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# The Nonprofitization of Public Education: Implications of Requiring Charter Schools to be Nonprofits in New York

Robert Mark Silverman

## Abstract

This article examines charter schools applying a nonprofit conceptual frame of reference. The proliferation of charter schools is framed as a form of nonprofitization of public education. The implications of this trend are discussed. This discussion is contextualized through an examination of charter schools in New York. The case analysis is supported with data from the New York State Department of Education, the US Census Public Education Finance Report, and IRS Form 990 data. The findings suggest that there is mixed evidence for better school outcomes between charter schools and other public schools, while differences that do exist may be driven by socio-economic inequalities and other factors. This raises questions about the future of nonprofit schools and the degree to which they are accountable to traditional constituencies served by the public education system.

**KEYWORDS:** nonprofit charter schools, education reform, new institutionalism, accountability

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## Introduction

### *The Nonprofitization of Public Education*

Charter schools are authorized under state enabling legislation as independent, publicly funded schools. Minnesota passed the first charter school law in 1991. In the years that followed, 39 other states and the District of Columbia adopted similar laws. Because charter schools are publicly funded, enrollment is free of charge and open to all students in a school system. When the demand for a charter school exceeds the available number of seats, admissions are determined by a lottery or other system of random assignment. Charter schools are managed by nonprofits, government agencies, or universities. In contrast to public schools, principals and teachers have greater flexibility to determine how curriculum is delivered, and parental involvement seems more pronounced. The continuation of a charter school is performance-based. Charters are renewable if benchmarks for student achievement and other requirements are met and each state has its own criteria for renewal. For example, charter schools in New York are evaluated based on 22 benchmarks measuring: academic performance, management policies, fiscal stability, and projected activities. If those benchmarks are met, a recommendation for charter renewal is made.

The case study analyzed in this article is focused on the New York charter school law, adopted in 1998 and amended in 2010. As amended, the law requires all charter schools to be registered nonprofit organizations. Moreover, contracted services must be contracted with a registered nonprofit education management organization (EMO). The purpose of the amendment is to remove the profit motive from the delivery of education services and to reinforce the mission of charter schools, which is student achievement. The rationale for this change echoed Hill and Welsch's (2007) research, which found that students in nonprofit charter schools have better academic outcomes than students in for-profit schools. In essence, nonprofitization serves as a mechanism to strengthen the public service mission of charter schools and enhance their accountability to public agencies that provide their funding.

The nonprofitization of charter schools in New York represents a departure from past practices. It is distinguished from other states in which charter schools and EMOs are organized as either nonprofits or private entities. This article argues that the New York amendment to their charter school law serves as a model for charter school reform and represents a clear example of the trend toward the nonprofitization of public education. The term nonprofitization is applied to a variety of activities in human services, community development, and housing (Nathan, 1996; Swanstrom, 1999). It describes a form of devolution in which nonprofits serve as quasi-governmental providers of the public services

traditionally provided by government. Once contracted out, the services are funded by predominately public funds. This article extends the concept of nonprofitization to the emergence of nonprofit charter schools. The implications of nonprofitization are discussed referencing the nonprofit form to develop a framework for future research.

Collectively, urban school districts in the United States have over two decades of experience with charter schools. New York has been in the charter school business for over 13 years. According to the National Alliance for Public Charter Schools ([www.publiccharters.org](http://www.publiccharters.org)), there were 5,277 charter schools in the United States in 2010-2011, representing 5% of all public schools. In New York there were 171 charter schools in 2010-2011. These schools represented 4% of all public schools in the state and were located in 16 urban school districts. In those 16 districts, charter schools represented over 10% of all schools in 2010-2011. Table 1 compares national trends in the growth of charter schools to New York. Although New York began to establish charter schools in 1999, several years after other states, growth trends are comparable. There has been steady growth in the numbers and percent of charter schools at the national and state levels.

**Table 1:** Charter Schools in the US and New York 1999-2011

School Year	Charter Schools in the US (% of All Schools)	Charter Schools in New York (% of All Schools)
1999-2000	1,542 (2%)	5 (<1%)
2000-2001	1,941 (2%)	23 (<1%)
2001-2002	2,313 (2%)	32 (<1%)
2002-2003	2,559 (3%)	37 (<1%)
2003-2004	2,959 (3%)	50 (1%)
2004-2005	3,383 (4%)	58 (1%)
2005-2006	3,689 (4%)	79 (2%)
2006-2007	3,999 (4%)	92 (2%)
2007-2008	4,299 (4%)	96 (2%)
2008-2009	4,640 (5%)	115 (3%)
2009-2010	4,921 (5%)	140 (3%)
2010-2011	5,277 (5%)	171 (4%)

Source: National Alliance for Public Charter Schools ([www.publiccharters.org](http://www.publiccharters.org))

Charter schools are receiving more attention from the popular media. Although at times critical, much of this coverage advocates for expansion of the charter school movement. Examples of such coverage can be found in publications as disparate as *The Nation* (Schorr 2000), *National Civic Review* (Finn Manno & Vanourek, 2000) and *National Review* (Finn, Manno, Bierlein & Vaneourek, 1997). Charter schools are offered as a remedy for the crisis in inner-city public schools across the US. An extreme example is the successful charter school expansion in New Orleans during the post-hurricane Katrina era. Charter schools have emerged as a dominant model for education in that city. By the 2010-2011 school year, 65% of all New Orleans public schools were charter

schools ([www.publiccharters.org](http://www.publiccharters.org)). The story of this transition has been documented in the print media and documentary films like *ReBorn: New Orleans Schools* (Tisserand, 2007; Cooper, 2008).

