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# Cyber and Home School Charter Schools: Adopting Policy to New Forms of Public Schooling

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Cyber and home school charter schools have silently become a prominent part of the charter school movement. These alternative school models differ from conventional schools by relying on parents and the Internet to deliver much of their curriculum and instruction while minimizing the use of personnel and physical facilities. This article examines how recent develop-

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ments in California and Pennsylvania have resulted in public scrutiny of cyber and home school charters and led to considerable debate and demands for public accountability. Our findings outline the need to modify regulatory frameworks to accommodate cyber and home school charters, the consideration of the differing financial allocations for schools that operate with reduced personnel and facilities, and the division of financial responsibility between state and local educational agencies.

Cyber and home school charter schools are quietly gaining momentum across the country and have begun to challenge traditional definitions of public schooling by delivering instruction from beyond the classroom walls of traditional "brick and mortar" school houses. Collectively termed nonclassroom-based charters, this phenomenon has emerged from within a wider charter school movement, which has demonstrated dynamic growth and yielded a 40% increase in enrollment over the last 5 years, from 1999-2003. At present, 200 charter schools in 40 states and the District of Columbia serve over 684,000 students (Center for Education Reform, 2004). A contributing factor to the increasing enrollment statistics is the growth of nonclassroom-based charter schools. Over the last 5 years, an estimated 60 cyber charters have come online in 15 states and currently account for 2% of the national charter school student population while serving 16,000 students (Center for Education Reform, 2004). Add to this figure the 52,000 students enrolled in home school charters in California and Alaska, and the total enrollment of nonclassroom-based charters increases to 10% of the national charter school student population.

Similar to traditional charter schools, cyber and home school charters are independent public schools created through formal agreement with a state or local sponsoring agency. Each school is designed and operated by parents, community members, and entrepreneurs and is allowed to operate free from most state and local regulations governing schools—including staffing, curriculum, school calendar, resource allocation, governance, and school/classroom sizes (Bulkley & Fisler, 2003; Finn, Manno, & Vanourek, 2000; Fuller, 2000; Geske, Davis, & Hingle, 1997; Mullholland & Bierlein, 1995; RPP International, 2000). What differentiates cyber and home school charters from traditional schooling models is the nonclassroom-based instruction that students receive outside the confines of a traditional schoolhouse setting. Instruction is delivered through alternative mediums, including the following: parents as primary instruction providers, computer-based instruction using prepackaged software programs, and teacher-directed distance learning or cyber learning where students receive either asynchronous or synchronous (real-time) instruction via the Internet from a teacher or other instructor. Nonclassroom-based charters also differ from traditional charter schools in the type of students they enroll, serving primarily students who were previously privately home schooled, and drawing enrollment from wide catchment areas that cross district lines and may span an entire state.

Although the autonomous nature of cyber and home school charters may seem even more decentralized from the limited public authority that governs traditional charter schools, nonclassroom-based charters are still aligned with the common precepts that have advanced the charter school movement. Similar to all charter schools, in exchange for increased autonomy, cyber and home school charters are expected to promote and create new educational innovations, including new teaching and learning methodologies, new organizational and administrative structures, and new outcome-based and results-oriented accountability programs. Yet, as cyber and home school charters continue to emerge, their sudden prominence may be quelled by policymakers and educators who have begun asking whether these new nonclassroom-based schooling models have gone too far in defining what is both innovative and permissible within a public school system.

In this article we seek to illuminate how these alternative schooling models are developing within both the charter school movement and the larger public school community. Our primary focus will be in California and Pennsylvania, where recent public scrutiny of cyber and home school charters has prompted debate among policymakers, educators, and parents, and it has forced action to reconcile the objectives of an expanding school choice movement with the demands of public accountability. First, our analysis discusses the salient policy issues that have surfaced in several states where nonclassroom-based charter schools are operating. In the second section, we trace the emergence of cyber and home school charters and identify important distinctions between the two nonclassroom-based schooling models. In the third section, we present two case studies that include a comprehensive legal and regulatory analysis of recent legislative changes in California and Pennsylvania. The important legislative responses that have resulted from public debates in these states have affected the daily operation of nonclassroom-based charter schools, and they have challenged the viability of sustaining these alternative schooling models within the context of increased state accountability demands. The California and Pennsylvania contexts provide important lessons from which other states can learn. These lessons help frame the policy recommendations, which we outline in the fourth section of this article.

#### Salient Policy Issues

To date, there has been little research that has focused on the issues that nonclassroom-based charter schools are raising.<sup>1</sup> The lack of literature on this theme poses a challenge in analyzing the evolution of nonclassroom-based charters. However, as these schooling models have expanded, charter advocacy centers, research clearinghouses, and education associations have begun to weigh in and publish policy reports outlining salient issues (see Education Commission of the States, 2003; McCluskey, 2002; National School Boards Association, 2002; Pennsylvania School Boards Association [PSBA], 2001). Our analysis draws on these reports and other documents, as well as original data collected from interviews with state-level officials. In addition, this analysis draws from our comprehensive review of the existing 41 charter school laws that sought to determine whether statutes include language that expressly permits or prohibits nonclassroom-based schooling models or whether laws remain vague on the issue.

We also draw from public news accounts in major newspapers that have investigated how nonclassroom-based schooling models are emerging. Recent articles have prompted swift and strong action from state legislatures, which have begun to adopt policies that monitor nonclassroombased charter school models. Legislatures in California, Pennsylvania, Ohio, and Wisconsin have recently addressed issues concerning the public oversight of nonclassroom-based instruction and adopted state-level policy changes aimed at increasing accountability. These states, and others that are sure to follow, will continue to be challenged in their attempts to better define the hazy lines of public accountability that have resulted from the devolution of public authority under the charter school model.

<sup>1</sup>For a descriptive case study of a home school charter in California see Huerta (2000). Recent work from RAND (Zimmer, Buddin, Chau, Gill, & Guarino, 2003) provides some general data of home school charters in California, including school performance data. For a recent comprehensive evaluation of cyber schools in Pennsylvania, see KPMG Consulting (2001). Additional studies have briefly examined the operations of cyber or home school charters (Miron & Nelson, 2000; Miron, Nelson, & Risley, 2002; University of California, Los Angeles Charter School Study, 1998). However, to date, there is no comprehensive research study that has examined a wide sample of cyber or home school charters.

The public and legislative debates that have surfaced in California and Pennsylvania have been prompted in part by widely publicized accounts in policy reports and newspapers that have reported on the questionable practices of some cyber and home school charters. The size and scope of cyber and home school charters in California and Pennsylvania are important to understand the volatile debates that have surfaced. Currently, California operates the most home school charters, numbering 119 and serving nearly 50,000 students-31% of operating charters and 30% of the state charter school student population (California Department of Education, 2003b). Pennsylvania has the most cyber schools with eight schools in operation, serving nearly 4,700 students-8% of operating charters and 13% of the state charter school student population (Pennsylvania Department of Education, 2003). Reports have detailed the mismanagement of public funds, including profiteering and the withholding of services from students; questionable accountability practices that result in minimal oversight of teaching and learning processes; and borderless student enrollment zones that create both fiscal and accountability challenges for the resident districts of transferring students.

For example, in northern California a recent report described how the operators of a home school charter charged their school a management fee of 37.5%, which amounted to a profit of over \$500,000 from the \$1.4 million in state revenue received by the school (Asimov, 2001a). In Pennsylvania, several reports have detailed how the state's largest cyber charter, serving 2,700 students, was accused by parents of withholding services and materials, including computers, Internet access, and learning materials (the basic tools for a virtual schooling model). The complaints prompted an investigation led by the Office of the State Secretary of Education that later resulted in the school closing when the local sponsoring district revoked its charter (Hendrie, 2002, 2003; KPMG, 2001; National School Boards Association, 2002; Raffeale, 2002). Furthermore, the actions of local school districts have also spurred controversy. In Pennsylvania, reports detailed how school districts across the state refused to forward tuition payments (perpupil funding allotments) to cyber charters (Chute, 2001; Chute & Elizabeth, 2001; KPMG Consulting, 2001; PSBA, 2001; Trotter, 2001). The districts claimed that they should not have to pay for students who reside within their boundaries but who enroll in schools outside the district and thus out of their direct charge. These actions led to the near insolvency of several cyber charters and prompted the state to withhold aid from local districts that refused to send tuition payments to cyber charters. What resulted was legal action and a statewide debate concerning who is ultimately responsible for funding cyber charter students.

