no evidence that the migrant teachers were superior to Californians in reading, math, or any other part of the school's curriculum. However, according to reports, the imported Turkish teachers may be required to make a "donation" of up to 40% of their salaries to the national organization; those that refuse might have their visas cancelled and employment terminated.[52] Indeed, one employee of a Gulen-affiliated school in Colorado recounts making monthly trips to deliver briefcases full of cash—contributions from Turkish teachers in Colorado—to the Santa Ana offices of the Accord Institute for Education Research, a provider of educational materials for the national network of Gulen-related schools.[53]

In California, the Magnolia schools spent nearly $1 million to secure visas for 97 Turkish teachers, along with their families.[54] LAUSD additionally found that Magnolia had established close financial ties with Accord, paying the company an average of $600,000

per year between 2009-14 at a time when the CMO itself had a $1.66 million deficit.[55] Indeed, it is difficult to disentangle one company from the other: Magnolia and Accord shared a lease in the same office building, and two of Accord's three board members previously served on the Magnolia board.[56]

As with the Celerity case (see Case Study 2), it took great effort and several years before district staff could even attempt to exert control over Magnolia's practices.[57] In 2014, the district announced that it would not renew the charters for Magnolia Science Academies #6 and #7, citing a pattern of "fiscal mismanagement." Magnolia sued the District and ultimately won an agreement that renewed the charters conditional on Magnolia's terminating its relationship with Accord and opening its financial records to district inspectors.[58] However, the district reported that Magnolia did not comply with the promise of transparency, and in October 2016 the LAUSD Board voted unanimously to revoke the charters of Magnolia Science Academies #1, #2, and #3. Like Celerity, Magnolia appealed this decision to the Los Angeles County Office of Education, which voted to approve the three charters.[59] At present, all 11 of Magnolia's schools remain open for business.

Throughout this period, the schools also enjoyed financial support from a number of charter facility funds. Collectively, Magnolia schools have received $3.4 million in SB740 grants, $6 million in conduit bonds, and $8.5 million in general obligation bonds.[60] The long history of concerns raised by Magnolia's practices does not constitute evidence of criminal activity. But in the context of scarce educational resources, it might be taken as reason to avoid further investment in the chain. Instead, even after LAUSD voted not to renew the charters for Magnolia Science Academies #6 and #7, these schools continued to receive SB740 funding, collecting a total of nearly $700,000 in the years since the district's negative ruling.

Even according to data from the CCSA itself, most charter schools do not appear to have provided the type of superior teaching that would drive up area standards. Again, the legislative aim in creating charter schools was not simply to fund a parallel network of uninspiring but privately operated schools. Rather, by freeing educators to experiment with new techniques, California aimed to produce schools that were such dramatic improvements over what came before that their success would spur the rest of the school system to emulate their methods. It's hard to formulate this goal in terms of test scores, but one reasonable expectation might be that successful charter schools would, at minimum, rank in the top 30% of schools serving student bodies similar to their own. CCSA's "similar schools" measure aims to capture this ranking by comparing each charter school with a cohort of demographically similar schools.61 Unfortunately, the CCSA survey shows that nearly two-thirds of current charter schools fail this test.[62] Of the 1,025 schools for which CCSA reports data in 2015-16, 645, or 63% of the total, are ranked in the 70th percentile or below compared with other California schools serving similar students.[63] The schools so identified by CCSA received nearly $480 million in direct tax dollars (a combination of SB740 funds and general obligation bonds), $150 million in investments backed by federal tax credits, and over $700 million in tax-exempt conduit bond financing.

While scholars and policy makers may debate which performance measure is best, what is most clear from the history of facility funding is that no measure whatsoever is required for tax dollars to be awarded to charter facilities. Indeed, according to the CCSA survey, there are 161 charter schools that rank among the worst of the worst—scoring in the bottom 10% of schools that serve similar student populations.[64] Yet even these schools have been supported by $44 million in SB740 funds, $57 million in general obligation bonds, $40 million in tax-credit investments, and $85 million in conduit bond financing.[65]

Table 6: Sample of charter schools identified by the California Charter School Association (CCSA) in the bottom 10% of schools serving similar student populations in 2015-16, with public facility funding

School	City	Rent & Lease Reimbursment (SB740)	General Obligation bonds	Conduit bonds	Fed Tax-Credit Backed Investments	Federal Incentive Grant Total
Aveson Global Leadership Academy	Altadena	$1,181,752				
GOALS Academy	Anaheim	$200,014				
Antioch Charter Academy II	Antioch	$186,737				
Multicultural Learning Center	Canoga Park	$1,420,600	$1,171,352			
Imagine Schools at Imperial Valley	El Centro	$3,082,748				
Heritage Digital Academy Charter Middle	Escondido	$563,137		$5,683,100		
Valley Arts and Science Academy (VASA)	Fresno	$675,414				
Muir Charter	Grass Valley	$3,276,155				
Academia Avance Charter	Highland Park	$1,373,569	$184,391			
iLEAD Lancaster Charter	Lancaster	$962,945				
Academy of Science and Engineering	Los Angeles	$655,047				$221,299
Alliance Kory Hunter Middle	Los Angeles	$418,830		$9,265,000		
Los Angeles International Charter High	Los Angeles	$1,155,709			$928,249	$188,544
Los Feliz Charter School for the Arts	Los Angeles	$1,867,076				
View Park Preparatory Accelerated Charter Middle	Los Angeles	$864,534		$9,905,000	$5,310,500	
Aspire Monarch Academy	Oakland	$833,455		$1,509,934		$140,250
Aspire Triumph Technology Academy	Oakland	$407,836				
Live Oak Charter	Petaluma	$1,089,224				
Manzanita Middle	Richmond	$311,492				
REACH Leadership Academy	Riverside	$608,857				
Millennium Charter High	Salinas	$321,213	$441,521			
Norton Space and Aeronautics Academy	San Bernardino	$937,233				$142,177
Public Safety Academy	San Bernardino	$992,681				
Innovations Academy	San Diego	$330,329	$5,000,000			
San Diego Cooperative Charter	San Diego	$169,462	$11,000,000			
PUC Inspire Charter Academy	San Fernando	$304,368				
High Tech Middle North County	San Marcos	$230,471		$3,269,000		
Santa Rosa Charter School for the Arts	Santa Rosa		$10,070,734			
Aspire Benj. Holt College Preparatory Academy	Stockton	$1,365,333		$6,845,000		$374,995
North Valley Military Insti. Coll. Prep. Academy	Sun Valley	$443,272	$172,915			$78,540
Charter HS of Arts-Multimedia & Performing	Van Nuys	$3,836,043				
Valley Life Charter	Visalia	$896,366				
Bella Mente Montessori Academy	Vista	$1,229,703				
Ivy Academia	West Hills	$2,683,890	$12,746			
Twin Rivers Charter	Yuba City	$1,260,575				

Schools that provide neither needed space nor superior education

It is difficult to combine diverse data sets into a single measure, particularly when each set is incomplete in a different way. Thus it is not possible to seamlessly combine the analysis of schools built in places where no additional classrooms were needed with that of schools that did not provide superior education to what was already available in nearby public schools. Further, missing data may skew the outcome; for instance, it appears that the share of schools that opened where no additional classrooms were needed was higher after 2013—but no data on comparative school performance is available for this period.[66]

Nevertheless, even with these limitations, it appears that at least 30% of charter schools fail both tests—they were opened in places that needed no additional classrooms, and they failed to provide an education that was better than that offered in nearby public schools. Assuming this proportion is evenly distributed across all schools, and accounting only for the funding tracked in this report, Californians provided these schools combined facilities funding of over $750 million, at a net cost to taxpayers of nearly $400 million.[67]

Table 7: Sample of charter schools opened in communities that had no need for additional classroom space, and where nearby public schools performed better, with facilities funding

School	City	Rent and Lease Reimbursment (SB740)	General Obligation bonds	Conduit bonds	Fed Tax-Credit Backed Investments	Federal Incentive Grantl
Lifeline Education Charter	Compton	$1,257,903	$0	$0		
Valley Arts and Science Academy (VASA)	Fresno	$675,414	$0	$0		
New Millennium Secondary	Gardena	$637,921	$0	$0		
Aspire Pacific Academy	Huntington Park	$1,447,167	$0	$8,317,000		$680,186
Century Community Charter	Inglewood	$1,228,355	$0	$0		
Alliance Cindy and Bill Simon Technology Academy High	Los Angeles	$1,782,311	$0	$0	$8,041,387$0	
Alliance Morgan McKinzie High	Los Angeles	$989,856	$20,269,344	$0		
Camino Nuevo Charter Academy	Los Angeles	$2,705,046	$29,557,192	$7,245,000		
Los Feliz Charter School for the **Arts**	Los Angeles	$1,867,076	$0	$0		
Aspire Summit Charter Academy	Modesto	$1,343,903	$0	$1,028,684		$242,514
ARISE High	Oakland	$797,985	$0	$0		
North Oakland Community Charter	Oakland	$558,259	$0	$0		
Montague Charter Academy	Pacoima	$433,414	$78,466	$0		
New Vision Middle	San Bernardino	$851,503	$0	$0		
Albert Einstein Academy Charter Middle	San Diego	$986,055	$0	$15,605,000		
Health Sciences High	San Diego	$2,668,816	$7,800,000	$0		
King-Chavez Preparatory Academy	San Diego	$1,399,333	$4,800,000	$19,580,000		
ACE Empower Academy	San Jose	$1,435,659	$0	$0		$7,614
Rocketship Los Suenos Academy	San Jose	$1,969,594	$0	$1,659,885		
Orange County Educational Arts Academy	Santa Ana	$2,516,870	$0	$10,836,833		$710,106
Academia Moderna	Walnut Park	$1,077,286	$0	$7,600,000		

Section 3:
The costs of unregulated building

The lack of meaningful targeting for charter facility funding has cost taxpayers hundreds of millions of dollars in misspent funds.

In addition to these direct costs, however, overbuilding also exacts costs on existing public schools and school districts, which are no less serious. This is primarily due to the fact that under state law, school funding is based on student attendance; when a student moves from a district school to an independent charter school (i.e., not under the district's oversight), his or her prorated share of school funding follows them.[68] When a charter school opens in an area that already has sufficient classroom space for the student population, it can only fill its own classrooms by drawing students away from existing schools. Thus, overbuilding of charter schools necessarily entails lost funding for traditional public schools and school districts. If schools and district offices could simply reduce their own operations and expenses in proportion to the lost revenue, there would be no fiscal shortfall. Unfortunately, however, this is not the case.

If, for instance, a given school loses 5% of its student body—and that loss is spread evenly across all grade levels—the school may be unable to lay off even a single teacher. Even where schools are able to consolidate classes and reduce core teaching staffs, there are a host of costs that cannot be reduced. So too, the costs of maintaining school equipment and buildings cannot be reduced in response to falling enrollments. Unless the enrollment falloff is so steep as to force school closures, the expense of heating and cooling schools, running cafeterias, maintaining digital and wireless technologies, paving parking lots, and shoveling snow is unchanged by modest declines in enrollment. In addition, both individual schools and school districts bear significant administrative responsibilities that cannot be cut in response to falling enrollment. This includes planning bus routes and operating transportation systems; developing and auditing budgets; managing teacher training and employee benefits; applying for grants and certifying compliance with federal and state regulations; reviewing curricula and purchasing appropriate instructional materials; and the everyday work of principals, librarians, and guidance counselors.

It is only recently that analysts have attempted to measure what part of district expenses are fixed, and estimates vary significantly. In 2016, the MGT Consulting Group conducted a detailed study of the Los Angeles Unified School District (LAUSD), concluding that 55% of the district's costs were fixed, and only 45% variable. On this basis, MGT estimated that the diversion of students to charter schools costs the district over $500 million per year.[69] Another study examined two of the country's leading cities for charter schools and calculated the share of school district costs that are fixed in place even when enrollment declines as ranging between 33% and 45%.[70] Even at the lowest of these estimates, however, the impact is significant: a 33% rate suggests that charter growth in Los Angeles poses a cost of $300 million per year in uncompensated fixed costs.[71]

Furthermore, beyond shifting costs, the proliferation of charter schools may also increase the total costs of a school system. One study notes that "charter school entry into a district typically increases the number of school buildings used to serve students, increasing facility and related maintenance costs."[72] When the creation of new schools is no longer tied to student population growth but rather is open to any number of entrepreneurs bent on capturing market share, the inevitable result is an increased number of schools for the same population of students. In Albany, New York, for instance, over the course of a decade the district went from 10,380 students in 17 schools to just slightly more students—10,568—but in 24 schools, including 15 district facilities and nine charter schools.[73] Adding more schools for the same number of students increases total utility, maintenance, and student transportation costs.