Nationwide, sustained advocacy for charter schools is not confined to places like post-Katrina New Orleans; it also occurs in urban school districts. This advocacy has crystalized around a national nonprofit charter school movement led by organizations like the Center for Education Reform and Students First, and charismatic leaders like Bill Gates and Michelle Rhee. Stories about high profile charter schools in America's inner-cities propel these efforts. Perhaps the best known example of this phenomenon revolves around Geoffrey Canada's work in the Harlem Children's Zone. Canada entered the limelight in 2004 when he was featured in the *New York Times Magazine* (Tough, 2004). Most recently, Canada's work and other successful charter schools are showcased in documentaries like *The Lottery* (Sackler, 2010) and *Waiting for Superman* (Guggenheim, 2010). In contrast to well-publicized cases producing extraordinary results, many charter schools remain indistinguishable from public schools in terms of learning environments and academic outcomes (Heaggans, 2006; Buckley & Schneider, 2007; Miron, 2010). Some studies find evidence for improved academic outcomes, however differences disappear after controlling for demographic and socio-economic student characteristics. (Okpala, Bell & Tuprah, 2007).

This article adopts a unique approach to the analysis of charter schools, focusing on their role as nonprofits embedded in the broader public school system. This approach provides an extension of the literature. Consequently, the article asks how charter schools differ from other public schools<sup>1</sup>, and the degree to which differences are a byproduct of their nonprofit status. In order to develop this framework for examining charter schools, concepts from nonprofit research are first applied. Following this discussion, the case of charter schools in New York is examined. This examination of charter schools in New York provides a conceptual discussion of the implications of nonprofitization in a purely nonprofit context and proposes a research agenda for nonprofit scholars. Thus, this article is merely a first step and a call to action to expand the structure through which nonprofit charter schools are evaluated. Its main purpose is to identify the phenomenon of the nonprofitization of public education and begin to define a theoretical framework for its analysis using concepts from the study of nonprofit organizations.

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<sup>1</sup> In this article "other public schools" include all publically funded non-charter schools. This would include any non-charter school that is part of the public school system, such as traditional public schools and magnet schools.

### ***Nonprofit Theory Applied to the Charter School Movement***

The advantages of discussing charter schools within the context of nonprofit research include viewing them in a broader institutional framework. Rather than examining charter schools as a relatively discrete type of education reform, the concept of nonprofitization places them in the context of a broader paradigm shift in society. This shift entails an increase in the delivery of public service through public-nonprofit partnerships. The charter school movement is just one example of this trend (Vergari, 2007; Zhang & Yang, 2008). It is also well established in other sectors such as housing, social services, and healthcare.

Examining charter schools as nonprofits also provides an opportunity to introduce concepts from new institutionalism theory to the study of charter schools. Lubienski (2003) began the process of applying new institutionalism theory to the charter school phenomenon. He applied Dimaggio and Powell's (1983) concept of institutional isomorphism<sup>2</sup> to charter schools, arguing that competition and markets are not the principal drivers in the development of charter schools. Instead, he asserts that innovation in curriculum occurs in response to public policy mandates. These mandates are often system wide in nature, applying to charter schools and other public schools simultaneously. Lubienski argues that charter school curriculum is being developed in response to what Dimaggio and Powell identify as *coercive isomorphism*. Dimaggio and Powell argue that this form of isomorphism is present when organizations structure their behavior in response to mandates or in an effort to avoid sanctions from regulatory bodies.

In addition to mandates prompting coercive isomorphic behavior, other forms of isomorphism can be examined in the context of the charter school movement. For instance, Dimaggio and Powell identify *normative isomorphism* as a driver for organizational behavior. From this perspective, organizations structure their behavior around widely adopted practices from the professional networks with which they identify. Normative isomorphism is a factor when examining the extent to which business models focused on maximizing efficiency and cost controls penetrate management practices in charter schools. Although state mandates for standardized testing and other aspects of curriculum delivery reflect coercive isomorphic behavior across charter and other public schools, distinctions in management practices between different types of schools may be attributable to normative isomorphic behavior. Elaborating on the normative isomorphic aspects of the charter school phenomenon promises to be a fruitful

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<sup>2</sup> Institutional isomorphism refers to a process that causes organizations to resemble or duplicate the management, governance, and practices of others organizations in their institutional environments. Institutional isomorphism can occur within or across sectors and it is driven by coercive, normative and mimetic processes.

line of inquiry, since one might expect to find divergent management styles among public, private, and nonprofit schools.

Dimaggio and Powell's identification of *mimetic isomorphism* as being present when organizations structure their behavior in response to crisis and uncertainty adds to our understanding of why charter schools have proliferated. In the contemporary period, school reform is relatively focused on the expansion of charter schools across states. This approach to school reform comes in the wake of concerns about declining student performance and rising costs of public education in urban areas. However, this approach to reform was not adopted after vetting the full spectrum of possible options. Instead, it is the dominant model in response to a small number of unique and highly visible experiments with charter schools, such as the Harlem Children's Zone and the KIPP school model. In essence, public policy focuses on replicating and scaling up these schools without evidence that such efforts will be successful. A critical examination of mimetic isomorphic behavior in nonprofit charter schools would assist in the identification of educational reform models that can be implemented through public, private, and nonprofit structures. Likewise, an assessment of how widely evidence-based approaches are used before adopting reforms that include the creation of charter schools would enhance this area of inquiry (Pfeffer & Sutton, 2006).