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These issues have prompted states to begin creating new policies that explicitly define nonclassroom-based schooling models and show how cyber and home school charter schools will be held accountable under the public purview. The salient issues that have emerged include the following:

# Determining Per-Pupil Funding for Nonclassroom-Based Charter Schools

Considering that facilities, staffing, and transportation costs are considerably lower for a student in a nonclassroom-based setting, state officials and educators are debating whether cyber or home school charters merit per-pupil payments equal to traditional schools.

# *Establishing Accountability Measures of Student Performance and Program Quality*

A nonclassroom-based charter school setting makes monitoring student performance and educational program quality both difficult and costly. Reliance on parents as the primary instruction providers, as well as parent and student self-reporting of instructional progress, poses challenges in authenticating students' work and in measuring program quality.

#### Defining Enrollment Boundaries and Funding Responsibilities

Cyber and home school charters enroll students from across wide geographic boundaries, crossing district enrollment zones and spanning across an entire state. What results is an accountability challenge in determining whether the host district, or the student's resident district, is ultimately responsible for oversight and funding of a student's education.

# Monitoring the Influx of Traditional Home Schoolers Who Are New to Public Education

Cyber and home school charters are predominantly serving students who were previously home schooled in a traditional private home school setting. The large influx of students new to the public school roles has resulted in an unexpected need for additional funding to meet the demands of the large enrollment growth.

These issues are the focus of our analysis of nonclassroom-based charters in California and Pennsylvania. Our policy recommendations, outlined in the final section, provide strategies for addressing these important issues.

# Defining Cyber and Home School Charters

The rapid expansion of nonclassroom-based charters has surpassed the ability of states to address important policy issues linked to the oversight, standards, and accountability models needed to govern these nontraditional public schools. Several states have worked to create statutes that exnonclassroom-based charter plicitly define schools. However. nonclassroom-based charters have surfaced in other states where both charter law and general education statues do not expressly permit the schools to operate.<sup>2</sup> For example, only 10 of the 15 states in which cyber charters operate explicitly allow for cyber charters in state education statutes.<sup>3</sup> Of interest, home-based or home school charters are prohibited in 4 of the 10 states (Pennsylvania, Colorado, Minnesota, and Nevada) where cyber charters are permissible. In addition, 27 of the 41 existing charter school laws explicitly prohibit home school charters, and only 2 (California and Alaska) explicitly permit home school charters.<sup>4</sup> These legislative responses begin to reveal that some states are drawing distinctions between a home school and a cyber charter school.

As nonclassroom-based charters expand to other states, policymakers will need to identify the teaching and learning, organizational and governance models employed by nonclassroom-based charters, and address how they fit within the existing definitions of what is permissible under both charter legislation and general state education statutes. States that draw generic or loose definitions of nonclassroom-based schooling models will be limited by vague or unclear expectations for both accountability in teaching and learning and the oversight of how public funds are utilized.

<sup>2</sup>The vague or nonexplicit language pertaining to the operation of nonclassroom-based charters in both charter and general education statutes has been interpreted by some charter operators to mean that nonclassroom-based charters are permissible until statutes say otherwise.

<sup>3</sup>The 10 states that have explicitly deemed cyber charter schools permissible are Alaska, Arizona (pilot program), California, Colorado, Idaho, Nevada, Minnesota, Pennsylvania, Ohio, and Texas (pilot program). Cyber charters also operate in Kansas, Hawaii, Florida, New Mexico, and Wisconsin ("E-defining Education," 2002).

<sup>4</sup>The remaining 14 states are vague in terms of explicitly prohibiting or permitting the operation of home-based charter schools. These data were derived from careful review of the 41 charter school laws and, in some cases, a review of general education statutes as well.

### Distinctions

#### Home School Charter Schools

Principal distinctions between cyber and home school charters are who delivers instruction, how it is delivered, and where it is delivered. In the home school charter model, parents are the primary instruction providers, whereas teachers serve as education consultants or coordinators. Lessons created by parents, or at times created with assistance from curriculum packages or in consultation with charter school teachers, are delivered directly to students by their parents. However, home school charter students may participate in teacher- or paraprofessional-directed lessons at school resource centers.<sup>5</sup> Formal lessons are common in science instruction, both because parents may lack expertise in the subject and because it is not economically feasible to provide all families with expensive equipment. Formal lessons are also common in extracurricular courses such as music, art, physical education, carpentry, and other subject areas. Resource centers are also used for computer laboratories, tutoring centers, and parentteacher conferences, but they primarily serve as stockrooms for the vast curriculum libraries and equipment collection that is provided to home school charter families.

#### Cyber Charter Schools

In contrast, cyber charter school students rely primarily on computerbased learning and receive their instruction either synchronously or asynchronously. Synchronous instruction is delivered through the Internet in a real-time virtual classroom environment by a teacher or paraprofessional who guides students through instructional units. In most cases, students can communicate directly with the teacher and other students during lessons and may ask questions and participate in interactive discussions. However, synchronous instruction demands expensive technology and teacher resources, making it the least common model for delivering instruction.<sup>6</sup> Asynchronous instructional delivery is more widely used

<sup>5</sup>The use of paraprofessionals to assist home school families in a variety of core subject areas as well as in extracurricular activities is also a common offering to families. For example, Horizon Instructional Systems, one of the largest home school charters in California serving over 3,400 students, contracts with paraprofessionals who provide instruction in over 1,000 supplementary classes for students and families (Gaschler, 2000).

<sup>6</sup>In their comprehensive study of cyber charters in Pennsylvania, KPMG Consulting (2001) found that "the vast majority of online instruction is asynchronous, that is, students work independently at their own pace" (p. 4).

among cyber charters, usually in the form of prerecorded lessons created by a third-party curriculum provider. This instructional model often utilizes prepackaged curriculum delivered via software packages, and students work at their own pace while completing assigned tasks and assessments. In some cases, students attend resource centers where they participate in teacher-led lessons and then complete tasks on a computer, but the majority of instruction is accessed from a student's home setting. As with home school charters, resource centers are also used for proctored testing, for parent-teacher conferences, and as curriculum and equipment stock rooms.

Despite identifiable differences, cyber and home school charters can be challenging to differentiate in practice. In Table 1 we outline four criteria teaching and learning delivery, organizational model, governance structure, and accountability mechanisms—that will be helpful for policymakers to address in drafting or evaluating charter school legislation. Crafting policy without specific language that accounts for each criterion may result in loopholes that fail to draw distinctions between nonclassroom-based schooling models and undermine legislative goals.

Perhaps of most concern to policymakers is that little variation currently exists in how the two nonclassroom-based schooling models are held accountable. Families are generally required to communicate via e-mail, via telephone, or in person with school officials (depending on school or state regulations); provide progress reports on the student's academic work, including work samples; and maintain a log of instructional hours used for attendance reporting. These limited assessments do not scrutinize school design but rather blur the acute distinctions that exist between cyber and home school charters and highlight the need to expand accountability measures in nonclassroom-based schools.

In the following section, our analysis focuses on how schools are serving students in their nonclassroom-based settings, and we review the recent legislative changes aimed at advancing stricter accountability of nonclassroom-based charters in California and Pennsylvania. The analysis of evidence from each state will provide the context for the policy recommendations that we advance in the final section.

#### California's Home School Charter Schools

Home school charters emerged shortly after the California Charter Schools Act of 1992 was enacted.<sup>7</sup> Within 2 years, 25% of the first 50 schools

<sup>7</sup>The California Charter Schools Act was enacted in 1992 and became effective January 1, 1993.

