

Charter School Regulation as a Disproportionate Barrier to Entry

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Abstract

In response to concerns regarding school quality, state policy-makers reformed their charter school authorization processes to impose greater regulatory barriers to chartering. These barriers to market entry could impose substantial burdens for Black and Latino would-be charter operators, as well as independent operators, who may lack access to social and financial capital. We test these hypotheses by comparing application outcomes from states with high and low levels of charter regulation, as measured by the National Association of Charter School Authorizers. Empirical analyses indicate that independent and Black and Latino applicants are disproportionately and negatively impacted by increasing regulation.

Keywords

charter school, programs, representation, school reform, urban education

Introduction

Policy-makers created charter schools for a variety of sometimes competing purposes, including to infuse market competition and discipline into

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conventional public bureaucracies (Hill et al., 1997; Osborne & Plastrik, 1997), to privatize the public sector through corporate takeovers (Dixson et al., 2014; Fabricant & Fine, 2012; Lipman, 2011), to eliminate or reduce achievement gaps (Thernstrom & Thernstrom, 2003), to empower teachers (Kahlenberg & Potter, 2014; Maranto, 2015; Milliman & Maranto, 2009), and to empower traditionally underserved communities (Nathan, 1996; Rofes & Stulberg, 2004). From their start in 1991, charters now operate in 45 states, serving more than 3 million students (David & Hesla, 2018). With this growth have come concerns about charter scandals and low levels of performance, leading to more stringent regulation of charter authorization to assure academic achievement and ethical probity. Although charter skeptics have always advocated more regulation of charters and still do so (e.g., Mathis, 2016; National Education Association, 2019), by the mid-2000s many charter supporters including the National Association of Charter School Authorizers also favored more regulatory control of the movement, particularly of market entry. Accordingly, in the late 2000s states strengthened regulations to professionalize charter authorization processes, including imposing caps on new charter schools (Carlson & Lavertu, 2016), limiting the number of entities with authorizing power (Moss, 2018; National Association of Charter School Authorizers [NACSA], n.d.), and requiring authorizing board members to participate in training (Prothero, 2015). Using 2010–2018 charter application and authorization data from eight states and New Orleans Parish, we find strong empirical evidence that authorization reforms intended to assure academic quality and deter scandals also impose barriers to aspiring Black and Latino candidates and to standalone (as compared with networked) charter operators, thus undermining the empowerment and community control–related goals of chartering. We conclude by discussing implications and possible reforms.

Literature Review

Public choice theory is a branch of economic thought which merges political science and economics to explain political behavior. Public choice economists assume that no matter the benevolent intent of government regulation, it can produce unintended consequences, often harming the individuals that the regulation is intended to protect. Costs from regulation incurred by producers and consumers can take several forms. Notable for the purposes of this study is the observation that regulation can create barriers to business entry, which may disproportionately harm people of color (Köllinger & Minniti, 2006; Williams, 1984).

Our study is not the first to hypothesize that the regulation of school choice programs can undermine the purpose of school choice regulation: ensuring

that taxpayer money is used to support high-quality schooling options which operate with values consistent with a pluralistic, democratic society. A descriptive analysis of voucher programs across seven different locations found that specialized schools (e.g., Montessori) are less likely to participate compared with traditional schools, plausibly because they fear that their unique mission and practices would result in a greater burden to ensure regulatory compliance (DeAngelis, 2019). Meanwhile, an experiment in Florida which involved soliciting feedback from principals about their willingness to participate in a school voucher program found that imposing additional regulation produced a substantial drop in the willingness of principals to participate (DeAngelis et al., 2019). For example, an open-enrollment mandate was associated with a 70% drop in the likelihood of principals participating in the program. Which schools ultimately decide *not* to participate in a voucher program due to regulatory burden is not random: an increased regulatory burden disproportionately discourages the participation of high-quality schools that do not struggle to meet enrollment targets (Abdulkadiroglu et al., 2018; Sude et al., 2017).

Our study represents a unique contribution to this literature in two ways. First, while relatively little is known about how regulation impacts the supply side of school voucher programs (Austin, 2015), even less is known about how it affects the supply side of charter schools. Second, we are not aware of other school choice regulation studies which examine whether regulation diminishes the representativeness and diversity of school operators.

Standalone, Charter Management Organization (CMO), and Education Management Organization (EMO) Charter Schools

Charter school is an umbrella term denoting a range of organizations differing in mission, background, and behavior (Henig et al., 2005). Importantly, charters are relatively autonomous schools of choice, which operate under a charter authorized by public authorities, and potentially subject to revocation by those same authorities; hence the key, intertwined roles of public charter authorization and regulation. Charters operate in a variety of settings, but disproportionately in urban contexts (i.e., cities; Chapman, 2014; Dixson et al., 2014). Due to the demographics of neighborhoods in which charters operate, and occasionally due to mission, charters serve a disproportionately high percentage of Black and Hispanic students compared with the traditional public school sector (Chapman, 2014; National Alliance for Public Charter Schools [NAPCS], n.d.).