Another avenue for applying nonprofit theory to charter schools involves theory related to institutional networks and systems. In the community development literature, scholars argue that housing and community development organizations have evolved over time to form a *community development industry system* (Yin, 1998; Ferguson & Stoutland, 1999; Silverman, 2001; Frisch & Servon 2006). This system entails integrated layers of federal, state, local, and grassroots activities that coordinate and sustain community development and housing initiatives. At each level of the community development industry system, actors inform and advocate for policy development, plan programs, oversee and evaluate their implementation, and build capacity at the grassroots level. This concept can be adapted to describe the emergence of a *charter school industry system* in public education. At the federal level, there is increased interest in the integration of charter schools into education policy. States are responsive to cues from federal and local government, as well as grassroots lobbying. Many states are steadily increasing the number of charter schools they plan to authorize. Some of these efforts are reflected in models for implementing federal Race to the Top (RTTT) legislation, which includes mechanisms to convert failing public schools into charter schools. In turn, local school districts are embracing charter schools as an educational reform model. Local advocacy groups and parent organizations are penetrating all levels of the policy debate. In addition to these actors, charter school advocacy organizations and trade associations are emerging at the national,

state, and regional levels. Also, a proliferation of educational management organizations (EMOs) provide administrative support services to charter schools.

There is a growing need to study the degree to which the charter school movement has evolved into an industry system during the last decade. This opens inquiry about the degree to which the concept of a *nonprofit industrial complex* applies to the charter school movement (Arnove & Pinede, 2007; Incite!, 2007). According to this argument, nonprofits do not simply form a relatively apolitical industry system, but serves both a functional and ideological purpose. Functionally, the charter school industry system has the potential to serve as a mechanism to coordinate resources and implement charter school initiatives in a sustainable and optimal manner. Ideologically, the charter school industry system tends to be dominated by institutions in society that act to maintain the status quo. In particular, nonprofit industrial complex theorists argue that private foundations, corporations, and philanthropic groups actively constrain the parameters of nonprofits in ways that limit the scope of advocacy.

In the case of nonprofit charter schools, advocacy and philanthropic organizations tend to focus on educational reforms that emphasize standardized testing, cost saving measures, management reforms aimed at enhancing efficiency, the development of teacher evaluation protocols, and reducing the influence of teachers' unions in educational policy. Addressing broader socio-economic disparities that affect school performance are peripheral to the agendas of advocacy and philanthropic organizations. Consequently, nonprofit charter schools and the organizations that lobby for them fail to develop as social change organizations. They remain perpetual clients of agencies that focus on service provision rather than advocating for redistribution and social empowerment.

At a micro level, nonprofit theory enhances our understanding of how the basic tenets of the charter school movement relate to the general constraints nonprofits face. A common argument for charter schools is that they operate at lower per-pupil cost than traditional public schools. Proponents of charter schools attribute their cost efficiencies to flatter administrative hierarchies, the absence of collective bargaining agreements with teachers, and other organizational characteristics. Reforms based on the promotion of cost efficiency mirror what Light (2000) identified as the *war on waste* in the nonprofit sector. Cost efficiency is such a central issue in the argument for charter schools, they might face resistance to programmatic growth from other components of the charter school industry system. In fact, charter schools may be pressured to become more cost effective over time. In many ways, this mirrors the concept of the *nonprofit starvation cycle* (Gregory & Howard, 2009). This concept describes the societal expectation that nonprofits should operate at lower costs than comparable organizations in the public and private sector. According to this argument, nonprofits that conform to these expectations agree to deliver programs with

insufficient resources and limited capacity. In the end, these organizations lose public confidence when their programmatic activities are negatively evaluated, or fail.

Charter schools may also face leadership challenges such as the problem of founder's syndrome (Dym & Hutson, 2005). Many high profile nonprofits are susceptible to this problem because they are identified with their charismatic leaders and as pressures for organizational change mount, internal conflicts emerge. "Founder's syndrome may be less pronounced in school districts just beginning to experiment with charter schools. Other concepts related to leadership in the nonprofit sector can be applied to these districts. For instance, superintendents and school board members may require characteristics of transformational leaders in order to successfully launch charter school initiatives (Burns, 1978; Bass & Avolio, 1994; Boje, 2006). Similar types of transformational leadership skills may be required of university presidents and college administrators in situations where charter schools are created by colleges and universities.

Finally, applying a nonprofit framework to charter schools extends inquiry into the scope of school accountability. In the existing framework for analysis, discussions of charter school accountability focus on three core issues. The first involves the degree to which charter schools are accountable to states. In large part this is measured by the degree to which charter schools comply with state enabling legislation and meet student performance benchmarks on standardized tests. The second form of accountability associated with charter schools involves the degree to which teachers are held accountable for student performance. The third form of accountability involves the degree to which charter schools are accountable to parents. This may entail enhancing opportunities for parents to participate in the governance of schools and other forms of parental engagement.