While all school districts may face budgetary concerns as a result of charter expansion, these impacts fall hardest on districts where the student population as a whole is declining. In areas where the population is growing, charter schools may simply absorb part of that growth. In districts with shrinking student populations, however, school systems already struggling to meet student needs with diminishing resources are faced with dramatic additional cuts in funding. In a system that already has more schools than are needed for its population, the government is adding yet further classroom space. "It seems illogical at best," education finance scholar Bruce Baker explains, "to expand chartering in contracting markets. A centrally managed district would not be likely to open new schools and disperse students more sparsely in a context of declining enrollment."[74] Similarly, Moody's Investors Service warns that the districts likely to suffer the greatest financial stress are those facing falling student populations, located in states with a "liberal approval process for new charters" and "few limits on growth," and that provide "generous funding" for charter expansion.[75] Unfortunately, this precisely describes California's regulatory climate, and the challenge facing Los Angeles in particular.

LAUSD's student population peaked in 2002-03, and has been falling steadily since that time.[76] Yet throughout this period, the charter industry has continuously expanded. From 2003-04 to present, 300 new charter schools have opened in LAUSD with the help of hundreds of millions of tax dollars and taxpayer-subsidized funding.

Thus, overbuilding imposes significant concrete costs on public school students and school districts. Some of these costs would be the same whether there was overbuilding of traditional public or charter schools. But there are additional costs associated specifically with the overbuilding of charter schools. Under state law, charter schools receive the same per-pupil funding as do traditional public schools. However, the particular nature of charter schools has led them to enroll a student body that, on average, is less needy and less expensive to educate. One area in which charter operations differ significantly from traditional public schools is their treatment of special education students. The result of this discrepancy is that charter schools end up with disproportionately greater funding and lower costs, while traditional public schools bear higher costs with lower funding. Thus, the expansion of charter schools forces even greater costs on public schools and school districts, beyond the standard costs of overbuilding.

Case Study 2 – Celerity Schools: Funding excess

The Celerity CMO operates a chain of eight schools in Southern California. Its CEO, Vielka McFarlane, is the highest paid leader of any CMO in the state; both she and the CEO of Celerity's parent corporation earn nearly $500,000 per year.[77] LAUSD officials have been suspicious of the company's practices for several years. As far back as 2013, officials noted that Celerity had created a new parent company—without the district's knowledge—and was funneling large sums of money to that entity. District staff complained that Celerity had "a track record of expending funds on non-school-related transactions."[78]

In fact, Celerity was paying nearly $700 per student per year to its parent corporation, amounting to over $2 million in payments to a company that was not part of the approved charter and whose board members were not disclosed to district staff. Later investigations found that McFarland had held executive positions in the CMO, the parent Celerity Global, and a third related company, and had conducted financial transactions between the three operations.[79] According to Celerity teachers, McFarlane often travelled by chauffeured limousine and the company hosted lavish parties for top executives even while its schools lacked money for basic classroom supplies and pressed students to help with fundraising.[80] In the 2015-16 academic year alone, Celerity was found to have made payments totaling over $5 million to a series of related corporations, even while the school organization itself was operating at a deficit.[81] Throughout this period, district staff regularly voiced concern that Celerity was not providing the financial transparency required by law.

Despite its suspicions, the district had a hard time reining in Celerity. In 2015, the CMO petitioned to open two new charter schools, and LAUSD denied its request, citing concerns of unorthodox financial practices. Celerity, however, appealed to the State Board of Education, which authorized the new schools to open.[82] In October 2016, Celerity asked LAUSD to renew two of its charters for additional five-year terms. Again, the district board members voted unanimously to close the schools, but Celerity appealed to the State Board of Education, which has yet to rule on the issue.[83]

Finally, in January 2017, officers from seven federal agencies—including the FBI, Department of Homeland Security (DHS), Internal Revenue Service (IRS) Criminal Investigation Division, and the U.S. Department of Education's Inspector General—raided Celerity's corporate offices, seizing records and computers. Agents also arrived with guns drawn at McFarlane's home, where they confiscated financial records.[84] Information about this case remains under seal, and charges have not yet been announced nor adjudicated.[85] It seems clear, however, that federal agencies shared some of the same concerns that district staff had been voicing for years but had been unable to act on.

Throughout this period, the Celerity operation received generous public funding for its facilities, including nearly $5 million in SB740 funds and $2.2 million in LAUSD bond funding. Indeed, the two schools whose charter renewal was unanimously opposed by LAUSD continue to receive SB740 funding in the 2016-17 school year.[86]

Special education

By state law, California's special education funding is apportioned to a charter school not based on the number of students with disabilities or the type of impairments they face, but simply based on total enrollment; the funding formula essentially assumes that all schools bear a roughly equal distribution of special needs students.[87] However, charter schools typically enroll a smaller proportion of special needs students than do traditional public schools.[88] And as this report indicates, the special needs students they do enroll are often concentrated among those with more mild needs, leaving traditional public schools to serve those with the most severe needs that require more costly services.[89] This in turn creates an inequality in funding—with charter schools receiving money for needs they don't serve and traditional public schools responsible for meeting needs they're not funded to provide for.

California special education is overseen by "Special Education Local Plan Areas" (SELPA). Traditional public schools are affiliated with their local SELPA, which generally pools funding from all area schools and uses it to serve the neediest students, wherever they may be enrolled. Further, since the cost of special education is not fully met by dedicated funds, traditional public schools typically also provide a share of their standard per-pupil funding to their district or SELPA in order to meet these additional costs. However, charter schools have been permitted to affiliate with a SELPA of their choice, even if far removed from the school's location.[90]

One of the state's fastest-growing SELPAs is El Dorado County's charter-only SELPA, whose number of affiliated charter schools has grown in just five years from 41 in 2011 to 264 in 2016.[91] The affiliates include many of the state's largest CMO chains. Schools affiliated with the Alliance chain in Los Angeles, KIPP in San Francisco and Oakland, King-Chavez in San Diego, and Rocketship in San Jose all have their special education needs met by rural El Dorado County, hundreds of miles away in the foothills of the Sierra Nevada. This flood of long-distance affiliation may reflect a substantial financial incentive. For instance, where the LAUSD SELPA traditionally retained 100% of a school's special education funding, along with a contribution from each schools' general fund, most charter schools associated with the El Dorado SELPA pay the SELPA no more than 5% of their special education funding, keeping the rest.[92] In return, of course, the El Dorado SELPA also provides more limited services, and these schools are responsible for meeting their students' needs. But for schools with limited numbers of special education students—or whose students' needs are sufficiently mild that a school's staff can meet them with minimal need for outside professional help—the arrangement may make financial sense. All ten schools in the Rocketship chain, for instance, were affiliated with the El Dorado SELPA in 2015-16, with special education students accounting for just 5.5% of their combined student body—less than half the statewide average.[93] Such schools may realize substantial savings by retaining average per-pupil special education funding while serving below-average needs. But as a result, their home districts are left serving the neediest children but without the needed resources.

Beyond their overall number of special education students, the schools affiliated with El Dorado County appear to enroll students with relatively mild needs. In the most recent year for which data is available, these schools served a below-average share of students with autism or intellectual disabilities, and an above-average share of higher-functioning students facing problems such as dyslexia or ADHD.[94]

Because charter schools have the legal option of affiliating with distant, low-cost SELPAs, their home districts cannot compel them to contribute toward the cost of educating the community's neediest students. Instead, in response to the flood of charter schools affiliating with low-cost SELPAs, Los Angeles's school district has sought to lure charters into affiliating with the LAUSD SELPA by offering them discounted options for affiliation. Under the new terms, charter schools may contribute a level of funding that is significantly less than traditional public schools, but higher than the 5% charged by the El Dorado SELPA.[95] It is clearly better for Los Angeles' special needs students to have charter schools affiliate with the LAUSD SELPA under these new terms rather than be completely disaffiliated. But even the new options represent a loss of revenue—and a burden on the district and the traditional public schools within it—compared to having charter schools treated the same as other district schools.

The total amount of funding lost by these arrangements remains a subject of debate.[96] But the essence of the problem is clear. If the state chooses to build new schools that receive funding disproportionate to the needs they serve, this imposes real and growing costs on traditional public schools in the surrounding district. Whatever choice policy makers may prefer, these costs must be taken into account as part of the policy planning process. Unfortunately, as the facility financing system now functions, there is no place in the process for these costs to be weighed.

Section 4;
Funding small start-ups or corporate charter chains?

Beyond the simple issue of overbuilding charter schools, facility funding has served to underwrite the industry's domination by large CMO chains rather than small start-ups. One of the central purposes of creating the charter school system was to spur innovation. Legislators aimed to incentivize groups of teachers or parents to create experimental schools that, freed from the burden of bureaucratic regulations, would try out new ideas in schools they could run according to their own vision. Unfortunately, legislators never wrote these goals into funding formulas. And without such requirements, funding has served a far different purpose than originally envisioned.

If a system of new schools were intended to encourage innovation and experimentation, funding would be focused on start-ups—allowing local groups of teachers, parents, community groups, and social entrepreneurs to launch a wide diversity of models. Over time, funding would support a process of continual improvement that repeatedly promoted new generations of innovators who could improve on what came before. Instead, facility funding has become a pipeline for replicating the same model over and over

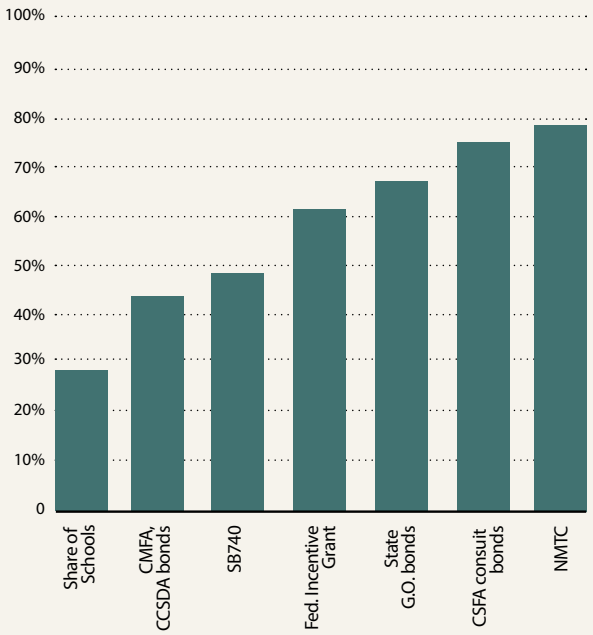
again, a process which has made it that much harder for innovative start-ups to secure the funding needed to try out new ideas.

Nearly 1,700 charter schools have opened in California since the early 1990s. More than two-thirds of these are, in fact, small local initiatives—single schools, or at most, a pair of schools coordinated by a parent organization. But this is not where state funding is focused. Instead, it is disproportionately concentrated among the less than one-third of schools that are owned by CMOs that operate chains of between three and 30 schools.

While CMO chains account for just 28.5% of all charter schools in the state, they have received nearly half of all funding under SB740, two-thirds of the revenue from state general obligation bonds, three-quarters of the tax-subsidized conduit bonds issued by the CSFA, and nearly 80% of investments supported by the federal NMTC. Indeed, even within this group, an even more disproportionate share of funding has been taken by just four large CMO chains—Aspire, KIPP, Alliance, and Animo/Green Dot. Together, these four companies account for 22% of all SB740 funding since 2009, one-quarter of general obligation bonds issued by CSFA, 45% of CSFA's conduit bond funding, and nearly one-half of all California investments subsidized by the New Market Tax Credit. Because CMOs tend to concentrate in cities, their domination of charter facility funding is even greater in urban areas. Within Los Angeles's school district, for instance, CMOs account for 62% of all SB740 funds distributed since 2009, 80% of both state and district-issued general obligation bonds, nearly 80% of conduit bonds, and 90% of New Market Tax Credit-backed investments.

Figure 5

Share of facility funding streams, CMO chains of 3+ schools.



This concentration of resources promotes conformity rather than innovation. CMO chains are not organizations that encourage experimentation among their educators. In the Rocketship chain, for instance, the corporate home office selects instructional materials and

dictates curricula for all the CMO's schools—both in California and across the country. If a Rocketship teacher or even principal believes a given software product is not appropriate for a set of students, they are not permitted either to select a different program or to provide an alternative to online instruction; all students are required to use the products assigned by the company's corporate office. In this way, Rocketship is a more centralized, command-and-control system than the public school districts charter advocates are wont to criticize.[97]

In this sense, the concentration of funding among the largest and most established charter chains functions in a manner that is opposite to what legislators intended when launching the charter industry.