	Home School Charters	Cyber Charters	Traditional Schools
Teaching and learning	Primary source • Parents Supplemental sources • Resource centers • Third-party curriculum • Paraprofessionals • Computer software • Support groups • Library • Tutors	Primary sources  Computer software  Third-party curriculum  External teacher (synchronously or asynchronously)  Supplemental sources  Parents  Resource centers  Paraprofessionals  Library  Tutors	Primary sources • Teachers • Directed classroom instruction Supplemental sources • After-school programs • Parents • Library • Tutors • Field trips • Extracurricular activities
Organizational model	<ul> <li>Home-based setting</li> <li>Parent-directed instruction</li> <li>Individualized curriculum</li> <li>Varied pedagogy</li> <li>Parental oversight</li> <li>Peer involvement (voluntary)</li> </ul>	<ul> <li>Varied educational setting (minimal site-based learning)</li> <li>Computer-based instruction</li> <li>Tailored mass curriculum</li> <li>Information/dissemination- based pedagogy</li> <li>Parent/teacher oversight</li> <li>Peer involvement (varied)</li> </ul>	<ul> <li>Defined classroom-based educational setting</li> <li>Classroom-directed instruction</li> <li>Mass curriculum</li> <li>Group/cooperative-based pedagogy</li> <li>Teacher and administrative oversight</li> <li>Peer involvement (mandatory)</li> </ul>

# Table 1 Defining Cyber and Home School Charter Schools

(continued)

Governance	Immediate authority	Immediate authority	Immediate authority <ul> <li>Teachers</li> </ul>	
	Parents	Cyber school		
	<ul><li>Ultimate authority</li><li>Charter school board</li><li>Charter granting agency</li><li>State regulatory agency</li></ul>	<ul> <li>Teachers</li> <li>Third-party curriculum provider</li> <li>Ultimate authority</li> <li>Charter school board</li> <li>Charter granting agency</li> </ul>	<ul> <li>Administrators</li> <li>Ultimate authority</li> <li>Superintendent/district</li> <li>Board of Education</li> <li>State regulatory agency</li> </ul>	
		State regulatory agency		
Accountability	<ul><li>Fiscal</li><li>Charter granting agency</li><li>Achievement testing (if required)</li><li>Market-driven parental choice</li></ul>	<ul> <li>Fiscal</li> <li>Charter granting agency</li> <li>Achievement testing (if required)</li> <li>Market-driven parental choice</li> <li>Third-party curriculum providers</li> </ul>	<ul> <li>Regulatory/Rule-based</li> <li>Fiscal</li> <li>Student attendance</li> <li>Achievement testing</li> <li>District oversight</li> </ul>	

granted a charter were operating home school programs.<sup>8</sup> As home school charters became prominent, debate sparked among state officials who argued whether promoting home schooling was an intended objective of the charter legislation (Little Hoover Commission, 1996).<sup>9</sup> By 1997, the number of charter schools in California had reached 100, and home school charter students composed nearly 50% of the 37,000 students enrolled in charter schools. The popularity of the home school charter model had swept through rural areas of California, where new schools served an eager audience of formerly private home school families.

Traditional home school families flocked to the rich resources that accompanied the new publicly funded form of home schooling. Newly enrolled families were offered computers, curriculum, materials, instructional support, and extracurricular services. Furthermore, the minimal accountability requirements of California's highly decentralized charter school movement were an additional selling point that attracted traditional home schoolers who remained weary of aligning with a state entity.

### Expanding Definitions of Public Schooling

From the onset, home school charters functioned unlike public schools, because the primary role of teachers is not to teach but to serve as education coordinators or consultants for enrolled families. In early research examining home school charters in California, one home school charter teacher emphasized that the fundamental role of a teacher was to equip parents to better instruct their children and "not act like we're breathing down their neck or requiring production from them" (Huerta, 2000, p. 185). In essence, the private schooling choices of families were being reinforced and expanded through offerings of a public school system that promises minimal government intrusion.

The minimal demands on teachers, and the deference to parents as primary instruction providers, meant that home school charters could service large amounts of students with minimal staffing ratios. Early in the move-

<sup>8</sup>Although a variety of modalities of instructional delivery were identified among early nonclassroom-based charter schools in California (including independent study, distance learning, and correspondence), the vast majority of these schools were recruiting directly from the private home school ranks and advertising their instructional programs as home study or home schooling (Little Hoover Commission, 1996).

<sup>9</sup>Early debates on nonclassroom-based charters were centered on reports of abuses by home school charters, including the direct disbursement of public funds and other "things of value" to parents, the promotion of religious instruction, profiteering by districts that sponsored home school charters, and enrollment of students from wide geographic regions spanning the entire state.

ment it was not uncommon to see teacher–student ratios as high as one teacher for every 150 students (Huerta, 2000). Although home school charters may offer classes for students and their families to attend together, the courses are not intended as a core learning experience but rather to supplement the direct instruction children receive at home. One teacher explained how "our classes are enrichment only … to support what parents are already doing. So [the parents] are really doing all the hard work at home" (Huerta, 2000, p. 184).

# Accountability Concerns Surface

As the home school charter model has evolved, some schools have adopted practices that have proven successful in sustaining a nonclassroom-based school. Effective models provide children with adequate learning materials and services, counsel families who are challenged by the demands of home schooling, assess student needs with input from parents, maintain amicable and cooperative working relations with their sponsoring district, and, foremost, recognize the balance between autonomy and oversight that home school families cherish. Yet even among successful programs, important issues over accountability have surfaced, challenging the viability of a publicly supported home schooling model.

Over time the accountability structures of home school charters have been questioned-specifically, the ability of public officials to monitor the teaching and learning methods employed in private homes and whether public funds are being used efficiently. Oversight of instruction in the home school charter model is challenging, considering that participating families may reside hundreds of miles outside the sponsoring school district and span wide geographic regions across both district and county lines. A common practice for home school charters is to operate satellite centers or annexes in regions where enrollment densities for their school are higher. Satellite centers are used as both office space for regional education coordinators (teachers) and as stock depots for books and other learning materials. Yet, although satellites place both a physical building and school staff closer to students, the level of oversight may not be affected because parents remain the primary instruction providers. Amidst public scrutiny, home school charters have responded by providing additional services and increasing oversight. Their responses have included offering more classes to families, requiring additional contact hours, increasing regular reviews of student work samples, and in some cases opening more satellite centers.

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However, even as accountability is beginning to be addressed at the school level, public officials in California remain skeptical of organizational and governance models that may lend themselves to profiteering by districts or by the nonprofit and for-profit organizations that operate home school charters. Specifically, state officials have reasoned that the low overhead costs for operating a home school charter-inherent in the absence of brick and mortar facilities and the limited number of teachers and other services essential to traditional school settings—has resulted in a margin that invites profiteering by home school charter operators and their sponsoring districts. Because home school charters receive state per-pupil funding equivalent to that of traditional public schools, officials have questioned how surplus revenues (money associated with the costs of operating a traditional school setting) are utilized.<sup>10</sup> Home school charters have responded by emphasizing that creating an infrastructure to serve home-based students demands new costs that are uncommon to brick and mortar schools, including computers, software, Internet access, curriculum, learning materials, and extra services that are provided to home school students.

# Legislature Addresses Home School Charters' Questionable Practices

Only 6 months after the charter legislation was enacted in 1992, Senator Gary Hart, the author of California's original charter school legislation, became aware of reports that several home school charters were offering parents cash payments and other gifts for enrolling in their school, as well as enrolling students who resided in districts hundreds of miles away from the home district that sponsored the charter (Hart, 1995).<sup>11</sup> These early reports, and the subsequent actions taken by legislators, marked the beginning of a decade-long debate to resolve how the state should hold home school charters accountable under the public purview.

<sup>10</sup>For example, early in the movement, it was common for sponsoring districts to charge oversight fees to home school charters. It was reported that some fees were as high as 20% of per-pupil funding grants. This posed an important conflict of interest issue, where the entity which was responsible for holding the charter school accountable was ultimately profiting from the school it sponsored (see Huerta, 2000).

<sup>11</sup>Early in the movement, several schools were disciplined by the California State Department of Education for offering gifts or "freebies"—including VCRs, microwaves, cash payments, and other material goods—to families who enrolled with home school charters. These illegal practices were addressed early in the movement in 1993 by SB 399, a bill that expressly prohibited such practices on behalf of schools serving independent study students (Little Hoover Commission, 1996). This section provides an analysis of regulatory changes, over the last decade, that have aimed to define nonclassroom-based instruction and create legislative boundaries that increase accountability and oversight of home school charters. Table 2 provides a review of the legislative efforts designed to regulate and monitor home school charters, and it is followed by a comprehensive review of SB 740—the latest and most aggressive attempt to curb the practices of home school charters.

### SB 740: Defining Classroom-Based and Nonclassroom-Based Schooling Models

The introduction of SB 434, signed into law in July 1999, announced a heightened awareness of the presence of home school charters in California. Such knowledge was fueled by a multitude of popular press articles that appeared in newspapers throughout the state. The news articles provided detailed accounts of home school charter operations and served to better inform both citizens and lawmakers (see, e.g., Asimov, 2001a, 2001b, 2001c; Blume, 2000; Haddock & Seligman, 1999a, 1999b). As awareness grew, so did the number of home school charters.

By June 2001, officials at the California Department of Education estimated there were 93 operating home school charters serving over 30,000 students—more than twice the number of schools that were operational only 2 years prior when SB 434 was approved (Asimov, 2001a). Thus, the increased awareness seemed to fuel the home school charter movement, despite the limitations imposed by SB 434.

