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State Charter School Law Scores As A Predictor Of Illegal Activity Within The Chartering Sector

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STATE CHARTER SCHOOL LAW SCORES AS A PREDICTOR OF
ILLEGAL ACTIVITY WITHIN THE CHARTERING SECTOR

A Dissertation

Presented to

The College of Graduate and Professional Studies

Department of Educational Leadership

Indiana State University

Terre Haute, Indiana

In Partial Fulfillment

of the Requirements for the Degree

Doctor of Philosophy

by

David J. Stashevsky

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Keywords: charter schools, charter school law scores, predicting illegal activity, CER, NAPCS

VITA

David J. Stashevsky

EDUCATION

2023	Indiana State University, Terre Haute, Indiana PhD in Educational Leadership
2000	Indiana University, Bloomington, Indiana Certification in School Administration
1999	Ball State University, Muncie, Indiana Certification in School Administration
1998	Indiana Wesleyan University, Marion, Indiana Master of Education
1986	Bob Jones University, Greenville, South Carolina BS in Physical Education

PROFESSIONAL EXPERIENCE

2001–Present	Daleville Community Schools, Daleville, Indiana Assistant Superintendent, Director of Curriculum & Technology, Principal
1999–2001	South Madison Community Schools, Pendleton, Indiana Assistant Principal
1994–1999	Hamilton Southeastern Schools, Fishers, Indiana Science Teacher
1989–1994	Elwood Community Schools, Elwood, Indiana Science Teacher/Migrant Teacher

COMMITTEE MEMBERS

Committee Chair: Ryan Donlan, EdD

Professor of Educational Leadership

Indiana State University

Committee Member: Steve Gruenert, PhD

Professor of Educational Leadership

Indiana State University

Committee Member: Brad Oliver, EdD

Clinical Associate Professor of Educational Leadership

Purdue University Fort Wayne

ABSTRACT

State charter school policy is influenced through a collaboration between advocacy groups and state legislators. Charter school advocacy groups have an inherent bias toward deregulation and autonomy. Two advocacy groups, the Center for Education Reform (CER) and the National Alliance for Public Charter Schools (NAPCS), each conduct annual analyses on state charter school laws using their own model charter law as the comparator. Each group has developed a rubric of indicators with sub-scores which combine to form an overall state score. Higher scores indicate a closer adherence to the advocacy group's model charter law. The charter school sector in the United States has been embroiled in accusations of illegal activities since at least 1997. This study looked into allegations of illegal activity within the charter school sector from 2013–2017 and examined them for the nature, conversion, timeframe, and monetary impact. On average, alleged illegal activities went undetected for 5.1 years before being discovered with an associated monetary impact of approximately \$4.5 million. The role of CER and NAPCS charter school law scores was examined to determine if a relationship existed between the state scores and allegations of illegal activity. State scores were compared for each year using tests for independent measures. The CER state scores were found to be significantly higher for states with allegations of illegal charter school activity. Logistic regression performed on the 2017 CER state score indicated that it was a significant predictor of states having allegations of illegal activities within their charter school sector. The NAPCS state scores were not found to be significantly related to allegations of illegal activities within the charter school sector.

PREFACE

For the past 25 years, I have held both building level and corporation level administrative positions within the traditional public school sector. During that time, the school board for my district authorized the establishment of a new charter school. I was given the opportunity to provide the charter operator with educational assistance regarding the initial set up and launch and continued to assist them through most of the first year of their operations.

For multiple years, Indiana charter school law was found to be problematic for authorizers in that it failed to define authorizers as agencies of the state. Because of that legislative omission, and the Indiana Department of Education's (IDOE) interpretation of FERPA regulations in light of that omission, charter school authorizers were prevented from accessing or viewing the charter school student data housed in the Department's database.

In 2018, after a change in Indiana law, my district gained access to the IDOE data for the charter schools it had authorized. The analysis of that data revealed discrepancies in what the charter school administration had claimed and raised multiple questions which eventually resulted in the district contacting the authorities. Seven months after accessing the state data, the district school board revoked the schools' charters and initiated closure protocols.

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My journey to completed dissertation and doctoral degree was accompanied by an array of supportive individuals who encouraged me along the way. I would first like to thank the Daleville Community Schools Board of Trustees for their support and for investing in my professional growth. Superintendent Paul Garrison provided me with the necessary time in my schedule and we enjoyed many great debriefing sessions. Fellow administrators, teachers, and staff cheered me on throughout the process. It's always a great day to be a Bronco!