The nonprofit framework adds another dimension to the discussion of charter schools and accountability. That is, that charter schools are nonprofits embedded in the public school system. This creates an inherent conflict over the constituency charter schools serve. From a narrow perspective, a nonprofit charter school serves a specific constituency, the students enrolled in it. However, charter schools are also public schools that are funded predominantly by states and local school districts. From this perspective, charter schools are also accountable to the broader public. The dilemma of public accountability raises questions about the breath of constituencies that charter schools serve and how curriculum and other programmatic activities should develop over time (Estes, 2006; Saporito & Sohoni, 2007; Drame & Frattura, 2011).

This article applies a nonprofit conceptual framework to charter schools at the macro level. Data examined link concepts associated with coercive isomorphism to mandates governing the operation of charter schools. Likewise,

mimetic and normative isomorphism are linked to pressures for charter schools to mimic top performers in New York and pressures to conform to professional norms held in the nonprofit sector. Another macro level issue addresses the concept of the nonprofit industrial complex. This concept is applied to institutions and leaders in the public sector who drive charter school reform. This entails several issues, including the degree to which the debate surrounding charter school reform reframes dialogue about education policy and curtails broader discussion. This debate narrows the scope of dialogue about equity in public education and crowds out voices in favor of promoting greater school integration in the suburbs.

At the micro level this article applies a nonprofit conceptual framework to reforms that impact the day-to-day operations of charter schools, as well as student outcomes. Data are presented that link decisions about staffing, student admissions and retention policy, and student outcomes to concepts found in nonprofit research. These concepts apply to a number of issues related to reforms that emphasize controlling costs in nonprofit organizations. The emphasis on cost controls also has implications for how the scope of organizational accountability is defined in nonprofit subsectors. This issue is examined in the latter part of the analysis.

## **Methods**

To stimulate thinking about charter schools within a nonprofit framework, we examine New York's experience with this type of school reform. This analysis is primarily based on data from 2009-2010 New York State School Report Cards (SRCs). These data were collected from local school districts by the New York State Education Department. The SRCs provide student, teacher, and school level data for public and charter schools in the state. Data used in the analysis were aggregated at the school level.

For the 2009-2010 school year, SRC data were reported for 4,696 schools and 697 school districts statewide. For the purposes of this analysis, aggregate data were examined statewide and in districts where both charter and other public schools were present. For the latter subgroup, a total of 16 urban school districts in New York state had both charter schools (n=140) and other public schools (n=1,547). The largest number of schools was located in the New York City school system, where there were 98 active charter schools and 1,276 other public schools. School districts were located in the New York metropolitan area, in the Buffalo-Niagara Falls metropolitan area, and the cities of Rochester, Syracuse, Albany, Ithaca, and Troy.

In addition to SRC data, the analysis includes data collected from three other sources. The first is the 2009 US Census Public Education Financial Report.

The second is the National Alliance for Charter Schools. The third is IRS form 990 data for each charter school in New York. These data supplemented the SRC information. These sources were used to collect budget and financial information for the charter schools.

Descriptive statistics were generated comparing school outcomes from school districts without charter schools across New York, in non-charter schools in the 16 school districts with charter schools, and in charter schools. The analysis focused on the characteristics of students, teachers, schools, and measures of student performance on standardized tests. The analysis is primarily exploratory and intended to inform our understanding of the nonprofit status of charter schools. This analysis identifies directions for future inquiry into the nonprofitization of public schools.

## **From Excelsior to Outsourcing**

### ***New York's Charter School Law***

In the 2009-2010 school year there were 140 charter schools operating in New York. The number of charter schools was capped at 200 until 2010 when the State raised the cap to 460 schools. With respect to filling the 260 new slots, the State set a cap of 65 new charter schools to be created annually between 2011 and 2014. State law further provides that no more than 114 of the new charter schools will be in New York City. As non-profit education corporations in New York, charter schools operate as independent and autonomous public schools. Their boards of trustees are autonomous and have powers that include the full set of rights of trustees under the not-for-profit corporation law of the State. In addition to being non-profits and having access to tax exempt contributions and grants, charter schools can issue tax-exempt debt for capital projects and enter into contractual agreements with local school districts to co-use their facilities.

When a charter school is created in New York, it is authorized to operate for five years. After that time has elapsed, a school's performance is reviewed based on a set criteria and benchmarks. If a school passes the review its charter is reauthorized for another five years. Schools that do not pass their performance review have their charters revoked and are closed. State law requires charter schools to provide enrollment preferences to: returning students, students residing in the school district where a charter school is located, and siblings of students already enrolled in a school. Charter schools are allowed to have a preference for students deemed "at risk of academic failure" and students of a single gender. However, this is an optional admission criterion and not mandated by the State.

In terms of teachers and staff, the State does not require charter schools to participate in collective bargaining processes unless enrollment at a new charter

school exceeds 250 students within the first two years of operation. If a charter school’s enrollment passes the 250 threshold, all employees of a school are considered members of the labor union that negotiates for its school district. In response to this requirement, most charter schools in New York have projected their enrollment to be 249 or less by their second year of operation or have applied for a waiver to this provision. During the 2009-10 school year, 83% of all charter schools were not unionized. Teachers in these schools are not afforded employment protections covered under a school district’s collective bargaining agreement and are exempt from New York State salary schedules that apply to unionized workers.