However, the exposure also led to greater scrutiny from lawmakers, prompting yet another attempt to increase accountability and oversight of home school charters. Newspaper accounts continued to resonate with lawmakers and other state officials in Sacramento, and they prompted the President of the California State Board of Education to draft a proposal urging lawmakers to take action against "fiscal shenanigans" (Asimov, 2001b). A new campaign emerged aimed at closing a loophole that allowed home school charter operators to keep portions of state aid given to schools for the purposes of funding teaching- and learning-related costs.<sup>12</sup>

Lawmakers responded immediately and began drafting SB 740, which intended to match funding for home school charters to proportional levels

<sup>&</sup>lt;sup>12</sup>In 2001–02, the average expenditure per pupil in California was \$6,683, which translates into an estimated \$200.5 million in total funding for the estimated 30,000 students enrolled in home school charters (Legislative Analyst's Office, 2003).

- **Charter Schools Act (1992):** Permitted the creation and financing of charter schools. The law failed to provide explicit language to address home school charters, which lead to controversies over regulations and funding.
- **SB 399 (1995):** Sought to increase oversight of independent study programs, <sup>a</sup> including home school charters, by limiting funding for independent study programs to students in the home or adjacent county of a given program and preventing schools from offering enrollment incentives. The bill did not explicitly site "home study," thus allowing home school charters to evade the new restrictions.<sup>b</sup>
- **AB 544 (1998):** Early debate called for limiting average daily attendance funding only to charter schools where primary instruction was provided in person by a certified teacher and employee of the school, but political compromises eliminated efforts to prohibit or restrict home school charters. The law lifted the statutory cap of 100 charter schools. The new regulations also required all charter schools to hire certificated teachers as well as all students enrolled in charters to participate in the state-sponsored standardized testing program.<sup>c</sup>
- **SB 434 (1999):** To close existing loopholes, all charter schools were required to provide the same instructional minutes as public schools, maintain attendance records for audit, certify that all students participate in state testing, and comply with full independent study regulations. Adherence to full independent study regulations required home school charters to meet established student-teacher ratios and calculate the "time value" of student work.<sup>d</sup>
- **SB 740 (2001):** Provided explicit definitions of what constitutes classroom-based and nonclassroom-based instruction. Further, the State Board of Education was granted authority to create new funding determinations for nonclassroom-based schools based on each school's level of spending for teaching and learning services.

*Note.* A more thorough discussion on the legal and regulatory evolution of the California charter schools is presented in an earlier draft of this article. See Huerta and González (2004).

<sup>a</sup>Independent study or correspondence programs allow students to work at their own pace completing assignments in a nonclassroom-based setting. The curriculum is provided by teachers who closely monitor students' progress through regular communication. <sup>b</sup>Schools in California receive most of their state funding based on student ADA. ADA is equivalent to days of actual student attendance divided by the number of instruction days in a school year. A school district's basic per-pupil revenue limit (basic state aid excluding funds from supplemental categorical programs) is calculated according to student ADA. The original California Charter Schools Act neither stipulated a definition for "pupil in attendance" nor required students to receive direct or in-person instruction by a certificated teacher. In addition, enrollment boundaries were interpreted as unrestricted by specific language that read, "Admission to a charter school shall not be determined according to the place of residence of the pupil, or his or her parent or guardian, within the state" (California Charter School Act of 1992, California Education Code § 47605 [d]). These ambiguities would allow charter school operators to offer nonclassroom-based instruction without defining their instructional model

(continued)

#### Table 2 (Continued)

as "independent study" and without complying to enrollment boundary limitations set by independent study regulations. Prior to AB 544, the California Charter Schools Act of 1992 required all charter schools to "meet the performance standards and conduct the pupil assessments" required of all schools in the state. However, when the California Learning Assessment System (CLAS) was eliminated in 1994, all public schools were left without an assessment program until late 1997, when the state adopted the Standardized Testing and Reporting program. Because the original legislation had explicitly referred to CLAS as the official state assessment, AB 544 amended the original language and added new general language that would require charter schools to meet "any other statewide standards authorized in statue or pupil assessments applicable to pupils in non charter public schools" (see the California Charter School Act of 1992, California Education Code § 47605 [c] [1]). The new language was prompted by the fact that very few charter schools participated in the interim voluntary assessment program after 1994. dSB 434 changed apportionment credit from the traditional "seat time attendance" to apportionment based on time value of student work. Time value calculations are based on three factors: (a) weighing the objectives of an assignment given by a certified teacher, (b) the work submitted by students by specified due date, (c) and the judgment of a teacher who evaluates and calculates the time value of completed work. Together, these factors make up an apportionment credit that is based on student work rather than physical attendance.

of direct spending on teaching- and learning-related costs.<sup>13</sup> They emphasized that home school charters received the same amount of state money per pupil and yet their low overhead costs associated with minimal facilities and teachers left a wide margin from which unscrupulous operators could profit. In an attempt to eliminate profiteering and reduce funding levels commensurate with the reduced costs of providing a home-based educational program, the bill called for a 30% reduction in funding to be phased in over 3 years, beginning with a mandatory 10% cut during the 1st year. However, as the bill made its way through legislative debate, compromises in the language were adopted.

What resulted was new legislation that directly addressed vague language that had resulted from past amendments to the charter school law. Specifically, SB 740 provides explicit definitions of what constitutes classroom-based and nonclassroom-based instruction and the types of nonclassroom-based instruction that requires schools to file for average daily attendance apportionment in accordance with independent study statutes. Classroom-based instruction requires students to be under the direct supervision of a certificated school employee, offer at least 80% of instruction at a

<sup>13</sup>Senator Jack O'Connell, the state senator who sponsored SB 740, was explicit in explaining that the bill was prompted by earlier reports of alleged fraud by home school charters, but "the capper was the June 10 article in *The Chronicle*," which reported on the HomeSmartKids Charter School (Asimov, 2001c, p. A3). school site, and require attendance of all pupils at a school site. Nonclassroom-based instruction is defined as instruction that does not meet the minimum criteria of what constitutes classroom-based instruction, which "includes, but is not limited to, independent study, home study, work study, and distance learning and computer-based education" (see the California Charter School Act of 1992, California Education Code, § 47612.5 [e]).

The State Board of Education deliberated for more than 6 months on the development of permanent regulations that would be used to evaluate both budgets and expenditures of home school charters. In May 2002, the board announced new statutes that reduced funding allotments in accordance to SB 740 regulations. Funding reductions of up to 30% hinged on the percentage of a charter school's "total public revenue"14 used for expenditures on "certificated staff salaries and benefits" and "instruction related services" and would become progressively more stringent over time (see the California Administrative Code of Regulations, Title V, 2001, § 11963.3).15 Specifically, for the 2002–03 school year, eligibility for full funding required home school charters to spend at least 50% of their total public revenue on certificated staff and salaries (see Table 3). Eligibility for 80% of full funding required an expenditure of 35% to 50% of total public revenue on certificated staff and salaries, and it also required expenditures of at least 55% of total public revenues on instruction and related services. A total expenditure of less than 35% on certificated staff salaries and benefits and less than 55% on instruction and related services reduced funding to 70%, or less if additional circumstances warranted further reductions.

In 2003–04, the spending thresholds became more stringent and demanded increased expenditures at each level. For full funding eligibility, a home school charter must spend at least 50% of total public revenues on certified staff and salaries as well as a minimum of 80% of "total revenue"<sup>16</sup> on

<sup>14</sup>The state defines *total public revenue* as "all federal revenue, less any Public Charter School Grant Program start-up, implementation, and dissemination grant funds; state revenue; and local revenue from in-lieu property taxes" (see the California Administrative Code of Regulations, Title V, 2001, § 11963.3 [c] [1] [C]). In 2002–03, the average total public revenue for all schools in California was \$6,684 per pupil (Legislative Analyst's Office, 2003).

<sup>15</sup>Prior to the full approval of permanent regulations for SB 740, the State Board of Education released emergency regulations to implement the law during the 2001–02 fiscal year. During the first year, cuts were limited to only 5% of total public revenue, and they were based on whether a home school charter had expenditures of at least 50% on certificated staff salaries and benefits.

<sup>16</sup>The state defines *total revenue* as all revenue included in the definition of total public revenue, in addition to all federal Public Charter School Grant Program start-up, implementation, and dissemination grant funds, and other resources (see the California Administrative Code of Regulations, Title V, 2001, § 11963.3 [c] [2]). In 2002–03, the average total revenue for all schools in California was \$9,216 per pupil (Legislative Analyst's Office, 2003).

