

Equal Access Denied to At-Risk Students

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Louisiana's Charter School Law, in its first paragraph, seems all about serving at-risk students. But, reading further, we learn that these very students do not have access to most of the charter schools. Equal access is a key component of federal law and of the federal funding guidelines, which provide millions of dollars to charter school programs. Equal access means open enrollment policies, guaranteed to ensure that each student, especially the at-risk, has an equal chance of being accepted. Yet, Louisiana's charter law does not require open enrollment; it does not mandate equal access. Thus, the at-risk students that Louisiana's law purports to serve are the ones who are too often denied admission into many charter schools.

On the one hand, Louisiana's charter school law says that "the overriding consideration in establishing this law is to serve the needs of at-risk students." And, on the other hand, much further into the law, it states that charter schools "can establish admission requirements." These purposes are contradictory. Either a school is required to serve all students who apply; or, a school is allowed to exclude certain students.

Federal law does not exclude; it is clear about whom charter schools are to serve. Charter schools are to be "open admissions" schools. They are to serve all students, without choosing students. If more students apply to a charter school than the school can accommodate, there must be a lottery. Louisiana's law, on the other hand, allows charter schools to deny admission to at-risk students who are failing and/or who not achieving to certain standards.

Federal law on charter schools is found in NCLB, Title V, Part B: "Promoting Informed Parental Choice and Innovative Programs: Public Charter Schools." To apply for Charter School Program (CSP) funds, a state education agency must submit an application that contains an assurance that all students will be given an equal opportunity to attend each charter school. The Charter School program funds are awarded and used to pay costs for the initial implementation of charter schools. The CSP guidance cautions that enhancement of choices in education will result in higher student achievement only if these choices are available to all students. "Every student should have an equal opportunity to attend a charter school." Federal law is very specific about equal access.

Louisiana's law does not follow the federal guidance. Louisiana's law does not require that every student have an equal opportunity to attend a charter school. While Louisiana's charter

law mandates serving at-risk students, and identifies who they are; Louisiana's charter law, at the same time, allows charter schools to have admission requirements that deny these very students the opportunity to attend.

Louisiana's charter school law begins by granting authority for "experimentation by school districts to establish innovative kinds of independent public schools," with the "over-riding consideration" and "the intention of the legislature that charter schools serve the best interests of at-risk pupils." The legislation defined an "at-risk" pupil as "any pupil about whom at least one of the following is true:

- (1) Is eligible to participate in the federal free or reduced-price lunch program.
- (2) Is under the age of twenty and has been withdrawn from school prior to graduation.
- (3) Is under the age of twenty and has failed to achieve the required score on the graduation exit exam.
- (4) Is in the eighth grade or below and is reading two or more levels below grade level.
- (5) Has been identified as an exceptional child, excluding gifted and talented.
- (6) Is the mother or father of a child."

The above six (6) criteria can be grouped into two basic categories: (1) socio-economically disadvantaged: at-risk students who are eligible for free or reduced-price lunch, and (2) educationally disadvantaged: at-risk students who are failing the state accountability test(s); students who are dropouts; students in special education (excluding the gifted and talented); and students who are parents. The latter groups of students are those about whom the Louisiana Department of Education fails to report data to determine if they are being served by the charter schools, which were developed for the very purpose of serving them.

Consider the first group of "at-risk" students: students who qualify for free or reduced-price lunch. Louisiana's charter school law originally required charter schools to serve the same or a greater percentage of students on free or reduced-price lunch as the district served. Louisiana's law now requires this percentage only of newly-formed charter schools. Pre-existing schools that are converted into charter schools, which constitute the majority of charter schools, only have to serve the same number of free or reduced-price lunch students as they served prior to the conversion. Thus, if a school had only 10% of free or reduced-price lunch students prior to becoming a charter school, the school must only serve that number now. Thus, there is no guarantee that charter schools serve any specified number of socioeconomic at-risk students, i.e., those eligible for free or reduced-price lunch.