Section 5:
Public dollars for private property

CMOs' managerial sophistication may serve them well in securing public funding, but it has also led them—along with some independent charter schools—to develop strategies for using public tax dollars to purchase buildings that become the company's private property. Depending on the source of funding, charter school ownership rights may be highly restricted or completely unencumbered. If a school's construction costs are funded by general obligation bonds, for instance, the buildings cannot be sold or used for anything other than the authorized charter school; if the charter is revoked or the school closes, the district retains control of the property.[98] Charter schools constructed with conduit bonds, by contrast, become the private property of the charter operator, and even if the charter is revoked, neither the state nor a local school district can take control of this property.[99] Schools constructed with private funding subsidized by New Market Tax Credits or acquired with private funds but whose mortgage payments are reimbursed through SB740 funds are typically owned without restriction. In the event that such schools close down, their owners may be free to turn the buildings into condominiums or retail space, or sell them at a profit. In such cases, neither the school district nor any other public body is entitled to recoup the public dollars that have gone toward creating the facility.

Privately owned school buildings pose policy as well as financial challenges for elected officials. If a privately owned school is performing poorly and a board of education wants to cancel its charter, the board cannot simply replace the school with a better set of educators. Because the property is privately owned, a district can shutter such a school only if it is prepared to construct a new building in which to house displaced students. In this sense, each time taxpayers fund the construction of a privately owned school building, they restrict the scope of choices available to future parents and policy makers. As CMOs grow into chains of privately owned schools, they are in danger of becoming "too big to fail"—reaching a point where education officials can no longer afford to hold them accountable, because they cannot afford to close and replace them.

The programs that fund charter facilities were not originally intended to create private real estate empires. For instance, the Charter School Facility Grant Program—the single largest

source of direct funding for charter school buildings—is legally restricted to funding "facility rents or leases," not mortgage payments.[100] However, as described above, charter schools have effectively upended this restriction through the use of subsidiary LLCs whose sole purpose is to own buildings that the school then leases with SB740 funds. Since the parent corporation owns both the school and the LLC, the lease is a legal fiction. But it's a fiction that has worked to turn tens of millions of dollars of taxpayer dollars into a source of cash for buying privately owned buildings.

The single most ambitious exemplar of this practice is the Alliance College-Ready Public Schools network of charter schools.[101] With generous public support, Alliance has built a portfolio of privately owned Los Angeles-area real estate now worth in excess of $200 million, owned by a network of 24 separate LLCs.[102]

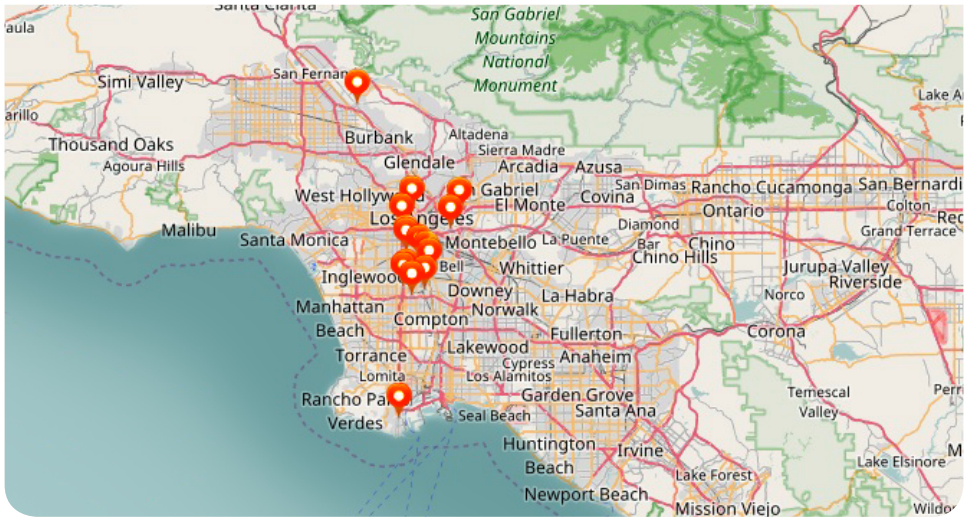
"SB740 funds are legally allowed only for rent or leases. But CMOs have created subsidiary LLCs that officially own the property and then "lease" it to schools. In this way, CMOs have turned tens of millions of taxpayer dollars into a source of cash for buying privately owned buildings."

Alliance has enjoyed generous public support for its real estate growth. In just the past eight years, Alliance schools have received more than $32 million in direct taxpayer funding through the Charter School Facility Grant Program.[103] The CMO has also received over $20 million in general obligation bonds and nearly $150 million in conduit bond funding through a combination of state agencies. Finally, the Alliance schools have received over $97 million in financing through the federal NMTC. The NMTC and conduit bond funds do not constitute direct taxpayer expenditures, but both are subsidized by generous tax breaks for investors, with a combined cost to taxpayers of nearly $60 million.[104] All told, it appears that Alliance has enjoyed over $110 million in federal and state tax taxpayer support for its facilities. Yet the schools built with these funds do not belong to the public, but instead are part of a growing empire of privately owned real estate.[105]

Nearly half the Alliance schools were built in places where the CDE determined that there already were enough classrooms for the student population. And while Alliance schools are generally highly ranked by the CCSA, even the chain's poorly ranked schools have received significant public subsidies. The Alliance Kory Hunter Middle School, for instance, has received over $400,000 in direct funding from the Charter School Facility Program and $9.2 million in conduit bond financing from the CSFA, yet even CCSA deemed it a failure, ranking it in the bottom 10% of schools serving similar populations in 2016. Indeed, even those Alliance schools that are justified neither by student population need nor by educational performance have received generous government funding. Alliance's Cindy & Bill Simon Technology Academy High School, for instance, opened in Los Angeles in 2010 at a time when there were already more than enough classrooms for the student population. Since then, it has consistently been ranked in the bottom half of schools serving similar student

bodies—and twice in the bottom 20%.[106] It seems, then, that there was no reason for this school to be opened—it satisfied no need for classroom space and performed worse than similar schools. Nevertheless, the government has supported this school with $1.7 million in funding from the Charter School Facility Grant Program and an $8 million investment through the New Market Tax Credits program, and it is currently listed as a private asset of the Alliance group valued at $7.8 million.[107] And if regulators determined not to renew the school's charter, the state would need to find a new school for its 500+ students, despite having committed millions of dollars to the now unusable Alliance property.

Figure 6
Map of Alliance schools with assets over $5 million.



Case Study 3 – Tri-Valley Learning Corporation: Wheeling and dealing with school property

When Tri-Valley Learning Corporation first petitioned to open a pair of schools in Livermore, its application was rejected by both the local school district and the Alameda County Office of Education; only after appealing to the state board was the company able to obtain a charter.[108] Tri-Valley went on to open two schools in Stockton, in addition to those in Livermore, and received more than $60 million in conduit bond funding between 2012-2015—only to be discovered in 2016 to have engaged in activities that led to Notices of Violation filed against the company by both school districts, cancellation of two of its charters, the loss of school accreditation, and the company filing for bankruptcy.[109]

In Livermore, the Tri Valley-owned Livermore Valley Charter School was housed in a building owned by the local school district until the company sought bond funding to build its own privately owned campus. In 2012, the company was awarded a total of $42.5 million in bond funding to purchase and renovate the new location.[110] But this deal was structured in ways that suggest it might have served purposes other than student education. The bonds for purchasing and renovating the Livermore

property were underwritten by the firm of Westhof, Cone & Holmstedt.[111] In turn, two of the firm's principals were owners of the land that Tri-Valley bought.[112] Thus, the firm underwrote a deal that used state-sponsored bond funding to buy a property that its principals already owned—presumably at a profit.

In Stockton, Tri-Valley's Acacia Elementary and Acacia Middle schools rent rather than own their facilities. But according to district documents, the property rented by the company's elementary school is owned by a company with a history of business ties to Tri-Valley's then-CEO, Bill Batchelor.[113] According to a district survey, comparable space in the Stockton market rents for approximately $1.25 per square foot; the Acacia schools are paying $4.45 per square foot, or three and one-half times market rate.[114] A significant portion of these inflated rates were directly paid by the state. Under the Charter School Facility Grant Program, any charter school is eligible to have taxpayers reimburse up to 75% of its rental cost of—with no requirement that schools be charged a fair market rent. Thus, California taxpayers to date have contributed more than $500,000 toward paying these exorbitant rates.[115]

Finally, the company's schools in both Stockton and Livermore were embroiled in a new scandal after Tri-Valley received an additional $25 million in conduit bond financing to open a high school.116 Again, the project seems designed to enrich Tri-Valley officers or associates. The building and land that the high school occupies was formerly owned by an LLC that, according to district documents, was headed by Batchelor.117 Thus, as district officials explained, "it … appears … that Mr. Batchelor set up an arrangement whereby he used Tri-Valley Learning Corporation … to receive school bonds; he used [the LLC] to purchase the property and building; he then sold the building … and thus receives the benefit of the school bond revenue."118

Furthermore, while heading Tri-Valley, Batchelor was simultaneously running two private schools. Representing both parties in the negotiations, Batchelor signed an agreement for one of his private schools to jointly lease the Tri-Valley space.119 Tri-Valley then pledged the revenues of its Stockton schools as security to guarantee the lease of space for Batchelor's private school.120 These activities ultimately led to both the Livermore and New Jerusalem school districts issuing Notices of Violation against Tri-Valley; the Livermore high school's loss of accreditation; the Alameda County District Attorney opening an investigation into Tri-Valley's management; and ultimately to the company filing for bankruptcy.121

In retrospect, one of the most puzzling aspects of this story is how such a poorly managed company was able to access such large amounts of bond funding. In 2007, the firm hired financial crisis consultants after audits uncovered inconsistent financial accounts.122 In 2009, the CSFA included Tri-Valley on a list of schools that were denied bond funds under the American Recovery and Reinvestment Act due to insufficient financial management structures.123 Yet three years later, the company received $42 million in bond funding. By 2015, the company was already highly indebted and there were growing signs of trouble at the school. In 2015-16, Tri-Valley began recruiting

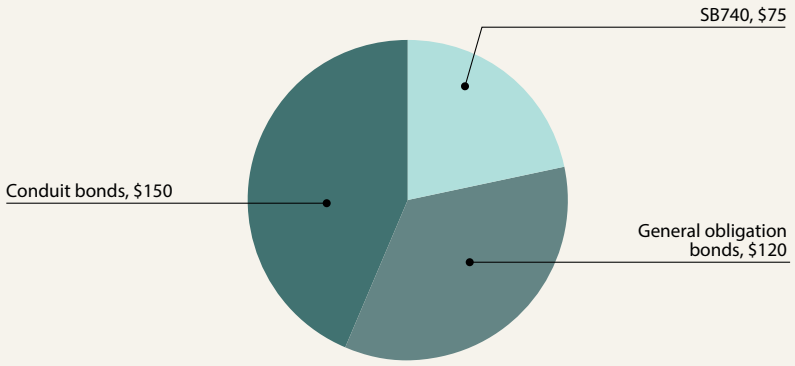
Chinese students to its high school, charged $31,000 per year for tuition, room, and board—in violation of the prohibition on charging tuition for a public charter school.[124] The company's financial troubles were likewise becoming evident in a slew of unpaid bills. In the two years preceding its bankruptcy, Tri-Valley took money from its teachers' paychecks designated for pension and insurance contributions, but never deposited the funds where they were due. The company also failed to make its own contributions toward teachers' pensions and was delinquent in paying its landscapers, therapists, contract instructors, and even its statutory oversight fee to the local school district.[125] But none of these potential trouble signs prevented Tri-Valley from securing an additional $25 million in bond financing in 2015.

It's impossible to know whether Tri-Valley will emerge from bankruptcy or cease operation and default on its bonds. But the profits earned on bond-funded sales of property remain in place, and the SB740 funds that helped pay inflated rents have not been returned. Meanwhile, the students and parents who put their faith in Tri-Valley have had to cope with the fallout. In August 2016, the Livermore schools announced they were laying off teachers in order to pay down debt, prompting hundreds of students to abandon the school, flooding nearby public schools at the start of the year.126 In November 2016, the district was forced to reopen a previously shuttered school and hire a dozen new teachers to accommodate the influx of former charter students.127 "We recognize that this may place a burden on district schools," a group of former Tri-Valley parents explained, but "we are desperate to see our children as students again, not as products in a corporation."128

The extensive costs of Tri-Valley's failed strategies—costs to taxpayers, students, parents, and the local school district—might have been avoided if charter facility funding were held to stricter standards. The failure to do so does not suggest that the charter industry as a whole is more corrupt than others—but it does point to extensive loopholes in current regulations, and suggests a critical need for the state to be more particular about how it spends school facilities funds.