Table 3

2002–03 Recommended Funding Levels for Nonclassroom-Based Schools (by School Expenditure Targets)

Recommended Funding Level	70%	80%	Full Funding
Total public revenues expended on certified staff salaries and benefits Total revenues expanded on instruction and related services	< 35% or < 55%	35 to 50% and ≥ 55%	≥ 50%

*Note.* Pursuant to California Administrative Code of Regulations, Title V, §11963.4. Source: Charter Schools Development Center (2002).

instruction and related services (see Table 4). In addition to this criteria on expenditures, full funding also requires that a school maintain the following: (a) a pupil-teacher ratio that is no larger than that of the largest unified school district in the county in which the school operates, (b) a school-level conflict of interest policy, and (c) a listing of entities that receive \$50,000 or more of a school's total expenditures in a single fiscal year. Plus, for the first time, the state now requires charter schools to submit their financial audits not only to their sponsoring authority but also to the state.

During the first round of funding determinations in the 2001–02 fiscal year, 53 of 118 home school charters in California experienced a 5% reduction of their total funding.<sup>17</sup> This figure revealed that nearly 45% of home school charters did not spend at least 50% of their total public revenues on certificated staff salaries and benefits. The funding reductions translated into an estimated \$8.2 million in savings for the state (California Department of Education, 2003b). In the second round of funding determinations for the 2002–03 fiscal year, the number of schools receiving full funding increased to 91 of 119 home school charters. Of the remaining 28 schools, 11 received funding determinations of 80% of total funding, 7 schools received 70% of total funding, and 10 schools experienced drastic funding cuts and received only 60% of their total funding. The latest funding reductions amounted to an estimated \$32 million in savings—a 400% increase over the first-year reductions (California Department of Education, 2003c).

<sup>17</sup>For the first time since the California Charter Schools Act was enacted in 1992, the information required in the funding determination request would allow state officials to accurately account for the number of charter schools that were operating a nonclassroom-based instructional program as well as the number of students they served. In the 2001–02 fiscal year there were 118 home school charter serving 42,684 students, and in the 2002–03 fiscal year the numbers increased to 119 home school charters serving 49,580 students (California Department of Education, 2003a). Prior to SB 740, there was no official accounting of this type of information. Table 4

2003–04 Recommended Funding Levels for Nonclassroom-Based Schools (by School Expenditure Targets)

Recommended Funding Level	No Funding	70%	85%	Full Funding
Total public revenues expended on certified staff salaries and benefits	< 40% or	40 to 50% and	≥ 50% and	$\geq$ 50% and
Total revenues expended on instruction and related services	< 60%	60 to 70%	70 to 80%	> 80%

*Note.* Pursuant to California Administrative Code of Regulations, Title V, §11963.4. Source: Charter Schools Development Center (2002).

The impact of the recent funding cuts on home school charters is still not fully known. The drastic cuts encountered by some schools are certain to have a profound impact that may lead to closure. For those schools that have met the stringent regulations and have retained their full funding, it is unclear whether the new prescriptive expenditure guidelines, which demand a higher proportion of spending on teachers and instruction, will lead to better teaching and learning or increased accountability on the use of fiscal resources.<sup>18</sup> Regardless, the descriptive expenditure information required of home school charters for their funding determinations provides a new school-level perspective of spending and budget data that has never been required or available for either charter or traditional schools. One state official explains how "these new regulations are closing the data gap that has existed among charter and traditional schools, and will be helpful for us to better understand the charter school movement" (C. Miller, personal communication, January 1, 2003). The presence of this new data may help researchers learn more about how home school charters use their revenue and aid charter authorizers who can use the information to understand the operation of these schools and how to best hold them accountable.

<sup>18</sup>An analysis of school-level achievement data from California indicates that nonclassroom-based students are performing at levels below that of students attending brickand-mortar charter and traditional schools (Zimmer, Buddin, Chau, Gill, & Guarino, 2003, p. 49). Zimmer et al. noted that these data are limited in that the "analysis did not address the achievement of students receiving nonclassroom-based instruction outside the charter school setting" (p. 49). However, these data are important because the accurate identification of all nonclassroom-based charters would not have been possible without new school-level data requirements stipulated in SB 740.

# Pennsylvania's Cyber Charter Schools

With the passage of the Pennsylvania Public School Code Act 22 (1997), the Commonwealth of Pennsylvania became the 27th state to authorize charter school legislation. Only 6 charter schools were approved for operation during the law's first year, but the number grew steadily to 102 operating charter schools by 2003–04 (Pennsylvania Department of Education, 2003). By law, all but sectarian and for-profit individuals or organizations can initiate a charter or convert an existing public school into a charter school. Furthermore, only a local school district or group of districts were authorized to grant charters. Finally, Act 22 specifically prohibited the use of public funds for home schooling, but it made no specific mention of cyber schools,<sup>19</sup> and it did not include provisions or regulations specifically linked to the governance of cyber schools (see Act 22, 1997, §1717–A [a]).

Unlike California, which has a decade-long history of nonclassroombased charter schools, the phenomenon is quite new to Pennsylvania. However, its short history has not kept local educators and parents from fully exploiting the decentralized freedoms offered to them under provisions of Act 22 or exploring innovative instructional delivery models that have challenged traditional definitions of public schooling. Pennsylvania possesses the highest concentration of cyber charters in the nation. Of the 102 charter schools in Pennsylvania, 8 operate as cyber schools serving over 4,700 students (13% of total charter school population; Pennsylvania Department of Education, 2003). Although the expansion of nonclassroom-based charters in Pennsylvania does not match the California experience—6 of the 8 cyber charters currently in operation did not begin until fall 2001 or after—the controversy that cyber charters have stirred has been equally prominent.

#### Pioneering Cyber Charter Schools Stir Controversy

The first cyber charter to open in Pennsylvania was SusQ-Cyber Charter School, created by five districts in Northumberland County, located in northeastern Pennsylvania. The school opened in 1998 with the intent of serving "highly motivated, independent learners" by using technology to deliver personal educational programs for students (Pennsylvania Depart-

<sup>&</sup>lt;sup>19</sup>Although not referring explicitly to cyber schools, Act 22 (1997) stated that "nothing in this clause shall preclude the use of computer and satellite linkages for delivering instruction to students" (§1715–A[a]).

ment of the Auditor General, 2001). The school did not set out to serve home school students or draw statewide enrollment.<sup>20</sup> Instead, SusQ-Cyber Charter School provides priority enrollment to students within the 13 districts served by the Central Susquehanna Intermediate Unit, and it has not expanded its technology-based learning program beyond its selfimposed enrollment cap of 118 students.

SusQ-Cyber Charter School remained the lone pioneer of cyber charters in Pennsylvania until fall 2000, when Western Pennsylvania Cyber Charter School (WPCCS) opened its doors. The school quickly garnered attention among educators and policymakers alike. News that WPCCS was drawing enrollment from across the state and serving primarily traditional home school families set the school apart from all other public schools that existed in Pennsylvania. During the school's first 2 months of operation, enrollment increased from an initial 250 students to over 500, surpassing the total population of traditional public school students in the Midland Borough District where the school operated (Reeves, 2001). In addition, over one half of the students who enrolled had been previously home schooled or attended a private school, and only 12 students resided in the Midland Borough District (KPMG Consulting, 2001; Reeves, 2001).

On enrolling at WPCCS, students were issued a personal computer, a printer, Internet access, and prepackaged curriculum in the form of computer software, and they were assigned a teacher (recognized as a facilitator) who was required to make weekly contact with students via telephone (Reeves, 2001). The popularity of the cyber charter, stemming from the services and materials that it offered, spread quickly around the state, and within 9 months of its opening, enrollment had increased to over 1,100 students. Although the organizational model, instructional delivery methods, and spike in enrollment of the cyber charter were certainly unorthodox for a public school program, a more important issue—student tuition payments—was the source of greatest controversy stirred by WPCCS.