For our purposes, the most important distinction divides standalone (or independent) charter schools from those affiliated with an EMO or CMO. A standalone charter school is generally a single school established by teachers

and/or parents to provide an alternative to traditional public schools. These “reflect early charter rhetoric extolling a vision of community-based schools accountable to local demands and operated by neighborhood leaders and parents” (Quinn et al., 2016, p. 6). They may include a range of curricula, personnel practices and governance structures, some of which empower teachers (Kahlenberg & Potter, 2014; Maranto, 2015). In contrast, EMOs and CMOs run networks of charter schools, typically embracing common curricula, measurement, governance, personnel, and discipline policies and practices. Furthermore, when an individual CMO or EMO campus falters, the national or regional organization can put in place new, relatively expert leadership for school turnarounds (Maranto & Maranto, 2006). EMOs, which can be for-profit, manage operations (e.g., curriculum, budget, contracts) of multiple schools, often including district schools. EMOs work under contracts which generally guarantee certain results within a given timeframe (Miron et al., 2012). CMOs are nonprofit networks of at least three charter schools. The largest and most noted example is the Knowledge Is Power Program (KIPP), with 224 schools in 22 states (KIPP Public Charter Schools, 2019). KIPP and similar CMOs have received considerable assistance from the Gates Foundation and other philanthropies drawn to their record of academic success.

System-Centered Reformers Versus Parent-Centered Reformers

The percentage of independent charter schools has fallen over time. By the 2009–2010 school year, 637 EMO-affiliated and 775 CMO-affiliated charter schools served 34.6% of charter students (Berends, 2014; NAPCS, 2011; Wohlstetter et al., 2013, pp. 131–133). Policy-makers and foundations sought expansion of CMOs and EMOs to address two key concerns. Academically, charter schools on average modestly outperform traditional public schools that serve similar student populations, though with large variation in estimated school effects, and much depending on samples, research designs, and even the age of the schools. To the degree that charters show this advantage, it occurs chiefly in urban settings, among disadvantaged students (Berends, 2014; Betts & Tang, 2019; Chapman, 2014). CMO-affiliated charter schools also have variable outcomes, but generally outperform independent charter schools in producing achievement gains (Center for Research on Education Outcomes, 2017). Insofar as boosting academic achievement and reducing achievement gaps are core charter missions, favoring organizations and methods more likely to achieve those aspirations is a sensible approach. After all, evidence from Boston suggests that replication charter schools are as successful as parent campuses in value added (Cohodes et al., 2019), so perhaps

variation in charter academic performance can be reduced through favoring the most successful CMOs. Second, EMOs and CMOs provide scalability. Inherently local, standalone charters lack the infrastructure, economies of scale, and often the desire to grow quickly; thus, only organized networks can provide tested educational options to the millions of students in need (Maranto, 2015; Quinn et al., 2016). CMO and EMO proponents sometimes compare the quality and professionalization of the network approach to Starbucks (Meyerson et al., 2010), “noting that the rapidly expanding corporation had positively transformed its industry . . . The CMO was the fast-growth, professionalized alternative that represented a ‘second phase’ of the charter movement” in which a small number of professionalized operators like KIPP would dominate charter schooling, particularly in low-income communities (Quinn et al., 2016, p. 29; See also Hassel, 2006; Meyerson et al., 2010; Wohlstetter et al., 2010).

Moreover, system-centered reformers supporting charter networks (e.g., Harris, 2017) worry that the free-market-based approaches touted by parent-centered reformers understate risks of market failure, as small, independent operators miscalculate local needs or their own abilities to serve those needs. Furthermore, school closure is deeply unpopular among American adults (Phi Delta Kappa, 2016), even though closure can produce significant gains in achievement (Bross et al., 2016; Carlson & Lavertu, 2016 for a policy-maker’s perspective, see Duncan, 2018). Closure becomes more likely in a market with many small, independent schools. Accordingly, there are reasonable arguments that charter school authorizers should set high standards to ensure that schools have a high probability of success (Sunderman et al., 2017). Finally, low barriers to entry could empower the unethical. Ravitch (2013, pp. 166–176) reviews charter school scandals and notes incidents of nepotism, excessive administrative fees going to private partners, questionable contracting practices, and complex or nontransparent admissions procedures to screen out special education and potentially low-performing students. Presumably, additional regulation could curb such behaviors.

Generally, policy-makers eschew risk (Garvey, 1993). Accordingly, both performance and ethical risk factors may push policy-makers toward stringent charter application requirements presenting high barriers to entry likely to disadvantage standalone operators. Yet significant arguments favor standalone schools.

