



Date: June 3, 2021
To: House Education Committee, Chair Alonso Leon and Members
From: Laurie Wimmer, OEA Government Relations
RE: *Charter Schools in Oregon*

On behalf of OEA's 41,000 members, I'm pleased to share our views of charter schools in Oregon.

Let me start by saying that we are frequently characterized by the press and others as categorically opposed to charter schools. This is not true. Our position is far more nuanced.

For instance, we are supportive of the opportunity to explore educational innovations that help all students succeed. We appreciate that in Oregon, charter schools are not so privatized – at least, in the brick-and-mortar realm -- that they draw investors looking to profiteer or avoid taxation. We also note that a few have attempted to run against the tide of white flight and segregation by deliberately working to attract an economically and racially diverse student body.

But we have many concerns about charter schools.

- We believe that every student enrolled in a public school has the right to a qualified teacher, yet charter schools are not obligated to hire more than 50% of their staff as licensed educators (95% for virtual charters).
- We believe that until Oregon fully funds its entire public education system, the neighborhood school and the nearest charter school will always be pitted against each other in a zero-sum funding game that hurts students in the neighborhood school most.
- We also believe that charter schools in Oregon are public only to the extent that they receive public resources but are allowed to operate privately and with limited oversight. We worry about problematic educational performance, *de minimis* accountability, and lack of true transparency, especially in online charters.
- But most of all, we wish to convey our deep concerns about **inequities** – a concern that will only grow over time, judging from the experience of other states and considering Oregon's increasingly diverse student population and growing income inequality.

Given that in the interim, a task force may be formed to examine all alternative forms of public education (should HB 3236 pass), we are hoping to establish for the record a set of observations that may become part of the work of this task force as it considers the challenges and opportunities of different pathways to educational success for our students.

We are hoping that this task force asks some fundamental questions about brick-and-mortar and virtual charter schools:

- **Why** should Oregon send resources to them? Are they living up to the mission described ORS 338.015 to be innovators that share best practices with all of education?
- **Who** is served by these programs, and **how well**?
- **What** are the **costs and impacts** to students in traditional settings when unbridled growth thins the resource soup?
- Finally, we would ask that the review include scrutiny of **staffing** patterns: qualifications, compensation, and high churn rates.

It may be helpful to say here that there are various types of charter schools operating in Oregon:

- Charter districts (brick-and-mortar and virtual)
- Non-profit-led brick and mortar charters
- Non-profit-led virtual charters contracting with for-profit corporations
- Non-profit-led charters that are explicitly diverse by design
- District/educator-created and run charters and special focus options/magnet schools
- Homeschool charters

During the early 2000s, when Oregon struggled through two recessions that resulted in large cuts to K-12 budgets, a handful of **small school districts converted their entire districts to charter** in order to access federal funds, hire more non-licensed (lower-paid) staff, and sometimes, to recruit students from adjacent districts to enhance enrollment-based state funding.

The vast majority of Oregon’s 127 charter schools, however, are **non-profit-led entities** that are public insofar as they receive the majority of funding from the State. Most scholars who study charter schools, however, say that whether charter schools are actually public is a definitional issue, and that by function, most fit more closely the description of private schools because they are privately managed operations with fewer state requirements. In Oregon, all charters are called “public schools”, but the National Labor Relations Board, applying its own lens, considers them private entities as they relate to NLRB concerns.

Oregon’s charters are not bound by many of the statutes in our public education laws – either they do not apply or they may be waived. There is an “unwaivables list” in ORS 338.115, to which charters must comply. It includes student safety, basic academic expectations, and public meeting laws. Here is the full list by topic:

Federal law;
Tort claims;
Public records law;
Public meetings law;
Public Contracting Code);
Municipal Audit Law;
Student records;
Criminal records checks;
Diploma requirements and academic content standards;
Physical education participation;
The statewide assessment system
Policies for personal electronic devices;
Duty to provide textbooks;
Prohibition of payment as incentive to receive educational services;
Prohibition of tuition and fees;
Prohibition on infliction of corporal punishment;
Notice concerning students subject to juvenile court petitions;
Reporting of suspected abuse and suspected sexual conduct;
Core teaching standards;
Employment Department Law;
Discrimination in education prohibited;
Instructional time requirements;
Statutes and rules that expressly apply to public charter schools;
Statutes and rules that apply to a special government body;
Any statute or rule that is listed in the charter; and
This chapter.