Consider the second group of "at-risk" students: students who are educationally disadvantaged because they are failing the state accountability test(s); they are dropouts; they are in special education (excluding the gifted and talented); and/ or they are parents. Charter schools, because they can establish admission requirements, are not mandated to serve these

at-risk students. Plus, the Louisiana Department of Education does not use their massive data file to report on whether any of the charter schools, without admission requirements, might actually be serving them.

In an attempt to do just that, to analyze the data files of the Louisiana Department of Education in order to determine if charter schools are serving the educationally disadvantaged, researcher Charles Hatfield and I requested the student data files from them. Hatfield is the former Director of Educational Accountability for the NOPS. Specifically, Hatfield and I requested the Student Information System (SIS) files which contain the basic student data regarding entry and exit dates, exit reasons (graduated, promoted, dropout), and attendance information. Each school submits this data to the school district, which submits it to the Louisiana Department of Education.

Several months ago, Hatfield and I requested the 2006-07 SIS files, so that we could analyze the first full year of school following Hurricane Katrina. Only when a state legislator intervened and assisted with our request did we receive the files. This was seven (7) months after our initial request. And, tragically, the files were worthless because they lacked Recovery School District data.

The Student Information System (SIS) files are submitted to the state from each school district. Prior to the state takeover, all of the New Orleans schools were reported under "Orleans Parish" schools and the information was submitted to the LDE by the Orleans Parish School Board (OPSB). Following the state takeover, the Recovery School District (RSD) was established. Thus, beginning in 2006-07, the OPSB was to submit the SIS information for its schools, including its charter schools; and, the RSD was to submit the information for its schools.

When Hatfield and I received the 2006-07 SIS data files, we performed several statistical analyses. We found data missing from all of the RSD schools. There were no exit codes for the RSD students. There were no "graduated with diploma" codes, meaning that no 12th graders were reported as graduated from an RSD school. Obviously, we did not want to report this. We concluded that certain entries were missing. Thus, we met with several Louisiana Department of Education staff in June 2008, who advised us that what we discovered was true. The SIS data files for the RSD were meaningless because the RSD did not report its 2006-07 SIS data to the LDE.

The Louisiana Department of Education staff stated that the RSD simply did not comply with their requests to submit data for the SIS files. The LDE reported, that after several attempts and after several extensions, they simply had to close the SIS data files without the RSD data.

LDE acknowledged that it made every effort to collect correct and complete data from the RSD, but the RSD did not submit the data.

We posed the question of how the Department of Education could calculate 2006-07 School Performance Scores without data on attendance and dropouts, as these are two elements used in the SPS calculation. We still do not know the answer to this.

What our analysis did reveal is that the Louisiana Department of Education does not know if charter schools are serving students at-risk of dropping out or those with poor attendance for the 2006-07 year because they do not use their massive data files to report on this.

In addition to the educationally at-risk students who are dropouts, Louisiana's charter law cites as at-risk those students who fail the accountability test(s), students who are parents, and special education students (excluding the gifted and talented). We inquired as to whether the LDE reported on charter schools that might serve these categories of at-risk students. The answer was that the LDE does not report the data in a format that would determine if students in the above at-risk categories are being served by the charter schools, the very schools that were intended to serve them. The LDE collects a massive amount of data, but does not use this data to develop reports on whether the at-risk students defined in the legislation are served by the charter schools.

If the Louisiana legislature is serious about having charter schools serve at-risk students, then an addendum to the charter law must be proposed, wherein every element used to describe an at-risk student, as stated in Louisiana's law, would be the subject of a report on outcomes.

Admission Requirements and Charter Schools

Louisiana's charter law purports to serve the at-risk but at the same time allows admissions requirements. These are contradictory purposes. And, it makes the charter school makeup difficult to understand. There are charter schools with admission requirements; and, those without. Since the two are not distinguished in LDE reporting, the charter schools without the admission requirements often fail to get the credit they deserve for educating the most educationally disadvantaged students.

Admission requirements for charter schools are unique to Louisiana. Other states follow the No Child Left Behind (NCLB) regulatory guidance which defines charter schools as schools with open enrollment policies. "Open admissions" is a cornerstone of NCLB charter law. If more students apply to a charter school than can be accommodated, the charter school must have an

open enrollment lottery. This element cannot be waived. The charter school cannot choose which students attend.