First, “parent-centered reformers” (Allen et al., 2017) may prefer standalone schools for reasons unrelated to test scores, including safety and cultural affinity (works within Fox & Buchanan, 2014; Garcia et al., 2009; Greene, 2015). For such reformers the utility of educational pluralism is self-evident, and not linked to standard performance metrics. Many

parent-centered reformers argue that imposing a regulatory regime focusing on test scores, as dictated by policy-makers and philanthropists, undermines experimentation by inducing mimetic isomorphism: schools become more similar and less innovative over time to secure legitimacy (Berends, 2014; Burke, 2016; DeAngelis & Burke, 2018). Lubienski (2003) observes this tendency in more developed markets, while Goodman (2013) specifically observes that many CMOs adopt “no excuses” models featuring “pervasive monitoring of children” and an overemphasis on discipline (p. 90) (see also, Golann, 2015; Horn, 2011).

Second, parent-centered reformers express skepticism toward the conventionally assumed superior performance of networked charters. As Greene (2017) argues, matched twin comparisons of networked, standalone, and traditional public schools find only minor differences with considerable heterogeneity across sectors. Even these small differences may reflect factors other than school sector. Moreover, promoting CMOs as the best alternative to district schools undermines aspiring charter providers that may eventually outperform both CMOs and district schools. Ladner (2018a, 2018b) reports that the unusually large and old Arizona charter sector has remarkably few CMOs and EMOs, and unusually high performance.

How Barriers to Entry Could Undermine Empowerment

In addition to these concerns, isomorphism driven in part by state mandates or regulations undermines yet another foundational tenet of charter schools: community control (Henig et al., 2005; Rofes & Stulberg, 2004). In short, privileging established networks over aspiring standalone charter schools largely blunts the degree to which local stakeholders can influence and feel ownership of schools, undermining representative bureaucracy models in which legitimate state actors resemble the communities they serve, particularly demographically. Considerable research suggests that when state actors such as educators resemble the populations they serve, they better understand parent and student needs, and also hold more legitimacy; thus, the demographic representation of teachers and education leaders matters (Grissom et al., 2017; Lomotey & Lowery, 2014; Meier & Rutherford, 2017). For our purposes, this may prove important given a substantial literature from economics finding that those officials developing regulations limiting entry into an economic or service activity are predominantly White and privileged. Either implicitly or explicitly, regulators who control entry into a profession or field tend to view authorization as a scarce resource to be granted to some and not others. Perhaps through homophily, the general tendency of people to associate with those like themselves, or via intergroup economic

competition, regulatory schemes which formally exist to impose health or safety standards on segments of the economy have tended to produce discriminatory outcomes, that is, underrepresentation of racial minorities as service providers (Dal Bó, 2006; James, 2000; Levine & Forrence, 1990). As a substantial literature demonstrates, this has occurred in service domains as diverse as civil service employment, housing, taxi ownership, trucking, and cosmetology (Dorsey, 1983; Friedman, 1962; Sowell, 1981).

Following this research, we hypothesize that higher barriers to entry for charter operators may pose disproportionate barriers to minority applicants, limiting opportunities for people of color to provide educational services to their local communities. Charter authorization and regulatory requirements can be difficult to navigate. As one White charter operator, a former city council member with an Ivy League degree documents, highly complex regulations by charter authorizers and regulators require operators to move quickly to assemble highly complicated documentation to operate, often multiple times (Moskowitz, 2017). Would-be operators with insufficient legal or financial resources or social ties to regulatory officials may have difficulty clearing such regulatory hurdles even if they have community support and education management expertise. Accordingly, such regulatory schemes likely disproportionately disadvantage people of color.

Demographic representation in schooling is philosophically important, but also practically important as it relates to student outcomes. There is a substantial literature suggesting that at least in African American communities, African American leaders may feel a deeper connection to and understanding of parents and students, which may in turn lead to improvements in achievement and less tangible school outcomes (Crow & Scribner, 2014; Lomotey & Lowery, 2014). Such impacts might not be captured by technocratic approaches to school leadership (Toshalis, 2014). Similarly, considerable work suggests the value, particularly for students of color, of having teachers of color (Benner & Graham, 2009; Dee, 2005; Easton-Brooks, 2014; Egalite et al., 2015; Gershenson et al., 2016; Nielsen & Wolf, 2001; Randolph, 2013).

If reforms imposed by outsiders, including network-based charter schools, tend to reduce the numbers of African American teachers and leaders, as occurred in Newark and New Orleans, this is cause for concern (Morel, 2018). To the extent that racial congruence and representativeness in the classroom tends to benefit students of color, the de-democratization of the charter movement and concomitant loss of representativeness among operators raises concerns about the unintended consequences of increased regulation. That this phenomenon occurred under corporate reform regimes in New Orleans and Newark (Morel, 2018) and that teacher-race matching is even

more determinative of achievement outcomes in charter schools as opposed to traditional public schools (Gershenson, 2019) elevates such concerns.

Here, we hypothesize that high levels of regulation of charter authorization create disproportionate barriers to entry for standalone and minority educators seeking to operate charter schools. The rest of this article will test and discuss these hypotheses.