Ever since Oregon’s charter school law passed in 1999, the charter environment has undergone changes. In 2009, in recognition of its 10-year milestone, education advocates collaborated on improvements to Oregon’s charter statutes. We were a part of that effort, which included interested parties from charter schools as well as from all other facets of public education. Now, in this session, we are advocating for several more tweaks to the law, including:

SB 743 – fiscal revisions in virtual school transfers

SB 624 – charter school rate equalization

HB 2166 – includes more resources for diverse, BIPOC charters.

Now, 22 years later, trouble spots deserve renewed legislative attention. One of these concerns **virtual charter schools**, functionally operating as for-profit entities, which produce the nation’s (and Oregon’s) poorest academic results, year after year. We believe that lack of oversight and accountability is ignoring chronic problems of academic insufficiency,

data privacy breaches, and equity-related content concerns. University of Oregon professor Gordon Lafer has written about this extensively, and I've cited him in my accompanying research links. Among his observations:

- The most recent comprehensive national study (done at Stanford University) found that virtual charter schools have an 'overwhelmingly negative impact' on student achievement. By attending virtual charters, students lost an average of 180 days of learning in math compared to similar students attending traditional public schools.
- A 2019 study of virtual charters in Pennsylvania, also conducted by Stanford, found that students in online charters lost the equivalent of 106 days in reading and 118 days in math compared with similar students in traditional public schools.
- In 2017-20, Connections Academy or K12, Inc/Stride-run schools have been closed, received failing grades, or targeted for intervention in Massachusetts, Illinois, Oklahoma and Idaho.
- In 2016, K12, Inc was forced to return over \$160 million in school funding after the California Attorney General charged the company with artificially inflating attendance rates and misleading parents with false advertising about students' academic progress, class size, parent satisfaction, and the quality of materials provided to students.

In Oregon, the virtual programs' graduation rates are shocking, especially when compared to the state's overall rate of 80%. Some examples from Dept. of Education data:

Insight School: **20%** graduation rate;
Oregon Virtual Academy: **33%** graduation rate;
West Lane Technical Learning Center: **10%** graduation rate; and
Oregon Charter Academy: **57%** graduation rate.

The Department also has warned school districts that the for-profit virtual corporations offering what they call "personalized learning" are really eliminating educator professional judgment in their algorithm-based, "machine learning" programs. **Baked into these platforms are inherent biases**, and the curricula/programming are not transparent because the corporations running them argue that they are "proprietary" and must be kept secret. For more information on the equity and educational dangers of these programs, read ODE's warning in its latest version of its "Comprehensive Distance Learning" guidance, beginning on Page 58: <https://www.oregon.gov/ode/students-and-family/healthsafety/Documents/Comprehensive%20Distance%20Learning%20Guidance.pdf>

Also problematic are the **homeschool outfits** operating as charter schools. Logos, for instance, is a program that serves exclusively homeschool children, paid for by Oregon taxpayers. In 2017, Logos Charter School was in the news when the Medford School District, its sponsor, was forced to file an ethics complaint after the just-departed executive director signed a \$1.5 million consulting contract with the school one day after resigning.

Because careful oversight by sponsoring districts is unrealistic and difficult, we agree with the experts, who say that monitoring should be the purview of **centralized regulation**, not of sponsors. Where districts have tried to assert more oversight, some charters have simply changed sponsors to avoid further scrutiny. When this happens, the sponsoring district loses money, so there is a built-in disincentive to intervene. One need only look to the proliferation of "web academies" by their now-banned founder, Tim King, to understand that our system is ill-equipped to provide timely, responsible oversight. From 2007 to 2010, King committed many legal violations that finally attracted state and federal attention, but it took years for the State to act.

I'd like to conclude my presentation with a special focus on the several **equity issues** that are most concerning and that we believe may worsen over time:

- Economic and racial segregation
- White flight and its relative, publicly sponsored prep schools
- Funding losses that deliver the greatest harm to our low-income and BIPOC students in neighborhood schools.

I have included in my written testimony a number of articles related to the issues I've raised today, and I would encourage you to read them. They provide evidence of these concerns in great detail.