Charter laws in other states follow the lead of NCLB with “open admissions” and “equal access” to all charter schools. Indiana law mandates: “Charter schools must have open enrollment policies.” Washington, DC law is even more direct: “Charter schools cannot require an admissions test, minimum grade point average, or any other criteria to admit students.” Missouri law says that “Every child must be guaranteed an equal chance of admission.”

While NCLB’s definition of a charter school is one that has open admissions, the federal government can only influence, not require, the states to use the same definition. Education is a state function and the state’s definition of a charter school is solely a state prerogative.

Louisiana’s charter school law is unique; but does not violate NCLB. It is, however, confusing. Because Louisiana allows charter schools to have “admission requirements” and, because NCLB requires “open admissions,” the Louisiana Department of Education must separate the schools when disbursing charter school program (CSP) funds. Only charter schools with open admissions can receive federal charter school program funds. Thus, the LDE has to be careful when disbursing these funds because charter schools with admission requirements cannot be recipients. Federal charter school program funds are strictly for schools that provide “equal access.”

In New Orleans, the “admission requirements” charter schools and “open enrollment” charter schools present the same type of dilemma as in years past with the magnet and non-magnet schools. Magnet schools with selective admissions were able to screen their students. Only students with acceptable academic and discipline records were enrolled. Not only were magnet schools allowed to screen their students, but if the school decided to remove a student for academic or behavioral reasons, the district could not place the student in another school that had admission requirements. Nor could that school be required to enroll any other student removed by any other school. This is similar to the charter school law. Charter schools cannot be required to accept students who have been removed from other schools.

It is time to move on, to resolve this controversy and to recognize that both types of schools can co-exist peacefully in New Orleans. Academic admissions requirements are contradictory to the stated purpose of Louisiana’s charter school law, which is to serve the academically disadvantaged. Yet, both purposes can be served. With or without admissions requirements, charter schools are an education experiment. Charter schools with admission requirements

face challenges, albeit different challenges, just as do the schools without admission requirements.

A long term commitment to research on what works in charter schools is an imperative. Since charter schools were authorized for the purpose of creating innovative ways to teach at-risk children and youth, research must focus on the outcomes for at-risk students and on the charter schools that cannot exclude these students.

From the past, we know that New Orleans schools with admission requirements, or magnet schools, perform well. Data from several years prior to Katrina attests that students from New Orleans magnet schools outperform students from other schools. Thus, research on how magnet-type charter schools serve educationally disadvantaged schools is not as compelling because these schools do not necessarily serve educationally disadvantaged students and/or they have the authority to remove failing students.

Thus, research must concentrate on the open admissions magnet schools. Our state law mandates analysis of charter schools to determine what is working so it can be replicated and to learn what is not working so it can be eliminated. A group of researchers, including myself, set out to do exactly this, as explained above. Due to LDE's problems with collecting data from the RSD, our attempts to codify the 2006-07 year could not be realized.

Our research intent, which continues, is to determine, which open admissions charter schools performed best with regard to improving the number of graduates, to improving attendance rates and to decreasing dropout rates. We intend to identify the better performing, open enrollment charter schools; to study their educational practices; and to disseminate information on what works.

Conclusion

The legislators who created Louisiana's charter school law recognized charter schools as an "education experiment." They stated their intent: "to provide a mechanism by which the experiment results can be analyzed, the positive results repeated, and the negative results eliminated." The legislature needs to go back and insert language requiring that the LDE data files be used to analyze the impact of charter schools on the at-risk students, who are defined in the law. This research is imperative because the children and youth, who are the subjects of this experiment, are the most vulnerable in our city. They are voiceless, and we are experimenting on them without knowing if the experiments are causing more of them to achieve to higher standards, or causing more of them to drop out.

Without a long term commitment to research, reform will only remain rhetoric. Lasting change means replicating what works, and eliminating what does not work. Lasting change means a better life for our most vulnerable children and youth, and a better community for all of us.

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