Only months after opening, WPCCS faced a funding crisis, when over 70% of the nearly 105 school districts from which it drew student enrollment refused to forward tuition payments to the school. In Pennsylvania, each student's district of residence is required to forward per-pupil funding allotments to the student's new school of choice. In this case, WPCCS had requested payments from 105 school districts for over 500 students who resided in 22 different counties throughout the state (Chute, 2001). School districts that lost student enrollment to WPCCS were hard-pressed to send

<sup>&</sup>lt;sup>20</sup>In fall 2001, SusQ-Cyber Charter School served 76 students in Grades 9 to 12. Of the 76 students enrolled, 2 had been previously home schooled, 1 had attended a private school, and 73 had attended a traditional public school (KPMG Consulting, 2001).

their local per-pupil funding allotments to a cyber charter located outside of their district.<sup>21</sup> A budget shortfall of nearly \$900,000 resulted, which left many of the school's bills unpaid. The Pennsylvania Department of Education responded by withholding over \$850,000 dollars in state aid from over 60 local districts that had refused to send tuition payments to WPCCS. The money was withheld to pay for tuitions owed to the cyber charter.

The case of WPCCS triggered a larger debate among educators and legislators. The debate pivoted on identifying who was ultimately accountable for both funding cyber charter students as well as whether cyber charters, which resemble a traditional home schooling model, are permissible under the Pennsylvania education statutes.

#### Who Is Accountable for Cyber Charter Schools?

At the height of this tension in April 2001, the Pennsylvania School Boards Association, together with four of the state's school districts, filed a suit against the state. The suit challenged the requirement that school districts pay cyber charter schools the requisite local portion of per-pupil revenue, and it challenged the state's interpretation that cyber charters were legitimate entities under the 1997 charter school law (PSBA, 2001).

The PSBA claims centered on three basic premises. The first objection was based on accountability and stemmed from provisions in Act 22 (1997) that indicated that only local school districts or, in the case of a regional charter, a cluster of school districts have the authority to grant charters. In the case of a cyber school such as WPCCS, which was attended in its 1st year by children from 105 districts and yet was approved by only 1, school districts were being asked to pay for the schooling of children in a program whose charter they had no voice in approving or monitoring.

The second objection focused on the drain of resources from local school districts. Districts were expected to fund students who chose to exit their local district and enroll in a cyber charter, but they were unable to hold cyber charters accountable for how the money was spent. Furthermore, al-

<sup>21</sup>In Pennsylvania, charter schools are funded by a process identified as *selected expenditures*, which requires a school district to "determine its estimated total spending in the preceding school year and subtract from that figure its outlays for items such as nonpublic school programs, transportation services, facilities acquisition and other non-instructional costs. The resulting figure, divided by the school district's number of pupils, is known as the selected expenditure" (PSBA, 2001, p. 9). This formula results in a payment of approximately 80% of total per-pupil expenditure. PSBA estimated the average per-pupil cost charged to districts was \$6,300 for a student in a regular education program and an additional \$10,800 for a special education student. though local districts receive funding from the state on a per-pupil basis, overall budgets benefit from economies of scale. It severely taxed the resources of local districts to financially support resident students who enrolled in schools outside the district, as well as absorb the cost of formerly private and home schooled students who now wished to access public funds. Within this climate, local administrators began to question the needs and expenditures of cyber schools that could operate without facilities, with small numbers of teachers, and with great variation in investments in curriculum development.

The last objection focused on the likeness that PSBA perceived between cyber schools and home schooling. The two existing cyber schools provided instruction exclusively via the Internet, which students accessed from their homes. Therefore the schools lacked the physical classrooms, hours of direct instruction, and adequate supervision required for compulsory attendance laws as referenced in Act 22. In addition, Act 22 explicitly prohibited the allocation and disbursement of funds to directly support home schooling (see Act 22, 1997, §1717–A [a]). Despite these and other concerns expressed through the filing of additional lawsuits by 23 districts across the state, the injunction requested by the PSBA was denied in late May 2001 by Commonwealth Court Senior Judge Warren Morgan.

Immediately following the decision, other events unfolded that would shape the cyber charter policy debate. Local districts approved another five cyber charter schools slated to open in September 2001. The continuation of the PSBA lawsuit, as well as the filing of other complaints, spurred a reaction from the legislature. Several new bills were introduced that prompted debates over how cyber charters should be held accountable and who should be responsible for funding their students. In August of the same year, the Pennsylvania Department of Education, at the behest of the state legislature, contracted with KPMG Consulting to conduct an evaluation of the quality, accountability, governance, and funding of Pennsylvania's cyber charters. The results of the report would prompt more legal action against cyber charter schools (for an outline of ensuing events, see Table 5).

### KPMG's Evaluation of Pennsylvania Cyber Schools

The KPMG report, released in October 2001, provided the first comprehensive evaluation of Pennsylvania's cyber charters. The study included the seven schools that were operational in September 2001. However, KPMG was unable to obtain full data from TEACH-Einstein Academy Key Events for Pennsylvania Cyber Charter Schools

Table 5

Act 22 (1997): Permitted the creation and financing of charter schools. The legislation explicitly forbids home school charters but does not explicitly address cyber charter schools.

**PSBA lawsuit (2001):** Pennsylvania School Boards Association filed suit claiming that cyber charter schools with intra-district enrollments violate district authority, drain local resources, and in fact, operate as home school charters. The court upheld the legality of cyber charters.

**KPMG Consulting (2001):** Contracted by the Department of Education, KPMG conducted an extensive review of cyber charters. Their analysis recommended an appropriate funding allotment for cyber charters be established, guidelines for communication between schools and districts be written, school-level accounting and reporting procedures be improved, and the practice of engaging in financial arrangements in exchange for charter approval be prohibited (KPMG, 2001).

Act 88 (2002): Explicitly defined cyber schools and the process for granting charters. Established that only the Department of Education could grant charters for cyber schools. In addition the new law clarified the relationship between cyber charters and districts as well as implemented 16 new requirements to regulate multiple aspects of daily instruction.

*Note.* A more thorough discussion on the legal and regulatory evolution of the cyber charter schools in Pennsylvania is presented in an earlier draft of this article. See Huerta and González (2004). PSBA = Pennsylvania School Boards Association.

Charter School, the largest operating cyber charter in the state, which served over 2,700 students and accounted for nearly 60% of the total cyber charter student population.<sup>22</sup> KPMG reported that Pennsylvania had "created a climate of innovation to enable alternative forms of education to better serve its students," but it warned that "while innovation has the potential to lead to new and better ways of educating students, not all cyber schools have long-term viability" (KPMG, 2001, p. 5).

The findings received mixed reviews. The Pennsylvania Department of Education indicated that "the study shows what thousands of Pennsylvania parents already know: that cyber schools provide innovative education for students" (Chute & Elizabeth, 2001, p. B7). On the other hand, the

<sup>22</sup>As of fall 2001, Pennsylvania cyber charters enrolled 4,732 students. The two largest schools, TEACH-Einstein Academy Charter School and WPCCS, enrolled nearly 80% of the total cyber charter student population. KPMG (2001) also reported that 56% of cyber charter students were previously home schooled, whereas only 33% had attended a traditional public school. In addition, 12% of cyber charter students were enrolled in special education.

PSBA, which was spearheading the continuing lawsuits against the state, was more skeptical of the report's findings on the basis that students from TEACH-Einstein Academy Charter School—representing more than one half of the state's total population of cyber charter students—were omitted from the evaluation. Although the missing data may have weakened the overall research efforts, the information collected and evaluated from the six other charter schools provided a comprehensive and crisp picture of how these cyber charters operate.

The results of the KPMG study provided real data for educators, policymakers, and judges and prompted a more informed debate among all parties who had weighed in on the cyber charter issue. The report also prompted more legal action against cyber charters, including a complaint filed by the Pennsylvania Department of Education in February 2002 against TEACH-Einstein Charter Academy. The cyber charter, which was already being sued by over 100 school districts, was now the target of complaints from parents who alleged that the school had failed to fulfill its promise to provide students with computers, Internet access, and other learning materials (Raffaele, 2002). Upon filing a complaint against the school, Secretary of Education Charles B. Zogby stopped redirecting state aid from districts that had refused to pay tuition payments to TEACH-Einstein Charter Academy.

As the debate around cyber charters reached a boiling point, a sevenjudge panel in a state court finally ruled in the PSBA case, originally filed in April 2001. The court's ruling provided a partial victory for both parties by protecting the legality of cyber charters under Pennsylvania law and also ordering the Department of Education to stop taking funds from districts that had refused to make tuition payments to cyber charters. The court explained that the Department of Education should have provided districts with due process and allowed them to challenge the validity of the tuition bills before redirecting payments to cyber charters (Spidaliere, 2002).