Data

Charter Applications

Examining whether more stringent charter school authorization limits standalone and minority operators necessitates access to charter school applications, both successful and unsuccessful. Arizona, Texas, and Indiana make charter applications available online. For the remaining states that permit the operation of charter schools we contacted authorizers and state education agencies to request copies of charter school applications. We coded every application we received from 2010 to 2018 inclusive for eight states plus New Orleans Parish. Notably, in certain states we acquired access to all charter school applications, while in others we acquired access to all applications submitted to specific authorizers, as seen in Table 1. We do not have information about the volume of applications to which we were not provided access.

We coded application outcomes (accepted or rejected) and whether the applicant affiliated with an EMO or CMO, as seen in Tables 2 and 3.¹ We also collected postsecondary education data (i.e., colleges attended and degrees obtained) if it was made available in the application. We collect this information because Black and Latino Americans generally attend less selective colleges and universities (Ashkenas et al., 2017; Carnevale et al., 2018) and are less likely to hold advanced degrees compared with White and Asian Americans (Ryan & Bauman, 2016). Insofar as college selectivity and attainment are correlated with both household income (Dale & Krueger, 2011; Loury & Garman, 1995) and social capital stock (Coleman, 1988), observing and controlling for educational outcomes offers some insight into potential mediating pathways regarding the hypothesized negative impact that Black and Latino applicants incur from increased charter authorizing regulation.

Although applications do not generally provide any information apart from the name, contact information, address, and occasionally educational credentials, we used the information provided within the application to conduct a Google search for the individual. We then observed social media profiles (e.g., Facebook, Twitter, Instagram, and LinkedIn), official employee profiles, or local news stories to code applicants as Asian, Black, non-White Latino, White, or other, as seen in Table 4.

Table 1. Applications by Authorizer.

State	Applications	Applications received by authorizer	Other authorizers
Oregon	7	Local School Districts (100%)	State education agency (on appeal)
Arizona	89	State Board for Charters (100%)	Higher education institutions
North Carolina	247	State Board of Education (100%)	None
Arkansas	74	Charter School Office (100%)	None
New Orleans	23	Orleans Parish School Board (100%)	State education agency
Texas	112	Texas Education Agency (100%)	State education agency
Ohio	18	Office of School Sponsorship (100%)	Local education agencies, higher education institutions, nonprofits
Nevada	15	State Public Charter School Authority (100%)	Local education agencies
Indiana	84	Charter School Board (50%) Higher education institutions (35.7%) Mayor's Office (14.3%)	Local education agencies

Note. NACSA = National Association of Charter School Authorizers.

Source. Adapted from NACSA (n.d.). Charter school authorizers by state.

A second coder went through a random stratified sample of 60 applications to ensure sufficient validity for the race variable. The coders agreed in 57 of 60 cases (95%), well above standard thresholds used to establish validity and objectivity (Cicchetti, 1994). We also collect postsecondary education data if it was not available within the application itself.

Applications are often produced by organizations or social networks of teachers, parents, and business leaders, so a single point of contact does not contain all relevant personal information. However, the designated point of contact plausibly represents those actors. We coded 669 applications spanning 2010–2018 from nine locations (see Table 1), the universe of those available in the time period. Missing data include highest degree attained (17.6% of applicants), most selective college attended² (24.5%), race (11.8%), and EMO/CMO affiliation (5.5%). Missing data might not be random.

Table 2. Charter Type by Location.

	Oregon ^a	Arizona	North Carolina	Arkansas	New Orleans	Texas	Ohio	Nevada	Indiana
All Charter School Applications in Data Set									
% Independent	—	64	71	65	52	79	21	47	54
% EMO/CMO	—	36	29	35	48	21	79	53	46
Actual Charter School Management Structure by State in 2016–2017									
% Independent	91	58	83	55	—	40	46	75	68
% EMO/CMO	9	43	17	44	—	60	54	26	32

Note. EMO = education management organization; CMO = charter management organization.

Source. Adapted from David (2019).

^aAffiliation with an education service provider was not available on Oregon applications.

Table 3. Successful Applications by EMO/CMO Affiliation and Location.

Location	NACSA score range	EMO/CMO		Standalone		Total	
		<i>n</i>	% successful	<i>n</i>	% successful	<i>n</i>	% successful
Oregon	5	—	—	—	—	—	—
Arizona	9–18	28	100	44	88.6	72	93.1
North Carolina	9–15	62	38.7	166	33.7	228	35.1
Arkansas	12	26	57.7	46	54.3	72	55.6
New Orleans	16–24	11	63.6	12	25.0	23	43.5
Texas	27	13	7.7	99	14.1	112	13.4
Ohio	32	11	45.5	3	0.0	14	35.7
Nevada	33	8	75.0	7	14.3	15	46.7
Indiana	33	37	54.1	44	34.1	81	43.2

Note. EMO = education management organization; CMO = charter management organization; NACSA = National Association of Charter School Authorizers.