***How New York’s Charter Schools Stack Up***

A comparison of charter schools to all public schools in the state adds to our understanding of where nonprofit charter schools fit into the broader public school system. It is important to understand where similarities and differences exist between students enrolled in charter schools and in the public school system as a whole, since disparities in outcomes can be associated with socio-economic characteristics of a student population. The first set of variables compared in this analysis focus on student characteristics. Table 2 presents data for the 2009-2010 school year for: school districts without charter schools across New York, non-charter schools in the 16 school districts where charter schools were operating, and charter schools.

**Table 2:** Student Characteristics for New York, the 16 School Districts with Charter Schools, and Charter Schools in 2009-10

<b>Student Characteristics</b>	<b>All Schools in Districts without Charter Schools</b>	<b>Non-Charter Schools in Districts with Charter Schools</b>	<b>Charter Schools</b>
<b>Total enrollment</b>	2,740,250	940,946	45,552
<b>% eligible for free lunch</b>	26	70	62
<b>% eligible for reduced-price lunch</b>	8	7	13
<b>% white</b>	74	13	8
<b>% black</b>	9	38	62
<b>% Hispanic</b>	10	41	26
<b>% American Indian</b>	<1	<1	<1
<b>% Asian</b>	6	7	2

Source: New York State Education Department

Two variables in the table measure different dimensions of poverty. The first is the percent of students eligible for the free lunch program and the second is the percent of students eligible for the reduced-price lunch program. Eligibility for each program is based on household income and size. For instance, a household

of four with an income below \$28,665 is eligible for the free lunch program.<sup>3</sup> A household of four with an income above \$28,665 and below \$40,793 is eligible for the reduced-price lunch program.<sup>4</sup> In essence, these two measures serve as proxies for the percent of students from households experiencing high levels of poverty and the percent of students from working poor and lower-middle class households. Table 2 indicates that students in charter schools have a noticeably different socio-economic composition. Unlike other public schools in their school districts, there are relatively fewer high poverty students and more working poor and lower middle-class student in charter schools. This suggests that the poorest children in New York encounter greater barriers to charter school admissions.<sup>5</sup> It is also noteworthy that the overall socio-economic composition of the school districts examined in the study was reflective of the urban context in which they were embedded. Overall, 77% of the students enrolled in public schools in the 16 urban districts are eligible for either free lunch or reduced-price lunch. In contrast, 34% of students in the rest of the state are eligible for these programs. This reflects the general economic deprivation found in New York's urban school districts.

Past research identifies a similar relationship between socio-economic characteristics and charter school admissions. Saporito and Sohoni (2007) found that poor children enrolled in districts where private, charter and magnet schools are present are more concentrated in traditional public schools. In essence, the presence of charter schools leads to higher rates of segregation along the lines of social class. This outcome, coupled with more engaged, resource endowed parents self-selecting to enroll their children into charter schools (Bifulco & Ladd, 2007), contributes to the increased isolation of the poor in other public schools.

The last five variables in Table 2 compare the racial composition of students. For three racial groups (whites, Hispanics, and Asians) students are less likely to enroll in charter schools. In contrast, black students are more likely to enroll in charter schools. To some extent, this reflects the degree to which minorities are concentrated in New York's 16 urban school districts. However, not all minority groups in these districts have a similar propensity to enroll in charter schools. Table 2 identifies a contrast between black and Hispanic students with respect to charter school enrollment. Both groups make up relatively equal proportions of school districts with charter schools, but blacks are more likely to enroll in charter schools.

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<sup>3</sup> This is the eligibility limit for the 2010-11 school year.

<sup>4</sup> This is the eligibility limit for the 2010-11 school year.

<sup>5</sup> The degree to which these barriers are linked to household resources, school accessibility, or information about charter schools is beyond the scope of this study. This topic requires more in-depth analysis in the future.

One possible explanation for black students’ propensity to enroll in charter schools is that they experience higher levels of segregation in the districts where they attend school. Prior research on charter schools indicates there is a link between charter school enrollment and segregation in urban school districts. Renzulli (2006) finds that charter school enrollment for blacks increases in highly segregated urban school districts. Levy (2010) reaches similar conclusions, finding that charter school reforms are more likely to be adopted in states with historic patterns of segregation in their schools and this led to greater numbers of blacks leaving traditional public schools and enrolling in charter schools.

He elaborated that because many charter schools are located in inner-cities where blacks are concentrated:

[I]t is likely that parents of students in inner city schools are not worried as much about integration as they are about the quality of their public schools. Charter Schools are an alternative to the failing inner city schools for many inner city families. Since minorities attend more failing public schools they have a higher propensity to switch to charter schools even if those inner city charter schools are segregated as well (Levy, 2010).

When socio-economic and racial characteristics are considered together, it appears that charter school enrollment in New York follows a pattern similar to the one Levy describes in his research. In essence, blacks with relatively more socio-economic resources are opting out of what are perceived to be failing traditional public schools in segregated districts.

If some are opting out of traditional public schools, the question becomes, do noticeable differences exist between those schools and the ones they are opting into? Tables 3-5 offer some insights into this question. Table 3 compares the characteristics of teachers: in school districts without charter schools across New York, in non-charter schools in the 16 school districts with charter schools, and in charter schools.