Figure 7

Public facilities funding for charter schools with discriminatory enrollment policies *(millions of dollars)*



Section 6:
Taxpayer-funded discrimination

In August 2016, the American Civil Liberties Union of Southern California (ACLU) released a report revealing widespread discriminatory practices among California charter schools.[129] There have long been reports of some charter schools selectively recruiting higher-performing students, while discouraging, expelling, or "counseling out" lower-performing pupils. But the ACLU found something new: not only informal practices but explicit written and publicly advertised policies that illegally discriminate against higher-need and lower-scoring students. These policies fell into six broad categories:

- Prohibiting admission to students with low grades or low test scores.
- Expelling students who don't maintain a certain level of grades.
- Prohibiting admission to students whose English language skill is below certain levels.
- Discourage or bar immigrant students from enrolling by requiring their parents to provide citizenship identification as a condition of enrollment.
- Deny admission to students whose parents cannot complete an application or participate in a school application.
- Make enrollment conditional on parent contributions of money or volunteer hours to the school.

Such policies were in effect at 253 schools across the state, accounting for over 20% of all charter schools. Schools with discriminatory policies were found in every major school district, and included CMO chains like San Diego's High Tech schools as well as single-location schools. By state law, one of the most fundamental requirements for charter approval is that "a charter school shall admit all pupils who wish to attend the school," subject only to limitations of space.[130] Thus these schools were not only breaching their moral obligation to serve the state's neediest students—they were also in violation of the law. But not only were these schools allowed to operate—they were also liberally funded by multiple sources of charter facility financing.

Since 2009, the 253 schools found to maintain illegal policies have received a collective $75 million under the SB740 program, $120 million in general obligation bonds, and $150 million in conduit bond financing. At no point in the application, review, or oversight process did any agency conduct the type of due diligence that would have discovered these openly published policies. Further, following publication of the ACLU's report, none of the agencies providing charter facility funding demanded that charter schools return the funds they took while operating in violation of state law. On the contrary, in 2016-17—after publication of the ACLU's findings—the CSFA provided these schools $7.5 million in new funding. Again, this is not a sign of ill will on the part of CSFA staff. It is, rather, a sign of a complete disconnect in state policy, with even the most basic of educational policy standards missing from facility funding regulations.

Table 8: Public facilities funding for charter schools with discriminatory enrollment policies

School	Federal Incentive Grant
Charter Schools Facilities Grant (SB740)	$75,803,485
General Obligation Bonds (State)	$67,287,525
General Obligation Bonds (Los Angeles USD)	$13,945,000
General Obligation Bonds (San Diego USD)	$29,800,000
Conduit Bonds	$150,819,833
Revolving Loan Fund	$4,550,000
(Federal) New Market Tax Credit Investments	$30,000,000
(Federal) Facilities Incentive Grants	$7,558,924

Table 9: Sample of charter schools found by the ACLU to maintain discriminatory policies, with facilities funding

School	City	Rent & lease reimbursement (SB740)	General Obligation bonds	Conduit bonds	Fed Tax-Credit Backed Investments	Federal Incentive Grants	Revolving Loan Fund
Blue Oak Charter	Chico	$1,294,808					
Imagine Schools, Riverside County	Coachella	$515,708					
Lifeline Education Charter	Compton	$1,257,903					
Literacy First Charter	El Cajon	$4,153,157		$3,240,000			
Imagine Schools at Imperial Valley	El Centro	$3,082,748					
Environmental Charter Middle	Gardena	$1,006,515					
Leadership Public Schools - Hayward	Hayward	$822,973				$1,338,000	
Western Center Academy	Hemet	$1,657,054					
Wilder's Preparatory Academy Charter	Inglewood	$1,823,836					
Life Source International Charter	Lancaster	$941,061					$250,000
Environmental Charter High	Lawndale	$1,000,204				$395,862	
Accelerated Charter Elementary	Los Angeles	$746,163	$35,437,938				
New West Charter	Los Angeles	$2,531,319					
Paragon Collegiate Academy	Marysville	$365,111					$250,000
Community Outreach Academy	McClellan	$3,691,709				$14,840	
Integrity Charter	National City	$1,207,574					
Nevada City School of the Arts	Nevada City	$738,148					
Oakland Unity High	Oakland	$773,600	$7,923,643				$44,920
Oakland Charter High	Oakland	$926,901				$272,250	
Downtown Charter Academy	Oakland	$477,592					$250,000
Richmond Charter Academy	Richmond	$522,595				$31,060	$250,000
Fortune	Sacramento	$2,651,250					$278,859
Oasis Charter Public	Salinas	$918,625					
New Vision Middle	San Bernardino	$851,503					
Health Sciences High	San Diego	$2,668,816	$7,800,000				
Old Town Academy K-8 Charter	San Diego	$698,619					$150,000
Latino College Preparatory Academy	San Jose	$1,589,782				$618,750	
Almond Acres Charter Academy	San Miguel	$461,208					$250,000
Orange County Educational Arts Academy	Santa Ana	$2,516,870		$10,836,833		$710,106	
Roseland Charter	Santa Rosa	$1,814,013	$2,605,896				
CHAMPS - Charter HS of Arts-Multimedia & Performing	Van Nuys	$3,836,043					
La Sierra High	Visalia	$1,021,662					
Ceiba College Preparatory Academy	Watsonville	$845,112					

Section 7:
Policy recommendations

The aim of this report is to describe a problem rather than to specify the solution. Clearly more research is needed to determine the exact number and type of charter schools on which public funding has been misspent, and to determine exactly what funding requirements might best embody legislators' intent and students' best interests.

As a guide to possible policy responses, however, there are a number of proposals discussed by scholars and analysts that are designed to address the unregulated growth and funding inequities described in this report. These fall in a few broad categories:

Avoid paying for overbuilding:

The simplest step in this direction would be to put a moratorium on funding new charter facilities in districts where the overall student population is in decline. This is the type of charter expansion that is most harmful to the instructional programs and fiscal stability of school districts.

In addition, lawmakers might take steps to ensure that if the state is funding charter school in districts where the CDE has determined there is no need for additional classroom space, this only happens in the case of promoting charter schools with truly unique or exemplary programs that the district is incapable of providing. In such districts, lawmakers might choose to fund a new charter facility only if it has a track record of educational performance (however that may be measured) at least 30% better than local public schools.

Protecting the public school system while expanding charter options:

In order to ensure that charter expansion does not undermine the quality of education in traditional public schools or the fiscal viability of school districts, lawmakers might require that the impact of fixed costs that traditional public schools and school districts cannot reduce over the short- and medium-term be taken into account in decisions regarding charter sector expansion. Current policies allowing districts a one-year cushion to absorb the fiscal impact of enrollment losses are well intentioned but insufficient to the scale of this problem. School districts and traditional public schools should be held harmless for these costs—whether by adjusting funding for charter facilities or from some other source of public revenue.

Private property bought with public funds:

To avoid creating private real estate holdings at public expense—and restricting the choices available to future parents and elected officials—lawmakers might close the loophole that effectively allows SB740 funds to be used (via related LLCs) to pay mortgages on privately owned property.

More broadly, lawmakers might extend the type of conditions that govern general obligation bonds to other sources of public finance for charter facilities, including SB740

funds, New Markets Tax Credits (to the extent the state may control how these are made available for in-state schools), and the portion of conduit bond financing that represents taxpayer cost.

Weighing charter school construction against other educational needs:

At a time when schools across the state face increasingly severe financial needs, many millions of dollars each year flow to schools whose added value to the education system is dubious. These funds are earmarked for facility purposes and cannot be easily redirected by agency staff to classroom instruction purposes. Instead, legislators might conduct an annual review weighing the volume of funding for charter facilities against competing needs in the school system, in order to ensure that funding priorities align with student needs.

Community schools:

By far the most powerful factor affecting student achievement is poverty—confirmed across decades of research.[131] While the school system itself cannot lift students' families out of poverty, it can create schools that intelligently address the impacts of deprivation. One promising innovation is the creation of "community schools" with wraparound social services (often including on-site childcare and health clinics) and educational programming tailored to the specific needs of students from the neediest communities.[132] To make such schools possible, lawmakers might redirect charter facility funds to this purpose, or might mandate that no new charter facilities be funded until an appropriate number of community schools have been established.

Equalizing special needs funding:

Lawmakers could ensure that special education funding serves the students who need it most by requiring that charter schools affiliate with the SELPA of their local community or school district unless there is a demonstrable need that can only be met by a different SELPA. In addition, while charter authorizers are currently required to assess the equity and inclusion plans of their authorized schools, there is no requirement that such plans include special needs students or English language learners.[133] Furthermore, authorizers are only charged with assessing the plans of charter schools—not their actual performance in enrolling an inclusive student body. Legislators should expand authorizers' responsibility to auditing charter schools' performance regarding equity and inclusion of all categories of students.

Close loopholes on potential corruption:

The narrow prohibition on using SB740 funds to pay above-market rents should be made a blanket prohibition, regardless of who owns the building. To make this requirement enforceable, charter schools might be required to annually report their rent along with independent evidence of area rent standards.

In addition, charter schools should have to uphold the same ethical standard as public school officials, who are generally prohibited from engaging in any related-party transactions.

Stop public funding to schools that break the law:

Charter schools or CMOs found guilty of violating the law—whether by implementing discriminatory admissions policies, self-enrichment through related-party transactions, or other means—should be ineligible for public facility funding for some period of time.

Create effective "clawback" mechanisms:

The various agencies that administer charter facility funding need effective mechanisms to demand reimbursement of funds provided to schools found to have violated state law or school system requirements. It appears, for instance, that there is no easy way for state agencies to require reimbursement from schools the ACLU found to be maintaining discriminatory enrollment policies in violation of state law. Lawmakers should consider creating such mechanisms in each relevant agency.

Local control and local zoning initiatives:

Recently, cities and counties have begun looking to zoning codes to regulate charter growth that they believe imposes unwarranted costs on their communities.[134] These include environmental health concerns, impact on traffic and infrastructure, and impact on municipal credit ratings and property values. While there is no comprehensive data regarding charter schools' impact on property values, a number of recent regional studies suggest that charter industry growth may result in lower property values, most likely by undermining the fiscal soundness of the traditional public school system and signaling school disinvestment to potential homebuyers.[135] Lawmakers might clarify that charter applications denied for such reasons shall not be approved on appeal by county or state boards.

Conclusion

This report has detailed how large sums of taxpayer dollars have been misspent—on schools that provided nothing new, better, or different for area students; schools built in places that already had enough classroom space; schools that undermined the ability of neighborhood public schools to serve the neediest students; and in the worst cases, schools that engaged in unethical or corrupt practices. To some devoted advocates, the fact that some charter schools do indeed provide high-quality education may be invoked as a reason to maintain an open spigot of funding for all charter schools. But this is a dangerous and costly proposition, not only because of the cost overbuilding exacts on the school system, but because the funds so wasted are desperately needed elsewhere.

There is little need for an academic report to instruct readers on the urgent needs of California school children that go unmet for lack of funding. Every parent and teacher doubtless has their own list of services that children need and deserve but do not receive. Nevertheless, it may be worth citing just a few examples to help us remember the breadth of needs currently going unfunded.

In Oakland, one member of the school board reports that "one huge issue is the counselor-to-student ratio, which we just managed to bring down to 500:1 with the last contract negotiations. What this means in many of our high schools is that only seniors have reliable access to counselors, even though by the time you get to your senior year, you have already made choices that limit your options. With all the money the state allocates for charter school start-up and construction, we could provide counseling starting in middle school, and for social/emotional needs as well as academic needs." So too, this board member points to the urgent need for "class size reduction, particularly in middle and high school. Students do not feel safe when they do not feel seen, and if they don't feel safe, they can't learn. If funds were not being diverted to charter schools, we could create smaller-feeling schools within [Oakland Unified School District] by reducing class size and more students would have their needs met."[136]

The superintendent of the Anaheim Union High School District reports that "if we had more money available we could strengthen our programs for supporting our most needy students—students with special needs and long term English language learners so that we can stem the school-to-prison pipeline. Our district has a very large number of students with these issues and we have begun to build integrated programs for these students. But we need resources for more support like social workers because these students are so often dealing with the challenges of poverty, homelessness, broken families, food deprivation, and violence leading to depression and self-medication."[137]

In Carlsbad, a member of the board of education stresses the need for things such as basic classroom supplies "like glue stick, hand sanitizers, and Kleenex. Each year our teachers and parents spend thousands of dollars of their own money on these basic supplies." But this member also points to successful programs that are endangered by funding shortfalls: "We have an elementary school music program, but because of the lack of funding we have not been able to hire credentialed music teachers for this program, and last year we lost some of our music teachers. If we had the funding we could actually hire credentialed music teachers into an integrated, elementary music program."[138]

Finally, the president of the San Diego Unified School District Board of Education points to the need for resources to be refocused on traditional neighborhood schools:

> *"We desperately need to grow, not drain, our resources for neighborhood public schools in California. The biggest single reason for a persistent achievement gap is that we encourage families with the commitment and capacity to support their children's education to abandon their neighborhood schools. The students left behind are those whose families are so overwhelmed by structural racism, economic inequality, and social injustice that partnering with the schools in their children's education is a significant challenge. And yet, in school after school and neighborhood after neighborhood, we see parents, teachers, students, and administrators pulling together as a community to beat the odds and produce great results for kids. As a system, we need to do our part to support, not undermine, these neighborhood heroes. Decades of policy decisions, couched in the rhetoric of "competition and choice" but based on the premise that students need to escape their neighborhood to receive a quality education, have failed too many of our children.*

We need to focus on what works, and channel the meager investment we currently make in public education in California to community-focused schools. And by investing in the inspiring work of our neighborhood schools, we can build a compelling case to make California once again the world leader in public education funding."[139]

All of these represent the cost of wasted charter facility funding.