Table 4. Successful Applications by Race and Location.

Location	NACSA score range	Black/Latino		White/Asian		Total	
		<i>n</i>	% successful	<i>n</i>	% successful	<i>n</i>	% successful
Oregon	5	0	—	7	57.1	7	57.1
Arizona	9–18	11	90.9	57	96.5	78	93.6
North Carolina	9–15	74	22.8	139	38.1	246	33.8
Arkansas	12	11	37.5	53	64.2	72	55.6
New Orleans	16–24	13	46.2	9	44.4	23	43.8
Texas	27	49	2.0	42	26.7	112	13.4
Ohio	32	4	25.0	10	60.0	18	38.9
Nevada	33	2	50.0	12	50.0	15	46.7
Indiana	33	22	22.7	54	53.7	83	43.4
Total	5–33	186	24.2	383	52.7	654	42.0

Note. NACSA = National Association of Charter School Authorizers.

Possibly, individuals with greater social capital have greater social media presence; thus, it could be easier to access information about their education. However, data should not be missing in a way that correlates with both individual characteristics associated with applicant approval or rejection *and* the regulatory environment in which the application was submitted (state and

POLICY	POINTS	DETAILS & CONTEXT
AUTHORIZER QUALITY		
1. Who Authorizes	4/6	Independent Charter Board only.
2. Authorizer Standards	1/3	State law identifies establishing authorizer standards as evaluation criteria but does not provide guidance on the content of the standards.
3. Authorizer Evaluations	3/3	By law, the Comptroller General reviews the authorizer every two years.
4. Authorizer Sanctions	0/3	State law does not allow for authorizer sanctions that: restrict the granting of new charters by the authorizer; remove schools from the authorizer's portfolio; or remove authorizing authority.
SCHOOL ACCOUNTABILITY		
5. Reports on Performance	3/3	The sole authorizer's policy is to publish an annual report on the academic performance of its entire portfolio of charter schools.
6. Performance Management & Replication	2/3	State law provides for the creation of a charter agreement that includes school performance goals. State law does not require a performance framework. In practice, the District of Columbia Public Charter School Board uses performance frameworks. The law allows a charter school to add an additional campus under an existing charter.
7. Renewal Standard	6/6	By law, an authorizer may close a charter school for failure to meet student achievement goals in its charter.
8. Default Closure	0/6	State law does not provide for default closure for failure to meet minimum academic standards. In law, the sole authorizer is required to review a charter school at least every five years to determine if the charter should be revoked. The practices adopted by the sole authorizer for this review should lead to the closure of failing schools.
TOTAL POINTS: 19/33, RANK 16 (TIED WITH ME)		

Figure 1. Example of NACSA state scorecard (Washington, DC).^a

Note. NACSA = National Association of Charter School Authorizers.

^aCopied directly from <https://www.qualitycharters.org/research-policies/archive/state-rankings-profiles/>

year), so unless adjusted within-race differences in social capital differ by state or year, missing data, which we pairwise delete, should not bias our estimates. We do not anticipate a connection between social media usage and financial capital given that access to financial capital is not a barrier to social media usage, at least among the population featured in our data set.

Measuring Regulation

We utilize the NACSA state report card scores to operationalize regulation. Published annually from 2014 to 2016, the report cards generate an index score with a possible total of 33 points to judge the quality of each state's charter authorizing process. Higher scores indicate more stringent regulatory environments, as states receive additional points for imposing restrictions on how schools operate and maintaining oversight regimes (Holyoke et al., 2009; Ladner, 2018a). An example of a report is provided in Figure 1. Expressing page numbers as a function of NACSA score further solidifies the

operationalization of regulation: a one-point increase in NACSA score is associated with an additional 13.3 pages on charter school applications, statistically significant at $p = .01$.³

Results and Discussion (Phase I)

Barriers to entry could manifest in different ways. First, cumbersome or daunting application processes could deter would-be charter school operators from applying. Phase I barriers would not discourage CMO/EMO applicants, which have substantial administrative capacity and could likely replicate applications sent to different authorizers.

Second, candidates might face different odds of authorization even after applying (Phase II barriers). CMO/EMO-affiliated applicants might enjoy a higher likelihood of success under highly regulated application regimes due to their institutional knowledge and reputation. Moreover, increasing regulation could impose a disproportionate penalty on people of color. Homophily or implicitly or explicitly biased concerns about the quality of Black or Latino applicants (Bertrand & Mullainathan, 2003; Purkiss et al., 2006) and their prospects of securing and maintaining fiscal solvency (Munnell et al., 1996) could discourage approval in highly regulated regimes.

Barriers in Phase I—applying to open a charter school—are difficult to observe empirically, since we lack data regarding prospective applicants deterred from applying. However, observing the ratio of applicants affiliated with an EMO or CMO in each state (Table 2) could provide some clues. Specifically, if the application process is demanding and cumbersome, or if standalone candidates perceive a high likelihood of rejection, then a greater share of applicants might be affiliated with an EMO or CMO. To observe heterogeneity in affiliation among applicants across states, we express EMO/CMO affiliation as a function of the state in which the application was submitted.