**Table 3:** Teacher Characteristics for New York, the 16 School Districts with Charter Schools, and Charter Schools in 2009-10

<b>Teacher Characteristics</b>	<b>All Schools in Districts without Charter Schools</b>	<b>Non-Charter Schools in Districts with Charter Schools</b>	<b>Charter Schools</b>
<b>% with no valid teaching certificate</b>	<1	2	11
<b>% with &lt; 3 years of teaching experience</b>	5	11	27
<b>% master’s degree + 30 hours or doctorate</b>	32	36	10
<b>Turnover rate of all teachers</b>	11	16	24

Source: New York State Education Department

The first three variables in Table 3 measure aspects of teachers' credentials and experience. These comparisons show that teachers are less likely to be certified and have less teaching experience in charter schools. Moreover, teachers in other public school are substantially more likely to have advanced degrees. Despite claims made by proponents of charter schools that they offer higher quality instruction, teachers in these schools fall short in terms of credentials and experience. The last variable in Table 3 also indicates that teacher turnover rates are higher in charter schools. These findings suggest that charter schools are more likely to hire new teachers who are not employed in the traditional public school system. It is possible that as teachers in charter schools cut their teeth in the classroom and gain experience and credentials, they leave and seek employment in other settings in the public school system where greater job security and opportunities for career advancement exist. These data also suggest that lower levels of turnover exist among experienced and certified teachers in other public schools. In essence, veteran teachers are not migrating from other public schools to charter schools. The reverse appears to be happening. Consequently, higher percentages of experienced teachers and teachers with advanced degrees are found in other public schools.

Table 4 adds to our understanding of differences between charter schools and other public schools. The first two variables in Table 4 focus on budgetary differences. Total expenditures are reported to reflect the scale of spending across the three groups of schools. These data indicate that charter schools spend less per pupil than schools statewide and other public schools in their districts. The discrepancy is particularly wide when comparing per pupil spending between charter schools and other schools in their districts, where the gap is > \$16,000 per pupil. Along this measure, charter schools live up to their promise to deliver public education at a lower cost. In part, the discrepancy in per pupil spending is explained by the creaming that occurs in charter schools. Creaming refers to the outcomes in school admissions where students enrolling in charter schools tend to have greater socio-economic resources, exhibit higher levels of readiness for school, and are less likely to have histories of low academic achievement or special education needs. This outcome is the result of unequal access to information about school enrollment processes, internal school policies related to admissions and student retention, parents self-selecting into charter schools, and other practices. For instance, charter schools have been criticized for having lower proportions of special education, disabled, and English language learner students enrolled. Some of the 2010 changes to New York's laws regulating charter schools included requirements for enhanced recruitment of such students. In addition to the impact of creaming on per pupil spending, the presence of smaller percentages of experienced teachers and teachers with advanced degrees in charter schools places downward pressure on salaries, and subsequently per pupil

spending. These discrepancies add salience to concerns about the nonprofit starvation cycle and its implications for the sustainability of nonprofit charter schools.

The next two variables in Table 4 measure attendance and suspension rates. They indicate that charter schools had lower attendance rates and higher suspension rates than schools statewide and other public schools in their districts. This suggests that the disciplinary environments in charter schools are more rigid. In the past, it was argued that greater attention to discipline in the classroom is a component of curriculum in charter schools. However, it is also possible that disciplinary action is more pronounced in charter schools as a filtering mechanism designed to remove problem students. This would serve a pragmatic goal in schools operating under market principle and regulatory mandates, forwarding their efforts to meet performance benchmarks that lead to recertification. For instance, one performance benchmark used to determine charter school renewals in New York measures the extent to which student disciplinary actions are designed to not tolerate low-level misbehavior. In essence, divergent patterns in attendance and suspension may be linked to coercive and normative isomorphic behavior in charter schools.

**Table 4:** School Characteristics for New York, the 16 School Districts with Charter Schools, and Charter Schools in 2009-10

School Characteristics	All Schools in Districts without Charter Schools	Non-Charter Schools in Districts with Charter Schools	Charter Schools
<b>Total expenditures</b>	\$35,652,219,459	\$26,816,448,534	\$561,641,989
<b>Average expenditures per-pupil</b>	\$13,011	\$28,499	\$12,330
<b>Annual attendance rate</b>	0.94	0.86	0.77
<b>% of students suspended</b>	4	6	8
<b>Average Class Size Grade 1-6</b>	20	23	23
<b>Average Class Size Grade 8 English</b>	20	26	23
<b>Average Class Size Grade 8 Math</b>	19	26	21
<b>Average Class Size Grade 10 English</b>	20	25	21
<b>Average Class Size Grade 10 Math</b>	19	26	17
<b>Ratio of students to teachers</b>	12.57	13.57	13.04
<b>Ratio of teachers to administrative staff</b>	9.19	6.06	2.85

Source: New York State Education Department; IRS Form 990

Similarly, the final seven variables in Table 4 suggest that coercive and normative isomorphic behavior may influence relative staffing decisions in charter schools. In terms of class size and student to teacher ratios, there are few noticeable differences across schools. This may be partly influenced by State mandates for curriculum and instruction, and performance benchmarks for charter school renewal. The only exceptions to similarities in class size are in 8<sup>th</sup> and 10<sup>th</sup> grade English and math classes. In these instances, average class sizes are slightly

smaller in charter school than in other public schools in their districts. Moreover, charter schools have lower teacher to administrative staff ratios when compared to other schools in their districts. This distinction may be related to normative isomorphic behavior, since proponents of charter schools often identify flatter administrative hierarchies as a desirable characteristic of a school's management structure. Also, lower teacher to administrative ratios in charter schools is a reflection of lower average overall enrollment levels and higher average overall staffing levels.<sup>6</sup>