It is almost heartbreaking to contemplate the gap between legislators' original vision for charter schools and the reality we now inhabit. Former California State Senator Gary Hart—the prime author of the 1992 California Charter Schools Act—explained that "my original vision was for charters to be a creative alternative within public education—an 'R & D' (Research and Development) lab, if you will, from which policy makers and educators could … gain valuable insights."[140]

Charters were intended to be schools "organized by a group of individuals, with the approval of a specified percentage of the credentialed teachers within an existing school district," that would "encourage the use of different and innovative teaching methods."[141] What kind of schools did Hart hope such a system would produce? In a memo circulated to legislative colleagues, Hart articulated his vision, asking lawmakers to imagine a set of examples including the following:[142]

Teachers follow the students

The teachers at a small school district offering instruction in grades K-8 could request a charter to establish a program which allows teachers to teach the same group of students throughout their elementary and middle school years. This allows teachers to develop a deep understanding of the abilities and learning needs of each pupil over a number of years and helps provide a better system of teacher accountability.

Ungraded primary programs

The teachers in grades K-3 at an existing elementary school could request a charter from the local school board to operate a program which eliminates the traditional grade level structure for children aged 4-9 to provide a developmentally appropriate curriculum which allows children to progress at individual rates.

Specialized school for at risk pupils

An urban middle school whose pupil population consistently scores below average on standardized tests could form a collaborative with a postsecondary institution and seek a charter from the local school board to provide a specialized "accelerated" program to provide concentrated assistance for its pupils. The program would include a challenging curriculum, instead of repetitive remediation, and intensive instructional strategies that focus on all students' ability to learn. The new charter school could be operated on the university campus and might serve either all or some portion of the existing school's enrollment.

In all cases, Hart envisioned innovations driven by local educators who would create models

of enriched education for students in need. It is a tragedy that instead of this vision we got a crop of mostly uninspiring corporate-run chain schools.

It is not too late for Californians to shift course. With $500 million in newly appropriated general bond funding waiting to be awarded, this is the time for legislators to establish spending rules to guarantee that available funds go to meet the most urgent needs of California students.

Appendix A: Sources and methodology

Sources on charter facility financing

All data in this report comes from public sources and was obtained either by downloading data from agency web portals or through information request to public agencies.

The California Department of Education (CDE) assigns each school—charter or public—a unique code, which is used in every source of data created or tracked by the department. Using this code, I assembled data on each school that linked together schools' location, district, opening and closing dates, charter status and CMO affiliation, test scores, school characteristics index, demographics, and funding from all sources described in this report. If school identification codes were missing for a given charter school in a certain data source, they were verified using the CDE's charter school lookup site at: http://www.cde.ca.gov/ds/si/cs/ap/rpt.asp.

The Charter School Revolving Loan Fund Program is described, with data on awardees, by the Charter School Finance Authority (CSFA) at: http://www.treasurer.ca.gov/csfa/csrlf/index.asp. Data on loans provided under this program were collected for the years 2011-2015.

California general obligation bonds are issued by CSFA under the Charter School Facility Grant Program. Data on bonds issued were provided upon request from the Office of Public School Construction, Department of General Services. Bond award data were collected for the years 2003-present. School buildings whose construction costs are paid for by these bonds are the private property of the charter operator. However, the buildings cannot be sold or used for anything other than the authorized charter school; if the charter is revoked or the school closes, the local school district or the state retains control of the property. Restrictions on the use of these funds are outlined in the California Education Code, at EDC § 17078.62.

Los Angeles Unified School District (LAUSD) general obligation bonds were reported by the district's Office of Capital Fund Compliance. Schools whose construction was funded by these bonds remain the property of the school district. Data on these bond issues were provided by district offices for the years 2004-present.

San Diego Unified School District general obligation bonds are from the district's Office of Facilities Planning & Construction: https://fpcprojects.sandi.net/Pages/default.aspx?Filter=All. Schools whose construction was funded by these bonds remain the

property of the school district. Data on these bond issues were provided by district offices for the years 2011-present.

Conduit bonds issued by the California Municipal Finance Authority (CMFA) and the California Statewide Community Development Authority (CSCDA) are reported by the Municipal Securities Rulemaking Board, Electronic Municipal Market Access: http://emma.msrb.org. CMFA bonds included are from 2006-present, and CSCDA from 2011-present. Charter schools that are constructed with tax-exempt bonds become the private property of the charter operator, and even if the charter is not renewed or the school closes down, neither the state nor a local school district can take control of this property. However, bond terms typically restrict the owner from using the building for commercial moneymaking purposes.

Conduit bonds issued by the CSFA are reported in CSFA, Financial Statements with Independent Auditor's Report, Year Ended June 30, 2015. Bonds issued include tax-exempt bonds, plus a small number of Qualified Zone Academy Bonds (tax exempt), Qualified School Construction Bonds (tax credits), and Revenue Anticipation Bonds (typically tax exempt). Charter schools that are constructed with tax-exempt bonds become the private property of the charter operator, and even if the charter is not renewed or the school closes down, neither the state nor a local school district can take control of this property. However, bond terms typically restrict the owner from using the building for commercial moneymaking purposes.

The Charter School Facility Grant Program—often referred to as the "SB740 program" after its authorizing legislation—is described, with awards listed from 2011 through the present, at: http://www.treasurer.ca.gov/csfa/csfgp/index.asp. Data from 2009-10 and 2010-11 were provided by CSFA upon request.

The federally funded State Charter School Facilities Incentive Grants Program, administered in California by CSFA, is described at: http://www.treasurer.ca.gov/csfa/incentive.asp. Data on awards made were provided by CSFA upon request for the years 2011-2016.

New Market Tax Credits (NMTC) are administered by the U.S. Department of the Treasury's Community Development Financial Institutions Fund, and are made available to investors through a broad network of Community Development Entities (CDE), including the CSCDA. There is no central source for data on NMTC-funded projects. Data included in this report was compiled from a combination of U.S. Department of the Treasury data and reports from California-based CDEs. The data assembled covers NMTC-financed projects in the years 2005-14, but likely represents only a portion of all such projects during this period.

Eligibility determinations for each school district—the measure of whether a district has sufficient or insufficient seats for it student population—was provided upon request by the CDE Office of Public School Construction.

Methods

Cost to taxpayers of conduit bonds. The cost of conduit bonds to taxpayers was calculated using a general rule of thumb, estimating that all bonds have a 15-year maturity and pay 5% interest. One recent estimate found that interest rates on tax-free bonds for charter schools ranged from 7.1% for bonds rated BBB to 5.85% for A rated bonds and 4.95% for AA rated bonds. (National Alliance for Public Charter Schools, Public Charter Schools: Borrowing With Tax-Exempt Bonds, Second Edition, 2012, p. 4) Since most charter school bonds have relatively low ratings, a 5% estimated rate seems prudent.

Assuming most bonds are bought by private financial firms, the average effective federal tax rate paid by financial firms is 19%. (U.S. Treasury, Office of Tax Analysis, Average Effective Federal Corporate Tax Rates, 2016. https://www.treasury.gov/resource-center/tax-policy/tax-analysis/Documents/Average-Effective-Tax-Rates-2016.pdf.) Thus, the cost to taxpayers in foregone revenue for $1 million in conduit bond financing, over the life of the bond, is $1 million x .05 x 15 x .19 = $142,500. A small portion of conduit bonds issued to charter schools are taxable rather than tax-free, and to this extent because the report treats all bonds as tax-exempt, it slightly overstates the cost to taxpayers. This is a modest impact: of the over $900 million bonds issued by CSCDA, CMFA, and CSFA, just 1.5% were taxable. Conversely, the assumed duration and interest rates may serve to underestimate the cost to taxpayers. Bonds issued by CSCDA averaged 19.5 years at 6.6% interest, while those issued by CMFA averaged 19.1 years at 5.5% interest. Taken together, the rule of thumb used here is intended to produce a conservative estimate.

Cost to taxpayers of tax credit-subsidized investments. Qualified Investments in NMTC projects provide a federal tax credit equal to 39% of the investment. The cost to taxpayers, then, is calculated as 39% of the total qualified investment. The structure of these credits is described at U.S. Department of the Treasury, Community Development Financial Institutions Fund, New Markets Tax Credit Program, https://www.cdfifund.gov/programs-training/Programs/new-markets-tax-credit/Pages/default.aspx.

School construction eligibility. The determination of whether a school district has enough seats for the projected student population—is determined by the CDE Office of Public School Construction. (Eligibility Determination: School Facility Program, https://www.documents.dgs.ca.gov/opsc/Forms/SAB_50-03.pdf; and School Facility Program Handbook, https://www.documents.dgs.ca.gov/opsc/Publications/Handbooks/SFP_Hdbk.pdf.) If a school district is interested in obtaining bond funding to build a new school, it must first submit data to the Office of Public School Construction, which determines whether the number of classroom seats currently available in the district is sufficient for the student population projected over the coming five years. Large districts may determine eligibility based on a shortage of seats in a given part of the district—defined as High School Attendance Areas (HSAA)—even if there are sufficient seats across the district as a whole. In such cases, the Office of Public School Construction generates eligibility data for an HSAA as well as the district as a whole. When a district first applies for eligibility, the Office of Public School Construction records an initial "establishment" comparison of seats and students. When a district reapplies, or reports changes either to its student population or its classroom capacity, these are recorded as positive or negative adjustments to the previous eligibility numbers. In all cases, separate eligibility numbers are determined for elementary, middle, and high schools—thus a district may be eligible to build a new elementary school but not a new high school.

Eligibility data is not comprehensive for all schools in all years. If a district does not seek state bond funding for school construction, the Office of Public School Construction will not generate an eligibility calculation. In addition, the CDE placed a moratorium on eligibility

determinations in 2013 because it had exhausted general obligation bond funding that might be awarded. Thus a significant number of districts are lacking any data at all of this kind. In other cases, data is available only for certain years, and if this period does not include the opening period of a given charter school, it is impossible to determine whether the district was eligible or ineligible at that time.

The full set of eligibility data, broken down by district, date, and school type, was provided upon request by the Office of Public School Construction. Starting with each school's initial "establishment" measures, I used the adjustments that followed to construct a running total of positive or negative eligibility for the years that followed. I then compared these numbers with school opening dates. Decisions about eligibility for construction must be made some time prior to a school's actual opening, and the California Charter Schools Association (CCSA) estimates that it typically takes 6-12 months between a charter school's authorization and its open date (CCSA, The School Development Process in Four Phases, http://www.ccsa.org/starting/timeline/#tab-overview). Therefore, I calculated school construction eligibility for the date one year before a charter school's official opening date, as the measure of whether such a school would have been deemed eligible under CDE guidelines. For charter schools authorized by a county or state board of education, I identified the school district in which the charter is physically located, and used that as the relevant measure.

In cases where there was no eligibility data corresponding to the relevant date, but there was data for nearby dates, I estimated eligibility when it seemed very probable. In doing so, I used several decision rules. If there was eligibility data within one year prior to the relevant date, I used that. If there was eligibility data within a reasonable time period both before and after the date in question—and it was consistent across that period—I assumed that the data had remained stable during the entire period. If there was contradictory data that seemed possible to indicate either outcome, I gave the benefit of the doubt to the charter school having been eligible—that is, warranted. In cases where charter schools serve K-12, I counted them as eligible or ineligible only if the district's data were consistent for both elementary and high school in that time period. In all, eligibility determinations could be made for 932 of the 1,682 charter schools listed by the CDE.