Estimates do not support evidence for Phase I barriers. Although we observe large variation across states in CMO/EMO affiliation—just 21.4% of applicants were affiliated with an education service provider in Texas, compared with 78.6% in Ohio—we do not observe a statistically significant relationship between NACSA score and CMO/EMO affiliation in the applicant pool, as seen in Table 5.

Notably, we coded applications from 2010 to 2018, whereas NACSA report cards were published from 2014 to 2016. Applications coded before 2014 utilize the 2014 NACSA score, while applications coded after 2016 use the 2016 score. Because charter authorizing laws do not change frequently, NACSA scores are mostly static from 2014 to 2016. Though our approach

Table 5. Affiliation With an EMO or CMO by State and NACSA Score, 2010–2018.

Location	I	II
Arizona	-.184 (.140)	—
North Carolina	-.263** (.133)	—
Arkansas	-.182 (.141)	—
New Orleans	-.055 (.167)	—
Texas	-.417*** (.133)	—
Ohio	.253 (.170)	—
Indiana	-.070 (.141)	—
NACSA score	—	.003 (.002)
N	632	632

Note. EMO = education management organization; CMO = charter management organization; NACSA = National Association of Charter School Authorizers.

* $p < .10$. ** $p < .05$. *** $p < .01$.

Table 6. Affiliation With an EMO or CMO by State and NACSA Score, 2014–2016.

Location	I	II
Arizona	-.033 (.158)	—
North Carolina	-.217 (.140)	—
Arkansas	-.233 (.156)	—
New Orleans	-.033 (.188)	—
Texas	-.428*** (.137)	—
Ohio	.217 (.182)	—
Indiana	.015 (.159)	—
NACSA score	—	.004 (.004)
N	276	276

Note. EMO = education management organization; CMO = charter management organization; NACSA = National Association of Charter School Authorizers.

* $p < .10$. ** $p < .05$. *** $p < .01$.

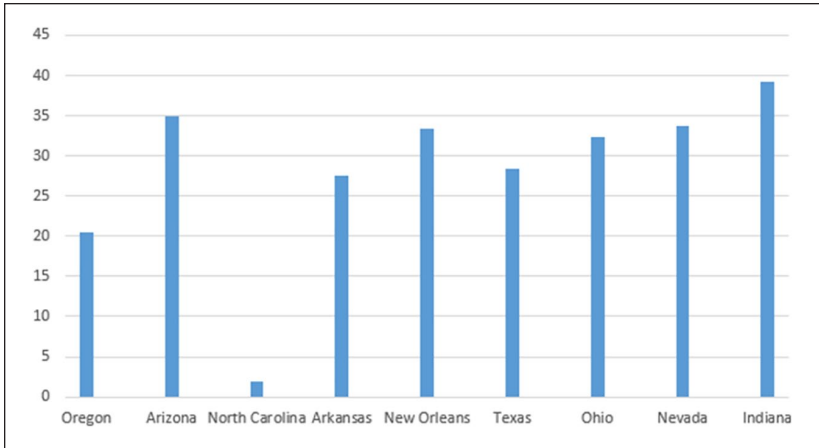


Figure 2. White overrepresentation among applicants.^a

^aCalculated by subtracting the share of White students enrolled in charter schools from the share of White applicants.

hinders the precision of our estimates, we use data that precedes and succeeds the report card period due to sample size limitations. As a robustness check within this model and those that follow, we limit the sample to applications submitted between 2014 and 2016, as seen in Table 6. As expected, the coefficient of interest becomes greater in magnitude when the sample size is restricted to 2014–2016 data, though the relationship is once again not statistically significant.

Observing whether Phase I barriers impede aspiring Black and Latino charter operators is trickier still. Simply examining differences in the racial composition of applicants by regulatory regime is problematic because the composition of applicants should be largely determined by the demographic composition of the state. Accordingly, we observe the degree to which White applicants are overrepresented relative to the proportion of White students in each state’s charter sector, as seen in Figure 2. Overall, there is no clear relationship between regulatory environment and White overrepresentation, which appears substantial in every state save North Carolina.

Results and Discussion (Phase II)

Observing barriers in Phase II of the analysis is straightforward. We employ a linear probability model⁴ to observe whether regulation has a disproportionately negative impact upon the likelihood of standalone applicants or Black

and Latino applicants receiving authorization. Formally, the outcome equation is:

$$y_i = \beta_1 \text{EMO/CMO}_i + \beta_2 \text{Race}_i + \beta_3 \text{Degree}_i + \beta_4 \text{CollegeSelectivity}_i + \beta_5 \text{NACSA}_{it} + \beta_6 \text{NACSA}_{it} \text{EMO/CMO}_i + \varepsilon_{it}$$

whereby the binary outcome of the application (approved or rejected) is a function of individual characteristics, including the applicant's affiliation with a management organization, race, college degree, and college attended. In addition, the state NACSA score proxies for regulation. The interaction term between NACSA and EMO/CMO affiliation tests whether applicants with EMO or CMO affiliation experience a differential impact from regulation.