Table 5 suggests that some of the differences in student, teacher, and school characteristics may influence academic performance in charter schools. The first group of variables in Table 5 compares average scores on statewide English assessment tests. Two things stand out from these scores. First, charter school students perform slightly better than other public schools in their districts. However, charter schools and other public schools in their districts perform below the average scores for schools outside their districts. The second group of variables in Table 5 compares average scores on statewide math assessment tests. For these tests, charter school students perform better than other schools in their districts and below average compared to schools outside their districts. At least in relation to other public schools in their districts, charter schools appear to have higher levels of academic performance. However, it can be argued that these differences are partly attributable to the effects of self-selection and creaming on enrollment, as well as differences in class sizes and staffing levels in schools. Moreover, these differences do not seem to translate into higher high school graduation rates. Nevertheless, charter school students express higher aspirations to attend four year colleges than students in other public schools in their districts. Given those distinctions, it is noteworthy that all of the measures of student outcomes in Table 5 are higher in non-charter school districts than the other groups.

Despite arguments for the nonprofitization of public education in urban school districts, all schools in those districts (i.e. nonprofit charter schools and other public schools) have poorer performance than schools in other districts. Notwithstanding the disparity between urban and non-urban schools, the contemporary school reform debate remains focused on experiments with nonprofitization and charter school models. What is absent from the contemporary debate are past arguments for greater school integration and improving access that low-income and minority residents of urban districts have to higher quality suburban schools. The absence of this dimension in the

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<sup>6</sup> During the 2009-2010 school year the average school in non-charter school districts had 4.9 staff, 38.9 teachers, and 500.1 students. The average non-charter school in a district with charter schools had 8.7 staff, 47.2 teachers, and 631.2 students. The average charter school had 12.9 staff, 28.6 teachers, and 386.0 students.

contemporary school reform debate is illustrative of how private foundations, corporations, and philanthropic groups engaged in policy formulation constrain its parameters and limit the scope of advocacy. The finding from the examination of student outcomes in New York parallel past research on charter school performance. Miron (2010) reviewed empirical studies of school performance and concludes that charter schools perform at levels similar to other public schools. Okpala et al. (2007), add that when performance differences are identified between charter schools and other public schools, they can be partially attributed to the demographic and socio-economic profile of students. Similarly, Bifulco and Ladd (2005) suggest that such differences may be linked to the self-selection of more engaged parents into charter schools. These findings suggest that in the aggregate, there is mixed evidence that nonprofit charter schools produce differential outcomes in terms of student performance. When viewed in the broader context of all schools, additional questions surface about the ability of nonprofits to challenge underlying sources of inequality in educational outcomes (e.g. poverty, race and class segregation, and urban decline).

**Table 5:** Student Outcomes for New York, the 16 School Districts with Charter Schools, and Charter Schools in 2009-10

<b>Student Outcomes</b>	<b>All Schools in Districts without Charter Schools</b>	<b>Non-Charter Schools in Districts with Charter Schools</b>	<b>Charter Schools</b>
Average score English language arts (ELA), Grade 3	672	661	667
Average score English language arts (ELA), Grade 4	678	664	667
Average score English language arts (ELA), Grade 5	675	667	667
Average score English language arts (ELA), Grade 6	668	656	659
Average score English language arts (ELA), Grade 7	671	659	662
Average score English language arts (ELA), Grade 8	663	649	654
% scoring 65 and above, Regents high school English	89	71	72
Average score math, Grade 3	695	686	695
Average score math, Grade 4	690	679	685
Average score math, Grade 5	690	678	681
Average score math, Grade 6	683	669	680
Average score math, Grade 7	684	669	678
Average score math, Grade 8	680	667	676
% scoring 65 and above, Regents high school integrated algebra	89	66	78
% of students graduating in 2006-10 cohort	87	71	69
% of graduates who planned to enter a 2 year college	38	32	30
% of graduates who planned to enter a 4 year college	44	38	43

Source: New York State Education Department

In the absence of a clear charter school effect on student outcomes, we are prompted to reconsider broader institutional and socio-economic factors that

affect school performance. As Nathan (2004: 1061) points out, “[c]harter schools differ markedly from each other and consequently there is no single charter school effect on student achievement.” In this respect, charter schools parallel the diversity of curriculum models and outcomes found in other public schools. It is important to recognize a general consensus among researchers that charter schools are not a panacea. Evidence of charter school performance outstripping that of traditional public schools is limited. However, there are concerns about the sustainability of the charter school model and that charter schools aggravate existing patterns of race and class segregation in school systems. Yet, public dialogue about these substantive issues is often muted by the broader ideological debate emanating from the charter school industry system.