Measuring whether schools' performance is superior to that of nearby public schools. This calculation drew on schools' latitude and longitude locations—information provided by the CDE—as well as the CDE's 2012-13 Academic Performance Index (API) scores and "similar schools" measures. To identify "similar schools," the CDE gave each school a "school characteristics index," a ten-digit ranking that combined a wide variety of demographic measures, so that schools with similar SCIs serve demographically similar student populations. There are nearly 8,000 schools assigned SCIs in 2012-13; excluded schools are primarily those whose student population was too low to provide a meaningful sample for demographic analysis. These 8,000 schools were then divided into percentiles based on rank. I considered a school to be serving a similar population as a given charter school if it's SCI was within 12.5 percentile points—either higher or lower—of the charter school's SCI. Thus each school might have had "similar schools" fall anywhere within a range

of 25 percentile points (12.5 points above and below the charter's own SCI). But any given public school could not be more than 12.5 points different than the charter school's SCI. An exception to this rule was made for those charter schools in the very highest and very lowest 12.5 percentiles. In order to provide them an equal set of possible matches, these schools were compared with the top or bottom 25 percentiles respectively. Thus for these schools, a school was considered to serve a similar population if its SCI was within the same quartile as that of the charter school—for all other schools, similarity required being within 12.5 percentile points of the charter's SCI.

Once similarity was established, I identified those schools that met the similar-schools test and were also within 10 miles of the charter school, and then determined whether their API score in 2012-13 was higher or lower than that of the charter school.

Endnotes

1 CCSA, Growth and Enrollment, http://www.ccsa.org/understanding/numbers.

2 Michael Janofsky, "California charter schools set goal of 1 million students despite pushback," EdSource, March 16, 2016, https://edsource.org/2016/california-charter-schools-set-goal-of-1-million-students-despite-pushback/561958.

3 See Appendix A for description of data sources and methodology used to produce this calculation.

4 The estimate for total actual spending on such schools is $495 million in a combination of SB740 funds and general obligation bonds, and an additional $717 million in conduit bonds and federal tax credit-backed investments.

5 Unfortunately, under state law this is not a question that district, county, or state officials can ask, or a criteria that can be legally invoked, in determining whether or not to grant a charter. California Education Code, Title 2, Division 4, Part 26.8, Chapter 2, Section 47605(b). https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=26.8.&chapter=2.&article=.

6 See Appendix A for description of data sources and methodology used to produce this calculation.

7 See Appendix A for description of data sources and methodology used to produce this calculation.

8 In order to receive rent or lease reimbursement under the Charter School Facility Grant Program (SB740), charter schools must serve a student population among whom at least 55% are eligible for free or reduced-priced meals.

9 CCSA, 2016-17 State Ranks and Similar Schools Ranks Spreadsheet, http://www.ccsa.org/2016/10/2016-17-state-ranks-and-similar-schools-ranks-spreadsheet.html.

10 See Appendix A for description of data sources and methodology used to produce this calculation.

11 "Charting the Way to Better Schools," Editorial, San Francisco Chronicle, September 16, 1992.

12 In traditional public schools, a decline of even 10% enrollment, if spread equally across classes, may leave a school facing difficulties laying off any teachers. Even if the number of teachers is reduced, the costs of maintaining and operating the building, heating and cooling equipment, custodial care, cafeteria equipment and service, principal, vice-principal, school counselor, librarian, administrative staff, and bus routes are all unchanged by such a reduction in students. At the district level, tasks such as budget planners, accountants, bus route planning, certification of students for special education or free and reduced-priced meals, execution of federally funded programs, grant seekers, real estate oversight, curriculum review, and negotiation and purchase of instructional materials all remain essentially unchanged by modest enrollment declines. Robert Bifulco and Randall Reback, "Fiscal Impacts of Charter Schools: Lessons from New York," Education Finance and Policy, vol. 9, No. 1, pp. 86-107, 2014, estimate fixed costs as 33% of the total in Buffalo and 45% in Albany, NY. Albany and Buffalo have, respectively, the 10th and 15th highest percentage of students in charter schools of any major American school district. A 2016 study of the Los Angeles Unified School District estimated its fixed costs as 55% of all costs. MGT of America Consulting, Fiscal Impact of Charter Schools on LAUSD, May 2016, http://thecostofcharterschools.org/ccs/eir.

13 CCSA, Growth and Enrollment, http://www.ccsa.org/understanding/numbers.

14 Michael Janofsky, "California charter schools set goal of 1 million students despite pushback," EdSource, March 16, 2016, https://edsource.org/2016/california-charter-schools-set-goal-of-1-million-students-despite-pushback/561958.

15 See Appendix A for description of data sources and methodology used to produce this calculation.

16 Under the federal New Markets Tax Credit, investors receive a 39% tax credit on qualified investments, paid over seven years. While investors are legally entitled to retain an ownership interest in their investment, the tax credit is so valuable—and competition for participating in these deals often so tight—that investors often agree to structure deals so that, at the end of the tax credit period, their ownership interest is transferred to the charter operator, cost-free.

17 These include bonds authorized by Propositions 47 (2002), 55 (2004), 1D (2006) and mostly recently Measure 51, approved in November 2016.

18 Authorization for funds under Measure 51 is in CA Education Code § 101122 (2016).

19 This is not a hard standard to meet, since as of 2012-13 56% of all California students qualified for subsidized meals. Public Policy Institute of California, Low-Income Students and School Meal Programs in California. http://www.ppic.org/main/publication_quick.asp?i=1129.

20 The legislation creating this program can be found in the Education Code, Section 47614.5, with associated regulations at California Code of Regulations, Title 4, Division 15, Article 1.5: California Facility Grant Program, http://www.treasurer.ca.gov/csfa/csfgp/regulations.pdf.

21 Jon Penkower, Managing Director, California Statewide Community Development Agency, conversation with the author, September 12, 2016.

22 See Appendix A for discussion of how the cost to taxpayers was calculated for conduit bond financing and New Markets Tax Credits.

[23] California Education Code, Title 2, Division 4, Part 26.8, Chapter 2, Section 47605(b). https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=26.8.&chapter=2.&article=.

[24] California Education Code, Title 2, Division 4, Part 26.8, Chapter 2, Section 47605(b). https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=26.8.&chapter=2.&article=.

[25] California School Boards Association, Charter Schools: A Manual for Governance Teams, 2009, www.csba.org/EducationIssues/EducationIssues/~/media/D3A48BACC09B45C89F35FC33ABC3A86A.ashx.

[26] California Code of Regulations § 11967.5.1. Criteria for the Review and Approval of Charter School Petitions and Charter School Renewal Petitions by the State Board of Education (SBE). https://govt.westlaw.com/calregs/Document/I106524000BDC11E1A0DDFCA155337C92?viewType=FullText&originationContext=documenttoc&transitionType=StatuteNavigator&contextData=(sc.Default).

[27] Caprice Young, CEO of Magnolia Schools, quoted in Brenda Gazzar, "Magnolia charter schools fight to stay open after LAUSD 'death sentence,'" Los Angeles Daily News, October 20, 2016, http://www.dailynews.com/social-affairs/20161020/magnolia-charter-schools-fight-to-stay-open-after-lausd-death-sentence.

[28] California Education Code, Title 2, Division 4, Part 26.8, Chapter 2, Section 47607. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=EDC&division=4.&title=2.&part=26.8.&chapter=2.&article=.

[29] "Charting the Way to Better Schools," Editorial, San Francisco Chronicle, September 16, 1992.

[30] Education Code, Title 2, Division 4, Part 26.8, Section 47601. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=47601.

[31] Education Code, Title 2, Division 4, Part 26.8, Section 47601. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=47601.

[32] Kate Zernike, "A Sea of Charter Schools in Detroit Leaves Students Adrift," New York Times, June 28, 2016. https://www.nytimes.com/2016/06/29/us/for-detroits-children-more-school-choice-but-not-better-schools.html?_r=0.

[33] Huriya Jabar, How Do School Leaders Respond to Competition? Education Research Alliance for New Orleans, March 26, 2015. http://educationresearchalliancenola.org/files/publications/ERA-Policy-Brief-How-Do-School-Leaders-Respond-To-Competition.pdf.

[34] Zernike, 2016; Erin Einhorn, "Dozens of struggling schools in Detroit are set to close – but nearby options for their students aren't much better," Chalkbeat, January 24, 2017. http://www.chalkbeat.org/posts/detroit/2017/01/24/dozens-of-struggling-schools-in-detroit-are-set-to-close-but-nearby-options-for-their-students-arent-much-better.

[35] See, for example, Sonali Kohli, "Magnet Schools: How to navigate one of L.A.'s most complex mazes," Los Angele Times, October 9, 2015, http://www.latimes.com/local/education/lausd/la-me-edu-magnet-schools-guide-20151008-htmlstory.html; and Fremont Unified School District, School Wait Lists & Overloads, http://www.fremont.k12.ca.us/Page/25823; San Francisco Unified School District, Waiting Pool Process, http://www.sfusd.edu/en/enroll-in-sfusd-schools/placement-periods/waiting-pool-process.html; Irvine Unified School District, Open Enrollment Process, http://www.iusd.org/enrollment/OpenEnrollmentPolicy.html; and Los Angeles Unified School district, Open Enrollment Application Process, http://home.lausd.net/apps/news/article/462889.

[36] A smaller number of schools are financed by other means, including district bonds or "certificates of participation," which borrow against future revenue.

[37] This process is described in Appendix A and in State of California, Eligibility Determination: School Facility Program, https://www.documents.dgs.ca.gov/opsc/Forms/SAB_50-03.pdf.

[38] CDE, Office of Public School Construction, School Facility Program Handbook, July 2007, P. 15. https://www.documents.dgs.ca.gov/opsc/Publications/Handbooks/SFP_Hdbk.pdf.

[39] See Appendix A for a description of how this calculation was performed.

[40] According to the California Department of Education (CDE), there are nearly 1,700 charter schools that have been opened since the establishment of the state charter law, including nearly 500 that are no longer open. For 44% of these schools, there was insufficient data to compare student population and classroom space. In many cases, this is because the school's home district never asked the CDE to determine its eligibility to receive general bond funding for school construction—and therefore the CDE therefore never performed this calculation. In other cases, a district has such data but not for the year in which a given school opened.

[41] Maitre, Michelle,. "High School Grades Are a Better Predictor of College Success than SAT, ACT, Study Says," EdSource, February 21, 2014,http://edsource.org/2014/high-school-grades-are-a-better-predictor-of-college-success-than-sat-act-study-says/ 58033#.UziuKK1dVvY; William Hiss , and Valerie Franks. Defining Promise: Optional Standardized Testing Policies in American College and University Admissions, National Association for College Admissions Counseling, http://www.nacacnet.org/research/research-data/nacac- research/Documents/DefiningPromise.pdf.

[42] Will S. Dobbie and Roland G. Fryer, Jr., Charter Schools and Labor Market Outcomes, Working Paper No. 22502, National Bureau of Economic Research, August, 2016. http://www.nber.org/papers/w22502.

[43] The makeup of the School Characteristic Index is described in CDE, Analysis, Measurement, and Accountability Reporting Division, Descriptive Statistics and Correlation Tables for California's 2013 School Characteristics Index and Similar Schools Ranks, June 2014, http://www.cde.ca.gov/ta/ac/ap.

[44] CCSA, 2016-17 State Ranks and Similar Schools Ranks Spreadsheet, http://www.ccsa.org/2016/10/2016-17-state-ranks-and-similar-schools-ranks-spreadsheet.html. CCSA's methodology for measuring school similarity is described in CCSA, Similar Students Measure, http://www.ccsa.org/advocacy/accountability/ssm.html.

[45] Vladimir Kogan, 'Similar Students' measures: a flawed approach to school accountability, Thomas B. Fordham Institute, November 16, 2015. https://edexcellence.net/articles/%E2%80%9Csimilar-students%E2%80%9D-measures-a-flawed-approach-to-school-accountability.

[46] Schools were deemed to serve demographically similar populations if their SCI scores were within 12.5 percentile points of each other. A detailed description of the methodology for this calculation is included in Appendix A. The California Charter Schools Association (CCSA) discounts charter school waitlists if there is another charter school within ten miles, on the assumption that students may have reasonably applied to both schools . CCSA, 2015 Waitlist Data and Methodology, May 2015. http://www.ccsa.org/blog/2015_Waitlist_Methodology-1May2015.pdf.

[47] Center for Research on Education Outcomes, "Multiple Choice: Charter School Performance in 16 States," Stanford University, 2009, http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf; and Center for Research on Education Outcomes, "National Charter School Study 2013," Stanford University, 2013, http://credo.stanford.edu/documents/NCSS%202013%20Final%20Draft.pdf.

[48] Projecting that 74% of all facilities funding tracked in this report was devoted to such schools suggests that these schools received a combination of direct funding, tax-credit investments, and conduit bond financing totaling $1.9 billion. Since the majority of this is in the form of conduit bonds, the total cost to taxpayers is significantly less, estimated at $980 million.

[49] Valerie Strauss, "How messed up is California's charter school sector? You won't believe how much," Washington Post, September 9, 2016. https://www.washingtonpost.com/news/answer-sheet/wp/2016/09/09/how-messed-up-is-californias-charter-school-sector-you-wont-believe-how-much/?utm_term=.a56e3df4db9e.