# The Pennsylvania Public School Code Act 88 (2002) Defines Cyber Charter Schools

In June 2002, amidst appeals and additional lawsuits being filed against school districts and the state, the Pennsylvania Legislature passed the Pennsylvania Public School Code Act 88, an amendment to the state's first charter school law. The changes in the law mainly addressed concerns regarding cyber charters and explicitly defined a cyber charter school as "an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet of other electronic means" (Act 88, 2002, § 1703–A).

Unlike traditional charter schools, which are granted charters by the state only in cases in which petitioners appeal the decisions of local school districts, cyber charter schools may now only be granted charters by the Pennsylvania Department of Education. The seven cyber schools whose charters preceded the new state law will continue to serve students under the watch of their chartering district, but they will have charters renewed only by the Pennsylvania Department of Education. No school district is authorized to grant a cyber charter, and no district is responsible for monitoring a program in which student enrollment spans the state. However, to overcome previously problematic communication between cyber charters and local districts, any district whose students attend a given cyber charter must be granted access to the school's charter application, annual reports, and a list of students from that district in attendance at the school.

To further clarify the relationship between cyber charters and districts, Act 88 also detailed district responsibilities. Districts are required to make student records available on request to the cyber charter in which a student enrolls. Districts are also required to provide cyber schools with reasonable access to the district's facilities as well as assistance in the provision of special education services as needed. As if to speak directly to PSBA and the district lawsuits, the law also explicitly states that it is the responsibility of the student's resident school district to make payments to the cyber charter school. For example, if a school and a district disagree about a student's district of residence, the district must make the payment before the resolution of the dispute and then be reimbursed by the cyber charter should the dispute be resolved in the district's favor (Act 88, 2002, §1748-A [a] [2] [vi]). In addition, Act 88 included a provision that orders the state to reimburse 30% of total funding for the 2001-02 school year to districts where resident students are enrolled in cyber schools-approximately \$1,900 based on an average payment of \$6,300 per student. Although the language in Act 88 is explicit in limiting the reimbursement to a one-time payment, many districts are hopeful that it will be ongoing.

The new law also sought to address accountability concerns through criteria that outline important elements required for a charter application. In addition to new demands for traditional charter schools, Act 88 included other criteria specific to cyber charters. The following are included among the 16 detailed requirements: (a) a description of the manner in which instruction will be delivered and a requirement that progress be assessed by teachers, (b) an explanation of the types of technological and other materials to be provided, (c) a description of the methods in which a student's online and offline time will be monitored, and (d) an explanation of the methods to be used to ensure authenticity of student work.

The remainder of Act 88 (2002) focused on evaluative criteria for cyber charters and closely resembles Act 22 (1997), replacing old language with language that refers to cyber charter schools explicitly. The law states that a cyber school will be held accountable for its ability to "demonstrate sustained community support; provide students with comprehensive learning experiences; develop students capable of meeting state standards as stipulated in Act 22; meet the goals outlined in its charter; and serve as a model for other public schools" (Act 22, 1997, §1745–A [f] [1]).

Although authority and oversight of cyber charters has radically shifted to the state, it is not clear whether such action will result in quelling the contentious debate over the governance, accountability, and funding of cyber charters in Pennsylvania. However, recent developments may provide a hint of how legislative changes may influence the decisions made by policymakers. Since the enactment of Act 88 (2002), one of PSBA's residual cases dissolved in October 2002 when the Morrisville School District voted to revoke the charter of the TEACH-Einstein Charter Academy. In addition, the state had an opportunity to exercise its new authority over granting cyber charters when it recently rejected five petitions for new schools (Hendrie, 2003).

#### Policy Recommendations

The experiences of California and Pennsylvania provide valuable precedents from which other states can draw important lessons. The recent legislative amendments in these two states have resulted in explicit definitions of cyber and home school charters as well as expectations for accountability, standards, and resource use. The evidence suggests that as charter operators stretch the definitions of what is permissible under existing laws, nonclassroom-based schooling models will be tried in courts or reviewed by legislatures to determine whether existing charter and general education statutes can embrace these alternative schooling models.

The responses from legislatures and courts are beginning to create a regulatory blueprint that advance rule-based compliance measures aligned with traditional definitions of accountability and effectiveness. In light of the new demands, the continuing challenge for states will be in reconciling the decentralized freedoms guaranteed to all charters, with the responsibility of holding all public schools accountable.

The following recommendations are based on the experiences of California and Pennsylvania in their attempts to define nonclassroom-based charter school models. The recommendations address salient policy issues that states will likely encounter as cyber and home school charters continue to evolve.

# Formulate Per-Pupil Funding Levels That Reflect Real Costs of Nonclassroom-Based Schooling

Much of the debate around funding for nonclassroom-based charter schools has focused on the lower overhead costs associated with savings on teacher salaries and benefits, facilities and maintenance, transportation, food service, and other services. The vast differences in costs, when comparing a nonclassroom-based charter to a traditional classroom-based model, can be accounted for in two funding categories: (a) teacher salaries and benefits, and (b) facilities and maintenance. For example, the costliest budget item in a traditional school model is teacher salaries and benefits, amounting to an average of 56% of total expenditures (National Center for Education Statistics, 2003). Facilities and maintenance, in most cases the second highest cost, can amount to nearly 11% of a school's budget (National Center for Education Statistics, 2003). The limited demand for each of these resource categories in nonclassroom-based charters amounts to wide differences in funding needs.<sup>23</sup>

Early reports from Pennsylvania suggest that cyber charters indeed may not demand the same per-pupil expenditures as traditional schools. For example, the director of the WPCCS offered resident districts that were sending tuition payments a reduction in the per-pupil payment from an average of \$6,000 to \$5,000 during its 1st year of operation. The offer also included further reductions, dropping to \$4,500 for the 2nd year and then \$4,000 thereafter. He explained that "funding should actually reflect the cost of doing business. ... No district should be charged more than it costs us" (Reeves, 2001, "Funding Dispute" section, para. 6).

<sup>23</sup>Recall that in California, SB 434 required that home school charters meet studentteacher ratios equal to that in traditional schools within their home county. Thus, in the California context, the vast cost difference for supplying teachers to traditional schools compared to home school charters is potentially nullified.

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Inherent in the discussion of differential funding levels for nonclassroom-based charters—as evidenced in California and Alaska<sup>24</sup>—is the assumption that current funding levels for traditional school students are adequate; thus, funding for nonclassroom-based students should be proportionately less. Yet determining the exact costs of nonclassroom-based schooling models entails a closer analysis that could account for additional costs over time. However, states have not engaged in the important process of costing out a nonclassroom-based instructional program.

In determining an adequate level of funding, state officials should consider how the educational needs of individual students will be met through nontraditional teaching and learning methods. States should also consider how nonclassroom-based charters have adopted resource use patterns that require alternative financial reporting and expenditure levels, including accounting (e.g., maintenance of student records, attendance logs, and transcripts), accountability (e.g., determining what accounts for instructional time and how it is logged and evaluated, as well as evaluating the quality of nonclassroom-based instruction), and reporting of how per-pupil payments are linked to services provided (e.g., technology, learning materials, paraprofessional services, and third-party curriculum and management service providers). After identifying benchmarks for a quality nonclassroom-based instructional program that meet both local and state-level accountability demands, as well as accounting for the costs of teachers and facilities, then a funding formula linked to these benchmarks may begin to more accurately identify necessary resource levels.

# Define Consistent Accountability Mechanisms for Student Performance and Program Quality at the State and Local Levels

One step in creating a new accountability mechanism that is aligned with nonclassroom-based schooling is addressing the unique organizational models, as well as the different teaching and learning methodologies, that nonclassroom-based charters employ. Accounting for enrollment, instructional hours, quality of instruction (delivered by parents,

<sup>24</sup>Similar to California, Alaska also limits funding levels for home school charters. The state reduces its portion of total per-pupil funding by 20% (total per-pupil funding includes approximately 70% state and 30% local revenues) for students enrolled in correspondence or home school charters. A correspondence study program is defined as a program in which a student receives "less than three hours per week of scheduled face-to-face interaction" with a certified teacher in a classroom setting for each secondary course and less than 15 hr per week in an elementary school setting (see the Alaska Administrative Code, Title 4, 2003).

computer software, or distance learning), quality of student work, assessments, and level of contact hours between teachers and students, are all part of an accountability formula that begins to define a nonclassroombased schooling model.

For example, in California student-funding apportionments for home school charters is based on the time value of student work rather then average daily attendance. Time value accounts for student work that is evaluated by a certificated teacher who makes a professional judgment of the work's quality and then calculates a time value equivalent of the completed work. These factors create a new benchmark with which to calculate funding apportionment credit that shifts from seat time attendance to a system that is dependent on the amount and quality of work that a student produces. What results is an accountability structure that is better aligned with the teaching and learning methods employed by a nonclassroombased schooling model.