As Tables 7 and 8 highlight, standalone candidates incur a sizable penalty from increased regulation. Specifically, a one-point increase in NACSA scores is associated with a 1.2%–2.0% point decrease (depending on model specification and sample restrictions) in the likelihood of receiving authorization as a standalone candidate compared with an EMO/CMO-affiliated candidate. All but one estimate are statistically significant at the 90% confidence level, and all but two at the 95% confidence level.⁵

A similar model probes whether Black and Latino applicants experience a differential impact from regulation, the lone change being that the interaction occurs between the Black or Latino indicator variable and NACSA score to probe whether Black and Latino applicants experience a unique impact from regulation. Formally,

$$y_i = \beta_1 \text{EMOCMO}_i + \beta_2 \text{Race}_i + \beta_3 \text{Degree}_i + \beta_4 \text{CollegeSelectivity}_i + \beta_5 \text{NACSA}_{it} + \beta_6 \text{NACSA}_{it} \text{Race}_i + \varepsilon_{it}$$

Estimates indicate that Black and Latino candidates also face significant barriers during Phase II. While Black and Latino applicants are less likely to receive authorization in general (Table 4), a one-point increase in NACSA score is associated with a 1.2%–1.9% point decrease (depending on model specification and sample size restrictions) in the likelihood of receiving authorization compared with a White or Asian applicant. Six of eight estimates are statistically significant at the 95% confidence level, while the other two are significant at the 90% confidence level. Interestingly, the estimated impact of regulation on people of color is exacerbated by controlling for highest degree attained and selectivity of the colleges attended. It appears that higher levels of regulation have direct discriminatory effects rather than indirect effects operating in theoretically color-blind fashion. Possibly, authorization bodies favor those like themselves, as indeed the

Table 7. Determinants of Authorizer Approval, 2010–2018.

	I	II	III	IV	V	VI
EMO/CMO	-.108 (.125)	—	-.095 (.131)	-.083 (.115)	—	-.047 (.117)
EMO/CMO × NACSA	.014** (.006)	—	.014** (.006)	.012** (.005)	—	.012** (.006)
NACSA	-.014*** (.004)	-.008** (.004)	-.021*** (.003)	-.013*** (.004)	-.008** (.004)	-.019*** (.003)
Black/Latino	.018 (.128)	.043 (.126)	—	-.034 (.119)	-.004 (.116)	—
Black/Latino × NACSA	-.014** (.006)	-.015** (.006)	—	-.012** (.005)	-.013** (.005)	—
PhD	.136** (.062)	.130** (.063)	.108* (.062)	—	—	—
MA	.121** (.056)	.107* (.055)	.102* (.056)	—	—	—
Ivy Plus	.076 (.116)	.092 (.123)	.149 (.112)	—	—	—
Highly selective	.032 (.055)	.014 (.054)	.067 (.057)	—	—	—
N	477	500	497	553	581	617

Note. EMO = education management organization; CMO = charter management organization; NACSA = National Association of Charter School Authorizers.
 * $p < .10$. ** $p < .05$. *** $p < .01$.

Table 8. Determinants of Authorizer Approval, 2014–2016.

	I	II	III	IV	V	VI
EMO/CMO	-.145 (.191)	—	-.139 (.205)	-.091 (.177)	—	-.038 (.186)
EMO/CMO × NACSA	.017** (.008)	—	.020** (.010)	.014* (.008)	—	.014 (.008)
NACSA	-.013** (.006)	-.004 (.006)	-.023*** (.005)	-.012** (.006)	-.004 (.005)	-.020*** (.004)
Black/Latino	.091 (.203)	.047 (.214)	—	-.050 (.184)	-.075 (.190)	—
Black/Latino × NACSA	-.019** (.008)	-.018** (.009)	—	-.014* (.008)	-.014* (.008)	—
PhD	.097 (.089)	.067 (.095)	.078 (.093)	—	—	—
MA	.130 (.081)	.130 (.083)	.118 (.084)	—	—	—
Ivy Plus	.022 (.146)	.067 (.169)	.113 (.148)	—	—	—
Highly selective	.145* (.083)	.048 (.087)	.191** (.086)	—	—	—
N	214	220	219	252	258	268

Note. EMO = education management organization; CMO = charter management organization; NACSA = National Association of Charter School Authorizers.

* $p < .10$. ** $p < .05$. *** $p < .01$.

literature regarding policy-making in district schools indicates (Meier & Rutherford, 2017).