[50] Howard Blume, "Charter school leader draws inspiration from a Turkish cleric embroiled in controversy: 'He inspired me to serve,'" Los Angeles Times, August 31, 2016. http://www.latimes.com/local/lanow/la-me-edu-magnolia-charter-ties-to-gulen-20160829-snap-story.html.

[51] Jason McGahan, "Did a Clifornia Charter School Group Fund an Effort to Overthrow the Turkish Government?" LA Weekly, December 1, 2016. http://www.laweekly.com/news/did-a-california-charter-school-group-fund-an-effort-to-overthrow-the-turkish-government-7666698

[52] Jason McGahan, "Did a Clifornia Charter School Group Fund an Effort to Overthrow the Turkish Government?" LA Weekly, December 1, 2016. http://www.laweekly.com/news/did-a-california-charter-school-group-fund-an-effort-to-overthrow-the-turkish-government-7666698

[53] Jason McGahan, "Did a Clifornia Charter School Group Fund an Effort to Overthrow the Turkish Government?" LA Weekly, December 1, 2016. http://www.laweekly.com/news/did-a-california-charter-school-group-fund-an-effort-to-overthrow-the-turkish-government-7666698

[54] Howard Blume, "Three L.A. chrater schools could be shut down, largely because of their practice of bringing in teachers from Turkey," Los Angeles Times, October 12, 2016. http://www.latimes.com/local/education/la-me-edu-magnolia-turkish-teachers-20161011-snap-story.html.

[55] http://www.laweekly.com/news/did-a-california-charter-school-group-fund-an-effort-to-overthrow-the-turkish-government-7666698. Magnolia reported that it contracted with Accord for services that included professional training, human resource and financial support, curriculum development, and teacher evaluation – leading the District to question Magnolia's accountability for the operation of its own schools. http://laschoolreport.com/magnolia-schools-remain-open-but-relationship-with-accord-changes/.

[56] http://laschoolreport.com/magnolia-schools-remain-open-but-relationship-with-accord-changes/. There is a broad consensus that charter schools should not do business with entities with which they have close ties, as it creates a conflict of interest. It is very difficult to ensure that charter schools are not paying inflated prices or buying services they do not need when the school administrators have a financial interest in the corporations selling the services. This holds even if the companies in question have legal nonprofit status, as individuals can still personally benefit from their association with a nonprofit corporation.

[57] In 2014, LAUSD's cost of auditing Magnolia's financial records was estimated at $320,000. http://www.scpr.org/blogs/education/2014/08/14/17153/california-state-auditor-probing-la-s-magnolia-cha/

[58] Howard Blume, "County board overrules LAUSD to keep embattled Magnolia charter schools open," Los Angeles Times, December 22, 2016. http://www.latimes.com/local/education/la-me-edu-county-renews-magnolia-charters-20161221-story.html

[59] Howard Blume, "County board overrules LAUSD to keep embattled Magnolia charter schools open," Los Angeles Times, December 22, 2016. http://www.latimes.com/local/education/la-me-edu-county-renews-magnolia-charters-20161221-story.html

[60] Howard Blume, "County board overrules LAUSD to keep embattled Magnolia charter schools open," Los Angeles Times, December 22, 2016. http://www.latimes.com/local/education/la-me-edu-county-renews-magnolia-charters-20161221-story.html

[61] The California Charter School Association's measure is different from mine in that it compares a given charter school with schools anywhere in the state whose student body demographics fall within a particular demographic range.

[62] CCSA, 2016-17 State Ranks and Similar Schools Ranks Spreadsheet, http://www.ccsa.org/2016/10/2016-17-state-ranks-and-similar-schools-ranks-spreadsheet.html.

[63] The California Charter School Association compares each school's test scores against those of schools that serve demographically similar student bodies, and then gives each school a percentile ranking based on that comparison. A school's being in the 70th percentile means that it performs better than 70% of schools that serve similar student populations.

[64] CCSA, 2016-17 State Ranks and Similar Schools Ranks Spreadsheet, http://www.ccsa.org/2016/10/2016-17-state-ranks-and-similar-schools-ranks-spreadsheet.html.

[65] The California Charter School Association (CCSA) ranks each school according to how its test scores compare with schools that serve demographically similar populations. These 161 charter schools are identified by the CCSA as performing more poorly (according to the CCSA's test-based metric) than 90% or more of schools serving demographically similar populations. The CCSA, 2016-17 State Ranks and Similar Schools Ranks Spreadsheet, http://www.ccsa.org/2016/10/2016-17-state-ranks-and-similar-schools-ranks-spreadsheet.html.

[66] See Appendix A for data sources and methodology used in this section.

[67] See Appendix A for data sources and methodology used in this section.

[68] California Department of Education, Local Control Funding Formula Overview. http://www.cde.ca.gov/fg/aa/lc/lcffoverview.asp. For funding purposes, most charter schools are independent entities not included in local district funding formula.

[69] MGT of America Consulting, Fiscal Impact of Charter Schools on LAUSD, May 2016, http://thecostofcharterschools.org/ccs/eir.

[70] Robert Bifulco and Randall Reback, "Fiscal Impacts of Charter Schools: Lessons from New York," Education Finance and Policy, vol. 9, No. 1, pp. 86-107, 2014, estimate fixed costs as 33% of the total in Buffalo and 45% in Albany, NY. Albany and Buffalo have, respectively, the 10th and 15th highest percentage of students in charter schools of any major American school district. David Arsen and Yongmei Ni's study of Michigan ("The effects of charter school competition on school district resource allocation," Educational Administration Quarterly 48(1): 3-38, 2012) does not calculate an exact figure for fixed costs but reports that "revenues decline more rapidly than costs in districts losing students to charter schools," and as a result "higher levels of charter competition are strongly associated with declining district fund balances."

[71] This calculation is made by applying the 35% estimate of fixed costs to the total costs identified by the MGT study.

[72] Robert Bifulco and Randall Reback, "Fiscal Impacts of Charter Schools: Lessons from New York," Education Finance and Policy, vol. 9, No. 1, pp. 86-107, 2014.

[73] Robert Bifulco and Randall Reback, "Fiscal Impacts of Charter Schools: Lessons from New York," Education Finance and Policy, vol. 9, No. 1, pp. 86-107, 2014.

[74] Bruce Baker, Exploring the consequences of charter school expansion in U.S. cities, Economic Policy Institute, November 30, 2016. http://www.epi.org/publication/exploring-the-consequences-of-charter-school-expansion-in-u-s-cities.

[75] Moody's Investors Service, Charter schools pose greatest credit challenge to school districts in economically weak urban areas, October 15, 2013. https://www.moodys.com/research/moodys-charter-schools-pose-greatest-credit-challenge-to-school-districts--pr_284505.

[76] Los Angeles Unified School District, Superintendent's Final Budget, 2016-17, p. 135. http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/123/2016-17%20Superintendents%20Final%20Budget%20Adopted%2006-21-16.pdf.

[77] Mike Szymanski, "What's behind the federal raids on Celerity?" LA School Report, February 22, 2017. http://laschoolreport.com/whats-behind-the-federal-raids-on-celerity/

[78] Mike Szymanski, "What's behind the federal raids on Celerity?" LA School Report, February 22, 2017. http://laschoolreport.com/whats-behind-the-federal-raids-on-celerity/

[79] http://laschoolreport.com/why-did-the-feds-raid-celerity-charter-and-whats-next; http://www.latimes.com/local/education/la-me-edu-celerity-charter-schools-20170125-story.html.

[80] Anna Phillips, "Few school supplies but a lavish party: At charter school, teachers saw a clash between scarcity and extravagance," Los Angeles Times, January 31, 2017, http://www.latimes.com/local/education/la-me-edu-celerity-charter-20170127-story.html; Anna Phillips and Adam Elmahrek, "Inside Celerity charter school network, questionable spending and potential conflicts of interest abound," Los Angeles Times, March 6, 2017. http://www.latimes.com/local/education/la-me-edu-celerity-beginnings-20170306-story.html.

[81] Los Angeles Unified School District, Board of Education Report: Denial of the Renewal Petition for Celerity Dyad Charter School, October 18, 2016. https://assets.documentcloud.org/documents/3145321/10-18-16-Celerity-Charter-Documents.pdf, p.75-77

[82] http://www.latimes.com/local/education/la-me-edu-celerity-charter-schools-20170125-story.html. Celerity Himalia and Celerity Rolas are not yet open.

[83] http://www.latimes.com/local/education/la-me-edu-celerity-charter-schools-20170125-story.html As of February 2016, the schools remain open.

[84] http://laschoolreport.com/whats-behind-the-federal-raids-on-celerity/

[85] http://www.latimes.com/local/education/la-me-edu-celerity-charter-schools-20170125-story.html, http://laschoolreport.com/why-did-the-feds-raid-celerity-charter-and-whats-next/

[86] The two schools are Celerity Dyad and Celerity Troika.

[87] This is true of state funding for special education (established by Assembly Bill 602), but is not true of federal funding for special education under the Individuals with Disabilities Education Act (IDEA), which is earmarked to specific classes of special needs students.

[88] See, for instance, Center for Research on Educational Outcomes, Urban Charter School Study Report on 41 Regions, 2015, Stanford University. https://urbancharters.stanford.edu/download/Urban%20Charter%20School%20Study%20Report%20on%2041%20Regions.pdf. In 26 of 41 urban school systems studied, the report finds that traditional public schools enrolled a higher number of special education students than did charter schools; charter schools' special education enrollment was higher in eight districts, while in seven districts they were equal.

89 For instance, in the state's largest school district—the Los Angeles Unified School District (LAUSD)—17.1% of special needs students in traditional public schools are diagnosed with autism, and 5.6% with intellectual disabilities; in the district's fiscally independent charter schools, the comparable figures are 10.2% and 1.5% respectively. By contrast, charter schools in Los Angeles have disproportionately higher concentrations of students with more mild needs. Taken together, students whose needs fall in the two largest categories of relatively mild disability—those deemed to face a "specific learning disability" or "other health impairment" (often indicating needs such as dyslexia or ADHD)—constitute 55% of special needs students in Los Angeles' traditional public schools; but they account for fully 71% in fiscally independent charter schools, 77% of students in the Magnolia and Animo chains, and 85% of Alliance students. LAUSD, Superintendent's Final Budget, 2016-17, Appendix E; LAUSD SELPA, Students With Disabilities, By School and Disability, CASEMIS December 2015 Report.

[90] Charter schools are required to get approval from the California Department of Education, and provide one-year notice, before leaving their local SELPA.

[91] El Dorado County Charter SELPA, Fiscal Update: 2015-16 Budget Estimates, June 2016.

[92] El Dorado County Charter SELPA, Fiscal Update: 2015-16 Budget Estimates, June 2016. Most schools were charged a 1% set-aside fee and a 4% administrative charge in 2015-16.

[93] Rocketship's special education enrollment is reported in Rocketship Education, Frequently Asked Questions, http://www.rsed.org/faq.cfm#sped?. General and special education enrollment for the state as a whole in 2015-16 are reported by the California Department of Education, http://dq.cde.ca.gov/dataquest.

[94] Of students affiliated with the El Dorado County SELPA, 1.5% faced intellectual disabilities, compared with 5.5% of the overall special education population of the state; so too, 6.6% of ED students were autistic, compared with 9.8% statewide. By contrast, 13.8% of ED's students had "other health impairments" and 52.8% were diagnosed with a "specific learning disability," both significantly higher than the comparable statewide incidence of 9.4% and 44.6% respectively. Statewide data are from December 2011, and El Dorado County SELPA data from December 2012, both reported in El Dorado County Charter SELPA, Annual Dashboard: Report of Select Statistics, May 2013. https://beehively-websites.s3.amazonaws.com/sites/52381b4f1defc52c29000002/pages/523abbf51defc50030000254/files/Charter_SELPA_Dashboard_-_May_2013.pdf. According to California Department of Education officials, the categories of "other health impairment" and "specific learning disability" "tend to be our more high functioning students with disabilities," such as students with ADHD or dyslexia. Communication with the author, February 21, 2017.

[95] In return, these schools receive services from the Los Angeles Unified School District (LAUSD) SELPA's that allow them to enroll special needs students that the school might not otherwise be capable of serving. The three options offered charter schools are described in LAUSD, Charter School Support, http://achieve.lausd.net/Page/2856.

[96] Contrasting estimates of the size of this problem were made by MGT of America Consulting, Fiscal Impact of Charter Schools on LAUSD, May 2016, http://thecostofcharterschools.org/ccs/eir; and by the California Charter Schools Association, letter to the Los Angeles Unified School District (LAUSD) Board of Education, May 16, 2016. The district's own assessment is included in LAUSD, Office of the Chief Financial Officer, Informative: Preliminary Review of UTLA MGT Report: Fiscal Impact of Charter Schools on LAUSD, June 14, 2016.