Among these resources is one by my friend, Dr. Julian Vasquez Heilig, who is the Dean and professor of Educational Policy Studies and Evaluation at University of Kentucky College of Education. He released his study in 2019, examining the **racial segregation** problem of the charter industry in the U.S. While Oregon's own problems with equity tend to be most pronounced along **economic disparity** lines, this problem, caused primarily by **white flight**, does exist in some communities. As Dr. Vasquez Heilig notes,

"In the past decade, proponents have reimagined charter schools as institutions of learning dedicated to providing poor and disadvantaged students with greater access to a high-quality education. These viewpoints mask the serious issues of inequity that remain outstanding, even after the Supreme Court first declared that segregated schools were inherently unequal."

He argues that **the essential function of government** is to provide education to its citizens as a **public good**, and that privatization and private control amount to an "abdication" of this responsibility, as well as a "betrayal" of the *Brown v. Board of Education* decision of 1954.

In Oregon, the degree to which brick-and-mortar charters vary from their sponsoring district in terms of race, income, and English-Learner status is often dramatic. I prepared a chart, submitted with my testimony, of 11 charter schools, randomly selected, and compared their student demographics to that of the school district in which each is located. As you'll see, for instance, Salem-Keizer's student population is 53% BIPOC, but its Howard Street Charter School (which was Oregon's first), has just 20%. Salem-Keizer's ELL rate is 33%, but Howard Street has too few ELL students to count. And Salem-Keizer's poverty rate, as measured by students eligible for free or reduced lunch, is 70%. The charter school's students? Just 15%. This is just one example, but the pattern plays out over and over in Oregon, with rare exceptions.

Finally, the **funding pressure** that ever-increasing charter proliferation puts on the public-school system is one that translates to higher class sizes and fewer opportunities for students in traditional, neighborhood schools. A report from the Economic Policy Institute by Rutgers University Professor Bruce Baker found that lost enrollment and revenue due to charter expansion "is exacerbating inequities among children, who are increasingly segregated by economic status, race, language, and disabilities." As Dr. Lafer points out:

"Expanding charter enrollment imposes steep fiscal costs on public school districts. When students leave a public school district for a charter, per-pupil funding leaves with them. But their home districts don't save that much money by serving fewer students, because they still have to pay for many fixed costs – principals, secretaries, custodians, cafeterias, busses, utilities and central district staff. Because these fixed costs can't be cut, districts are forced to impose cuts in the classroom – creating more crowded classes, closing libraries, laying off nurses and counselors, cutting drama and art and athletics and hands-laboratory science and more. National research shows that approximately 40% of school district costs are fixed."

And because the students in our traditional public schools have a wider range of academic and support-service needs, **parent choice for some kids results in inequitably underfunded schools for many more.**

We raise these concerns not to cast a pall on all charter schools, but to ensure that all students' rights are protected. We look forward to continuing our discussion with you on this important topic and helping to ensure that our state's public-school system meaningfully ensures equity for all our children.

Thank you.

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Economic disparities because of charters:

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Economic Policy Institute: economic inequality and charters

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Dr. Gordon Lafer:

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https://www.inthepublicinterest.org/wp-content/uploads/ITPI_CostlyFailure_Feb2021_FINAL.pdf

Tim King Web Academies:

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COMPARISON OF SAMPLE CHARTER SCHOOL TO SPONSORING SCHOOL DISTRICTS

Charter School	BIPOC Students	% ELL	% Poverty	School District	BIPOC Students	% ELL	% Poverty
Cascade Heights	24%	10%	14%	N. Clackamas	38%	21%	38%
Howard Street	20%	Too few to count	15%	Salem-Keizer	53%	33%	70%
Optimum Learning Environment	18%	9%	25%	Salem-Keizer	53%	33%	70%
Logos	14%	Fewer than 5%	18%	Medford	34%	14%	65%
Le Monde French Immersion	20%	Too few to count	8%	Portland	43%	15%	39%
Alliance	15%	Too few to count	69%	Oregon City	23%	10%	33%
Sherwood Charter	24%	Too few to count	7%	Sherwood	21%	6%	14%
Multnomah Learning Academy	37%	13%	39%	Reynolds	68%	45%	79%
Inavale Community Partners <i>dba</i> Muddy Creek Charter	14%	Too few to count	18%	Corvallis	33%	14%	33%
City View Charter	24%	7%	6%	Hillsboro	55%	30%	57%
Three Rivers	37%	Too few to count	Too few to count	West Linn-Wilsonville	26%	7%	17%

Data from Dept. of Ed 2018-19 Profiles at <https://www.ode.state.or.us/data/reportcard/reports.aspx>