Finally, Black and Latino applicants are considerably less likely to affiliate with an EMO or CMO. Whereas 37.2% of White and Asian applicants affiliate with an EMO or CMO, only 27.4% of Black and Latino applicants do so, a difference which is statistically significant at the 95% confidence level. Thus, people of color are doubly penalized by increased regulation.

Conclusion

Regulation imposes significant barriers to entry for standalone applicants, African Americans, and Latinos aspiring to open charter schools. The former could be by design: CMOs and EMOs pose less risk of failure, at least as regards test scores. Yet generally, higher levels of regulation of authorization may pose costs regarding representation, and ultimately legitimacy (Meier & Rutherford, 2017; Morel, 2018; Pitkin, 1997). Given research indicating the benefits of teacher–student and principal–student race-matching, this lack of representation may have additional educational costs (e.g., Crow & Scribner, 2014; Egalite et al., 2015; Lomotey & Lowery, 2014). In short, as with other services, higher barriers to entry in the provision of charter education favor those with greater resources to negotiate those barriers, and those who resemble the regulators, with substantial and likely unintended costs. Yet it would be mistaken to interpret findings as suggesting no barriers to entry for charter operators; rather, they suggest unintended and undesirable consequences of high barriers. States with particularly stringent charter regulation might benefit from some level of deregulation, which in markets generally, facilitates differentiation (Delmas et al., 2006). Moreover, as previously discussed, there is evidence that high-quality private schools become less likely to participate in state voucher programs as regulation increases, as they have less incentive than low-quality schools to incur a high regulatory burden. It is similarly plausible that stringent regulatory standards in the charter sector deter high-quality charter operators. Examining whether that phenomenon occurs and to what degree it counterbalances the quality control established by the state regulatory regime stands out as a question worthy of further inquiry.

Originally, education philanthropy supported standalone schools alongside the budding networks. Yet since 2009 foundations have largely allocated resources to charter management organizations, as noted above, for scalability and to limit risk by promoting proven models of schooling (Ferrare & Setari, 2017; Hassel, 2006; Quinn et al., 2012, 2016). Generally,

philanthropic support to CMOs likely limits representation by two means. First, philanthropic support often codifies public policy toward charter management organizations, given that many consider philanthropic leaders like Bill Gates more powerful than the U.S. Secretary of Education (Ravitch, 2006; Scott, 2009). So long as powerful foundations support CMOs almost exclusively, public policy may follow. Indeed, former U.S. Secretary of Education Arne Duncan championed the potential for CMOs to “replicate” best practices to fix low-performing schools (Wohlstetter et al., 2010). Accordingly, the Obama Administration increased the amount of charter school competitive grants exclusively appropriated to CMOs (Farrell et al. 2014). Moreover, philanthropic support produces inequities in funding between standalone charter schools and network-affiliated schools (Baker et al., 2012; Furgeson et al., 2012). This gives the latter more standing with charter authorizers, for whom financial solvency is an important factor in the approval process. As Farrell et al. (2014) write, “growth fosters more growth,” enhancing visibility and viability.

Possibly, foundations might increase material and financial assistance for charter applicants from underrepresented groups, and for standalone operators. States and organizations interested in leveling the playing field can offer services to equalize some of the structural disadvantages facing minority and standalone applicants. The California Charter School Development Center runs charter school boot camps to prepare future charter leaders. Similarly, charter incubators like the Education Resource Center in Dayton supply capital and technical assistance to applicants (Hassel, 2006).

Perhaps most importantly, state law could direct authorizers to reconsider the criteria for closing charter schools, since this risk is among the most important considerations in the authorization process. Possibly, parents and students could be surveyed to gauge how the school is performing. Less restrictive closure criteria could serve as a check on isomorphism while empowering families in challenged areas to wrestle control away from philanthropists and the public education bureaucracy from which they seek escape.

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Notes

1. Withdrawn applications are scored as rejections. Rejected or withdrawn applications are occasionally resubmitted. We score the outcome of the first submission because scoring resubmitted documents would produce errors. Illustratively, if the most recent submission to which we had access was rejected but then accepted at a later date, it would be incorrectly coded as rejected.
2. Institutions are coded according to the Barron classification system. See: <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2016332>
3. Arizona data are not included in this analysis, as digitized applications consist of several files from which total number of pages cannot be deduced.
4. We favor a linear probability model over logistic regression because, as a rule of thumb, unless one dependent outcome is more than 3 times as likely as another (which is not the case in our data set), linear models and logistic models tend to fit similarly well, and the former offers greater ease of interpretation (Hippel, 2015). Linear probability modeling is particularly preferable because our main variable of interest is an interaction term. Interaction terms in nonlinear models are usually misinterpreted, even in peer-reviewed research (Ai & Norton, 2003).
5. Coefficients reflect the data set compiled by the coder who coded the universe of data. As a robustness check, we run the same model by using each possible iteration of the three instances in which coders disagree about applicant race (e.g., the second coder is correct about all three judgments, or correct about the second and third). We observe that statistical and practical significance is not sensitive to coder judgment.

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