[97] For a detailed description of the Rocketship system, see Gordon Lafer, Do Poor Kids Deserve Lower-Quality Education Than Rich Kids? Evaluating School Privatization Proposals in Milwaukee, Wisconsin, Economic Policy Institute, 2014, http://www.epi.org/publication/school-privatization-milwaukee.

[98] Restrictions on the use of property acquired with general obligation bonds are outlined in the California Education Code, at EDC § 17078.62.

[99] However, bond terms typically restrict Charter Management Organizations (CMOs) from using such buildings for commercial moneymaking purposes.

[100] California Code of Regulations, Title 4, Division 15, Article 1.5: California Facility Grant Program, http://www.treasurer.ca.gov/csfa/csfgp/regulations.pdf.

[101] The analysis that follows was provided to the Alliance company in draft form, with the request that the company identify anything it thought might be misleading or factually inaccurate. The company was provided several weeks in which to review the analysis, but offered no comment.

[102] Alliance for College-Ready Public schools and School Affiliates, Combined Financial Statements for the Year Ended June 30, 2016, pp. 8-9. The LLCs are all subsidiaries of Alliance or the Alliance College-Ready Public Schools Facilities Corporation; all are treated as part of a single parent company in Alliance's combined financial statements.

[103] California State Treasurer, Charter School Facility Grant Program (SB740 Program), Awardee Lists, various years. http://www.sto.ca.gov/csfa/csfgp/awardees.asp.

[104] Alliance schools have received a total of $147 million in conduit bond financing from the California School Finance Authority (CSFA) and California Statewide Communities Development Authority (CSCDA). The cost of these bonds to taxpayers is equal to the estimated value of taxes foregone by allowing charter schools to raise capital through tax-free rather than taxable bonds. As a rule of thumb, bonds are assumed to have a duration of 15 years and to offer a 5% annual rate of return. One recent estimate found that interest rates on tax-free bonds for charter schools ranged from 7.1% for bonds rated BBB to 5.85% for A rated bonds and 4.95% for AA rated bonds. (National Alliance for Public Charter Schools, Public Charter Schools: Borrowing With Tax-Exempt Bonds, Second Edition, 2012, p. 4) Since most charter school bonds have relatively low ratings, a 5% estimated rate seems prudent. Assuming most bonds are bought by private financial firms, the average effective tax rate paid by financial firms is 19%. (U.S. Treasury, Office of Tax Analysis, Average Effective Federal Corporate Tax Rates, 2016. https://www.treasury.gov/resource-center/tax-policy/tax-analysis/Documents/Average-Effective-Tax-Rates-2016.pdf.) Thus, the cost in foregone taxes for $1 million in conduit bond financing, over the life of the bond, is $1 million x .05 x 15 x .19 = $142,500. New Market Tax Credits provide a 39% tax credit to investors; thus the cost to taxpayers is 39% of the qualified investment.

[105] Alliance Morgan McKenzie High is the only of Alliance's schools built with general obligation fond funds. As described above, this property is owned by Alliance, but only for as long as it remains a charter school in good standing.

[106] CCSA ranked this school between the 40th-50th percentile of similar schools in 2016, and in the bottom 10% of schools in 2015; the California Department of Education ranked it between the 10th-20th percentile in 2012-13.

[107] Alliance for College-Ready Public schools and School Affiliates, Combined Financial Statements for the Year Ended June 30, 2016, pp. 8-9.

[108] State Board of Education, Charter School Appeal Findings, Livermore Valley Charter School, 2004. http://www.ccsa.org/2010/06/AMDtvnS/vok39bX/uHeT8QU/5I26Y/start_appealfindingslivermorevalley.pdf.

[109] The West Association of Schools and Colleges denied accreditation for the Livermore Valley Charter Prepatory school in June 2016, but the school remained open while Tri-Valley appealed this decision. Angela Ruggiero, "Livermore charter high battles accreditation woes as students flee," Bay Area News, July 16, 2016, http://www.mercurynews.com/2016/07/26/livermore-charter-high-school-battles-accreditation-woes-as-students-flee.

[110] At the time this funding was secured, the school had total enrollment of 932 students; it projected enrollment of 1,112 in 2012-13. The athletic fields were also intended to be used by a new high school, which Tri-Valley also planned to relocate from a public building to its private campus. The high school was projected to enroll 648 students by 2015-16. Second Supplement to Limited Offering Memorandum," $27,500,000 California School Finance Authority Educational Facilities Revenue Bonds (Tri-Valley Learning Corporation Project), Series 2012A.

[111] need cite.

[112] Cone and Holmstedt were the two primary partners of Montevina Phase I LLC and Monetvina Phase II LLC, which owned the two parcels of land. Second Supplement to Limited Offering Memorandum," $27,500,000 California School Finance Authority Educational Facilities Revenue Bonds (Tri-Valley Learning Corporation Project), Series 2012A.

[113] Although only the elementary school is located at the property—while the middle school rents facilities elsewhere—both schools have signed a twenty-year lease obligating them to pay above-market rents to this landlord. New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016. http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[114] New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016. http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[115] In 2013-16, Acacia Elementary and Acacia Middle schools received a total of $531,533.50 in rent reimbursement payments. Charter School Facility Grant Program (Senate Bill (SB) 740 Program), Awardee Lists. http://www.treasurer.ca.gov/csfa/csfgp/awardees.asp. SB740 regulations do include restrictions on paying above-market rents, but these only apply if the property is owned by a "related party," narrowly defined to include family members and corporate officers. Since the alleged relationship between CEO Blatchelor and the school's landlord did not fall into this category, it is not subject to the restriction on paying inflated rents.

[116] http://emma.msrb.org/ER876861-ER684385-ER1086063.pdf.

[117] New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016, p. 10, states that "Mr. Batchelor is also the managing member of Goldstone United Investments, the limited liability company that initially purchased the 2090 Independence Facilities." http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[118] Tri-Valley's LLC bought the high school building, and signed a long-term lease on the land beneath and surrounding it, both paid with bond funds. New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016, p. 12. http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[119] New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016, p. 9. "In his capacity as CEO of TVLC, and founder/manager of CPA and SF Academy, Mr. Batchelor negotiated and signed a July 2013 Memorandum of Understanding ("SF Academy MOU") between SF Academy and TVLC, an April 2015 Memorandum of Understanding ("CPA MOU") between CPA and TVLC, and a lease between CPA, TVLC and Independence Support, LLC ("CPA Lease"), whereby CPA and TVLC jointly leased the 3090 Independence Facilities from Independence Support." http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[120] Lease by and between Independence Support, LLC, Tri-Valley Learning Corporation, and California Preparatory Academics, May 1, 2015. http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/7968055127487480020.pdf. This arrangement is described in detail in New Jerusalem School District, Notice of Violation, Acacia Middle School, letter to Tri-Valley Learning Corporation Interim CEO Lynn Lyssko, October 5, 2016. http://njesd-ca.schoolloop.com/file/1356615995833/1368365032628/1801586895095104732.pdf.

[121] Angela Ruggiero, "Livermore: charter school under investigation by District Attorney," Bay Area News, August 11, 2016, http://www.mercurynews.com/2016/07/08/livermore-charter-school-firm-under-investigation-by-district-attorney; Angela Ruggiero, "Livermore charter schools file for bankruptcy," Bay Area News, November 9, 2016. http://www.eastbaytimes.com/2016/11/09/livermore-charter-schools-file-for-bankruptcy.

[122] Eric Louie, "Charter school principal resigns," East Bay Times, July 24, 2007. http://www.eastbaytimes.com/2007/07/24/charter-school-principal-resigns.

[123] Memorandum to Members of California School Finance Authority (CSFA) from Executive Director Katrina Johangten, October 22, 2009, http://www.treasurer.ca.gov/csfa/meeting/staff/2009/20091023/4.pdf.

[124] Livermore Valley Joint Unified School District, Notice of Violation, letter to Tri-Valley Learning Corporation, August 25, 2016. http://esbpublic.lvjusd.k12.ca.us/Attachments/fd819b6a-61cd-4d2c-8aec-a066318c4e84.pdf.

[125] Livermore Valley Joint Unified School District, Notice of Violation, letter to Tri-Valley Learning Corporation, August 25, 2016. http://esbpublic.lvjusd.k12.ca.us/Attachments/fd819b6a-61cd-4d2c-8aec-a066318c4e84.pdf.

[126] "TVLC Debt Hit $3.5 Million; Teachers Have Been Laid Off," Independent News, September 15, 2016, http://www.independentnews.com/news/tvlc-debt-hit-million-teachers-have-been-laid-off/article_d30803ea-7ad3-11e6-8d4b-8f4f54ea9038.html.

[127] Angela Ruggiero, "Livermore charter school to see another mass exodus," East Bay Times, November 2, 2016. http://www.eastbaytimes.com/2016/11/02/livermore-charter-school-to-see-another-mass-exodus.

[128] "LVCS Parents Appeal to District for Help," Independent News, September 29, 2016, http://www.independentnews.com/news/lvcs-parents-appeal-to-district-for-help/article_c87ac130-85d5-11e6-b52d-db469690b12a.html.

[129] Unequal Access: How Some California Charter Schools Illegally Restrict Enrollment, American Civil Liberties Union of Southern California, August 1, 2016. https://www.aclusocal.org/sites/default/files/field_documents/report-unequal-access-080116.pdf.

[130] Cal. Educ. Code § 47605(d)(2)(A).

[131] Since the inception of testing under No Child Left Behind, for instance, students from poor or economically disadvantaged families have never scored higher than their better-off peers—not at any age, nor in any state. (Tienken, Christopher and Yon and Zhao, "How Common Standards and Standardized Testing Widen the Opportunity Gap," in Prudence Carter and Kevin Welner, eds., Closing the Opportunity Gap: What American Must Do to Give Every Child an Even Chance, Oxford University Press, 2013) The impact of poverty similarly outweighs any difference between charter and public schools, for students of any ethnicity, income level, or disability (Center for Research on Education Outcomes, National Charter School Study 2013, p. 75). For one description of the myriad ways that poverty impacts learning, see Rothstein, Richard, "Why Children From Lower Socioeconomic Classes, on Average, Have Lower Academic

Achievement Than Middle-Class Children," in Prudence Carter and Kevin Welner, eds., Closing the Opportunity Gap: What America Must Do to Give Every Child an Even Chance, Oxford University Press, 2013.

[132] See, for example, Center for Popular Democracy, Community Schools Toolkit, 2016, https://populardemocracy.org/sites/default/files/Community-Schools-Toolkit.pdf; and Martin J. Blank, "Community Schools: Much More than Wrap Around Services," Huffington Post, April 29, 2016, http://www.huffingtonpost.com/martin-j-blank/community-schools-much-mo_b_9804610.html.

[133] Such requirements are found in Element 7 of charter petitions, Education Code Sec. 47605(b)(5)(g).

[134] See, for example, Sonali Kohli, "Huntington Park leaders vote to van new charter schools for a year," Los Angeles Times, October 18, 2016, http://www.latimes.com/local/education/la-me-edu-huntington-park-charter-moratorium-20161014-snap-story.html, and Karina Ioffee, "Richmond considering regulations of charter schools," East Bay Times, May 14, 2016, http://www.eastbaytimes.com/2016/05/14/richmond-considering-regulations-of-charter-schools.

[135] Recent estimates of this effect include findings that a one percent increase in the share of Ohio students attending charter schools is associated with a 2.5% drop in property values; and that the construction of a new charter school in Los Angeles County lowers property values by 2% for homes within two miles of the school. Jason B. Cook, The Effect of Charter Competition on Unionized District Revenues and Resource Allocation, Cornell University, May, 2016; Scott Imberman, Michael Naretta and Margaret O'Rourke, Capitalization of Charter Schools Into Residential Property Values, NBER Working Paper 20990, February 2015.

[136] Shanthi Gonzales, communication with In the Public Interest, February 6, 2017.

[137] Mike Matsuda, communication with In the Public Interest, February 7, 2017.

[138] Kathy Rallings, communication with In the Public Interest, February 6, 2017.

[139] Richard Barrera, president, San Diego Unified School District Board of Education, communication with In the Public Interest, March 22, 2017.

[140] "Getting to Know: Senator Gary K. Hart, Author of the California Charter Schools Act," California Charter Schools Association, May 3, 2011. http://www.ccsa.org/blog/2011/05/getting-to-know-senator-gary-k-hart-author-of-the-california-charter-schools-act.html.

[141] Sen. Gary K. Hart, Charter Schools: Questions & Answers, 1992.

[142] Sen. Gary K. Hart, Examples of Possible Charter Schools, 1992.