Requiring face-to-face communication or other forms of communication between students and a certificated teacher may lead to greater accountability of program quality. Teacher–student contact can ensure that teachers will direct instructional objectives, provide the curriculum necessary to complete learning objectives, and monitor student progress more closely. However, student-centered and individualized educational programs may not demand alignment with existing traditional school structures that rely on rule-based compliance such as seat time and instructional minute requirements to account for and monitor the quality of an instructional program.

Monitoring the outputs of nonclassroom-based charters, in the form of student achievement, is another important consideration for accountability mechanisms. Recent school-level achievement data from California indicated that nonclassroom-based charters have "much lower adjusted test scores than either other charter schools or conventional public schools" (Zimmer, Buddin, Chau, Gill, & Guarino, 2003, p. 49). Of interest, the researchers also found that nonclassroom-based students come from more mobile families (higher socioeconomic status, including higher parent education levels and much lower rates of free and reduced lunch) when compared to their traditional charter school counterparts (Buddin & Zimmer, 2005). In another recent study that analyzed whether California charters meet the achievement growth targets set by the California Academic Performance Index, nonclassroom-based charters were significantly outperformed by both classroom-based charters and traditional schools (EdSource, 2005). The EdSource study also found that nearly 50% of nonclassroom-based charters do not administer the state's standardsbased test and thus do not receive a California Academic Performance Index ranking.<sup>25</sup> These achievement findings are especially important in the context of growing demands for increased student achievement contained in both state accountability mechanisms as well as the federal-level No Child Left Behind Act (NCLB).

The need to fully define nonclassroom-based charter schools and construct appropriate governance policies may be accelerated by NCLB because the federal legislation contains conflicting impulses, which may place nonclassroom learning at the forefront of a larger educational debate. On the one hand, the NCLB seeks to standardize educational practice and annually assess student progress. These goals conflict with the structure of nonclassroom-based learning, which minimizes the role of the state by expanding parental authority. On the other hand, NCLB's choice provisions encourage states to provide parents with new schooling options. "Virtual" schools have already been identified as a viable solution, especially in depressed urban districts where seating is limited, as well as in rural environments where multiple schools may not exist.<sup>26</sup> It appears that NCLB is encouraging the creation of nonclassroom-based schools while restricting the autonomy that families attending these schools favor. A reasonable assumption based on existing patterns in several states is that nonclassroom-based charters will exploit the inconsistencies found in NCLB, resulting in time-consuming legislative and legal battles. Preventing such actions requires improving our understanding of nonclassroom-based charter schools and strengthening accountability mechanisms aimed at monitoring these nontraditional schooling models.

# Delineate Enrollment Boundaries and Funding Responsibilities to Clarify Those Accountable for Nonclassroom-Based Charters

As students cross district and county lines, students' resident districts struggle to monitor whether nonclassroom-based charters are providing a

<sup>25</sup>In California, parents have a right to opt out of state-sanctioned testing for their child. The high rate of nonclassroom-based schools with insufficient student achievement data may be related to the hesitance, on the part of mostly home schooling parents that enroll in nonclassroom-based charters, to administer a state-sponsored test that does not align with the curriculum adopted for their home-based instructional programs.

<sup>26</sup>The U.S. Department of Education nonregulatory guidance on the NCLB school choice provisions specifically defined virtual or nonclassroom-based schools as an option for districts to expand school choice options for students who seek to transfer from low-performing schools (U.S. Department of Education, 2004). Department of Education officials have also encouraged local officials in New York City, where transfer requests have resulted in overcrowding of desirable schools, to "offer students whose transfer requests are rejected other options, like virtual schooling" (Goodman, 2004, p. A1).

quality educational program for those students. Auditing the enrollment and attendance records of nonclassroom-based charters is necessary to ensure that local and state portions of per-pupil payments are forwarded by students' resident districts to the nonclassroom-based charters that students choose. In addition, a policy that delineates geographic boundaries with manageable enrollment zones can simplify the oversight challenges exacerbated by borderless enrollment zones. This issue may prompt policymakers to consider state-level approval and sponsorship of nonclassroombased charters as well as a funding system in which the state portion of student per-pupil revenue composes the larger share of funding.

The recent enactment of Act 88 took important first steps in shifting both the authority to grant cyber charters and the monitoring of these schools from local districts to the state level. The Pennsylvania Public School Code Act 88 also aimed to open communication between cyber charters and students' resident districts by requiring unfettered access to a school's charter application, annual reports, and attendance roles. Although these provisions address important concerns linked to accountability challenges, the principal funding responsibility remains that of the districts.<sup>27</sup>

In California and Alaska, the funding dilemma is not as urgent because both states operate a more state-centered school-funding system in which the state and federal portion of per-pupil funding is greater then the local responsibility—71% and 76%, respectively (National Center for Education Statistics, 2001). However, in Pennsylvania funding is a pressing issue because local revenues compose nearly 60% of per-pupil funding (National Center for Education Statistics, 2001). A state-centered funding system would provide a more stable source of revenue for nonclassroom-based schools, provide fiscal relief for local districts, and relieve schools from having to solicit the larger share of their per-pupil payments from their students' resident districts.

# *Provide State-Level Funding to Address the Influx of Formerly Home Schooled Students*

The large influx of formerly home schooled students, who have chosen to enroll in nonclassroom-based charters, has resulted in an unexpected need for additional state and local funding. Many districts are challenged to reallocate budgets to fund students who were not previously on the

<sup>27</sup>House Bill 1733, an earlier version of Act 88 (2002) that was debated in the Legislature but failed to pass, called for full state control and oversight of cyber charters. The bill also would have relieved local districts from paying for cyber charter students and required the state to take full responsibility of per-pupil payments. public school rolls. For example, two county superintendents representing 22 districts in Pennsylvania reported that they were billed \$1.8 million by cyber schools throughout the state for 303 students who reside in their districts (Raffaele, 2001). Considering that nearly 60% of cyber charter students in Pennsylvania were previously home schooled, these districts were met with a potential budget shortfall of approximately \$1.08 million required to meet the demand of new students who enrolled in cyber charters.

As stated in our previous recommendation, a state-centered funding system for nonclassroom-based charter students will relieve local districts of budget shortfalls caused by enrollment spikes in nonclassroom-based students. States should consider taking full responsibility for funding or providing partial subsidies to alleviate this funding challenge. Act 88 (2002) has begun providing partial subsidies amounting to 30% of local per-pupil payments to the resident districts of cyber charter students. However, the one-time payment limited to the 2001–02 school year does not provide sufficient funding to account for enrollment growth that is likely in the future.

Another solution that can assist districts is limiting the number of operating nonclassroom-based charters and restricting enrollment to students already enrolled in public schools. For example, the State Legislature of Arizona recently instituted a pilot program that allowed for the creation of 14 cyber schools-7 traditional public schools and 7 charter schools. In a proactive attempt to avoid the budget challenges that local districts have encountered in meeting funding requirements for nonclassroom-based students, the law explicitly limited student enrollment to students who "enrolled in and attended a public school in the previous school year" (see Arizona Public School Code, 2003, §15.808 [11] [b]). In essence, the enrollment restriction will allow districts that fund cyber school students to draw per-pupil funding from existing budgets and provide a buffer for enrollment growth over time. In addition, limiting the number of Arizona cyber schools to 14 will allow for slow growth of cyber schools. The pilot program also includes provisions that outline a state sponsored evaluation of all the cyber schools that will analyze student achievement, effectiveness of instructional programs, resource use patterns, and cost-effectiveness.

# Conclusions

This article provides important insights into how nonclassroom-based charter schools are evolving within the charter school movement as well as the wider public school community. Our description and definition of nonclassroom-based schooling, coupled with an in-depth regulatory analysis that traces how California and Pennsylvania are defining cyber and home school charters, provides a comprehensive perspective into the issues raised by these new schooling models. However, more in-depth research and analysis are necessary to fully account for the overall effectiveness of cyber and home school charters.

As mentioned earlier, existing research that examined nonclassroombased schooling is limited. New research efforts will need to focus on school-level analysis that can assess the effectiveness of instructional programs, organizational and governance structures, resource use, and the accountability mechanisms that nonclassroom-based schools employ. Ultimately, new research will assist us in deciphering the viability of sustaining these alternative schooling models under the context of increased state and federal accountability demands.

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