### **The Future of Nonprofit Schools**

Despite limited evidence for a charter school effect on student performance, policymakers continue to expand and further institutionalize nonprofit charter schools as a component of public education. Since the early 1990s, charter schools have proliferated. They are established in 39 states and the District of Columbia, comprising 5% of all public schools. In states like New York, all charter schools are required by law to be registered nonprofits and they are only permitted to contract out administrative service with nonprofit EMOs. The nonprofitization of charter schools has been advanced by a growing network of advocacy groups and education reform associations. Combined with a supportive infrastructure of federal, state and local policies, these actors form a growing nonprofit charter school industry system. However, the charter school industry system is not ideologically neutral. It is driven by a set of professional norms and core values that complement a neoliberal ethos that is shared by private foundations, corporate sponsors, and philanthropic organizations engaged in education reform dialogue. The charter school industry system is also narrow in its focus, often ignoring broader institutional and structural forms of inequality that produce differential outcomes in education.

Although rarely articulated, charter school reform is primarily offered as a remedy for substandard performance in urban school districts. Implicitly, it is argued that the nonprofitization of urban public schools will close the gap between school performance in inner-cities and their surrounding suburbs. Yet, foundations, corporate sponsors, and philanthropic organizations that advocate for the nonprofitization of urban public schools rarely look beyond municipal boundaries or argue for more aggressive school integration policies. On the contrary, the scope of the school reform debate omits these options from policy proposals.

Against this backdrop, nonprofit charter schools face a number of challenges and constraints. Foremost among them are questions of sustainability, equity, and accountability. The question of whether the nonprofit charter school model is sustainable requires further analysis. This article suggests that charter schools face the dilemma of the nonprofit starvation cycle. Evidence of this is suggested in New York, where efforts to wage a war on waste and control costs potentially result in the employment of teachers with fewer credentials and less experience. In addition, teacher turnover rates are higher in New York's charter schools. In part, this may be a reflection of the business model adopted by charter school in which incentives exist to hire newer teachers for less compensation. It also appears that seeking employment in a charter school may be a default position for newer teachers who are unable to find tenure track employment in traditional public school settings. The higher turnover rates for charter schools suggest that as employment in traditional public schools becomes available, teachers in the earlier stages of their careers opt out of charter schools. The charter school model is currently sustained by a steady flow of surplus teachers coming into a district and contraction in the availability of jobs in traditional public schools. A change in either of these conditions would create an unstable environment for charter schools. This also begs the question of whether scaling up charter schools would entail rising personnel costs. As more charter schools are created, demand and competition for existing teachers may increase and the cost of recruiting and retaining them may go up.

The issue of charter school sustainability is further complicated by questions of equity. Currently, the student population in charter schools is distinct. Charter school students in New York's urban school districts appear to attract a larger proportion of black students who face relatively fewer socio-economic barriers than their peers. This outcome seems to be the result of parents with relatively more information and resources self-selecting out of traditional public schools that are perceived to be failing. However, the perception that charter schools produce better outcomes than other public schools is, in part, driven by media accounts and a lack of complete information about school performance. As working poor and lower-middle class parents selectively move their children into charter schools, the public school system becomes more segregated along socio-economic lines. This process helps to validate perceptions that public schools are failing, since the removal of students who are relatively better prepared for school may play a role in driving down average scores on statewide tests in traditional public schools. Consequently, these types of statistical artifacts, exaggerated by the presence of a relatively small number of charter schools, may contribute to the proliferation of failing traditional schools in a district.

The process described above and the absence of aggressive school integration policies increases the demand for charter schools in urban school

districts. In some settings, the expansion of charter schools cannot keep up with demand, and the use of lottery systems for admissions creates an atmosphere of uncertainty for students. In other settings, charter schools expand, but consistency in the quality of management and curriculum across these schools suffers. As charter schools scale up, opportunities for a broader cross-section of students to attend them potentially increases. This is the result of students gaining access to charter schools through the luck-of-the-draw in lottery systems, or because more seats are available to the full spectrum of students as the number of charter schools proliferates. Ironically, successful efforts to scale up charter schools may reduce the degree to which socio-economic creaming takes place. As charter school students become more like the population of student in other public schools, distinctions in academic performance may be reduced.

The growing demand for charter schools magnifies concerns about accountability. Although states like New York require charter schools to be registered as nonprofits, the schools are part of the public school system and receive the bulk of their funding from the State and local school districts. As charter schools are mainstreamed, their ability to insulate themselves from the scrutiny and demands of the broader public is diminished. In some cases, increased mandates and public oversight will be attached to the nonprofit status of charter schools. Past scholarship has found some evidence for this trend (Lubienski, 2003; Bohte, 2004). The blurring of the distinction between nonprofit and public functions produces similarities in the institutional structures, management, and outcomes of all schools. These isomorphic tendencies are, in part, driven by calls for greater public accountability. However, they also chip away at any distinctions that may exist between nonprofit charter schools and other public schools.

Many of the arguments forwarded in this article are exploratory and intended to promote the development of a research agenda for the study of nonprofit charter schools. Given the emergent nature of this investigation, follow-up analysis is warranted. There are many potential avenues to explore that relate to the scope of possible questions about sustainability, equity, and accountability in nonprofit charter schools. Such analysis would help flesh out the full implications of the nonprofitization of public schools. The results from this analysis merely set the stage for expanded inquiry into nonprofit charter schools. Still, the importance of this article should not be downplayed, since it embeds the study of charter schools in a nonprofit framework. This had been overlooked in past scholarship, but must be a core component of future analysis.

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