I would like to thank my professors at Indiana State University for their instruction and leadership. Dr. Brad Balch, Dr. Christy Coleman, Dr. Mark Frederick, Dr. Steve Gruenert, and Dr. Terry McDaniel provided thoughtful, engaging, and rigorous content. My committee, Dr. Ryan Donlan, Dr. Steve Gruenert, and Dr. Brad Oliver, provided valuable insight and guidance to the development of the dissertation. It is a more holistic and robust study thanks to their suggestions.

I would like to thank my family for their unwavering support and encouragement. My late parents, Dr. Richard Stashevsky and Beatrice Stashevsky, were ever so proud when I began this journey. Though they were not afforded the opportunity to see my completion, I know they envisioned it and that is enough. My in-laws, Dr. Andrew Evan and Bonnie Evan, were a continual source of encouragement and, at times, commiseration when life circumstances placed the dissertation on the back burner. My sons, Michael Stashevsky, Dr. Stephen Stashevsky, and my daughter-in-law, Leslie Stashevsky, cheered me on in the same way that my wife and I have

cheered them on: unabashedly and wholeheartedly. Each of them have excelled tremendously in their chosen fields and I look forward to what the future holds for each of them.

Finally, I would like to thank my wife, Jennifer Stashevsky. She has stood by me through all my late nights and early mornings, countless instances of “sorry, I lost track of time,” and my generalized disengagement from our normality as I focused on research and writing. She picked up the slack at home and helped keep all the other plates spinning. Through it all, she gave me support and help, asked questions, discussed ideas and made my research better. She has been my better half for 35 years and she is, by far, my most valuable treasure on Earth.

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CHAPTER 1

INTRODUCTION

Charter schools in the United States are publicly funded semi-independent schools that operate outside of and parallel to the local school district administrative structure (Office of the Under Secretary, 2004). In 2018, charter schools accounted for about 7% of all public schools and over 3.3 million students (Hussar et al., 2020). Charter schools have also been embroiled in controversy and scandals (Bischoff & Kelley, 2018; Byard, 2019; McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019; S. Wang, 2020; Wenzke, 2019). It is estimated that \$1 billion in educational funding has been lost to various forms of charter school fraud and mismanagement (Burris & Bryant, 2019).

Background and Context

Over the past fifty years, K–12 educational reform in the United States has been shifting away from institutional improvement and toward a more privatized model of school choice. Since the publication of *A Nation at Risk: The Imperative for Educational Reform* (Gardner et al., 1983), open enrollment, magnet schools, education savings accounts, vouchers, and tax credits have all been advanced in the name of reform. However, it is the charter school concept that has taken center stage, enjoyed the greater promulgation, and elicited the most scrutiny. The charter school concept is based on rational choice theory which states that parents, if given the opportunity, will choose the school that best fits the educational needs of their child (Berends, 2020).

The Establishment of Charter Schools

As a subset of public schools, charter schools exist through legislation enacted at the state level (Robertson, 2015). School choice advocacy groups have been successful in promoting and influencing legislation establishing charter schools on the educational landscape (Allen et al., 2012). By 2019, legislation instituting and funding charter schools had been enacted by 45 states (Rafa et al., 2020). The theory underpinning charter schools was premised on the concept of coupling increased autonomy with increased accountability (Bulkley & Fisler, 2003). Autonomy and flexibility were to be provided through waivers from certain state laws and regulations (Mintrom & Vergari, 1997a) while the dual tenets of the charter contract and public choice were to establish accountability (Bulkley, 2001). According to a legislative review by McFarland et al. (2019), these public schools of choice were found to be fundamentally different from traditional public schools in the core elements of establishment, oversight, governance, and accountability.

Funding Educational Reform

Education reform in general, and charter schools in particular, have benefited from the monetary support provided by philanthropists, foundations, and governmental grants (Reckhow & Snyder, 2014). Within this group of donors, Saltman (2010), found that venture philanthropists pursued reform that emphasized school choice and privatization and did so by promoting policy change efforts to reframe education through creating and incentivizing the institutions they were funding. As of 2009, the influx of capital from their funding efforts had monetarily surpassed all other forms of philanthropy within the educational sphere. According to Scott (2009), policy networks congealed among philanthropists as they jointly targeted the same organizations for funding while employing similar strategies in their pursuit of related policy outcomes at both the state and federal levels.

Policy Networks and Legislative Influence

Charter school policy networks supply resources, policy analyses, and model policy language for state legislators (American Legislative Exchange Council [ALEC], 2017; Center for Education Reform [CER], 2018; DeBray-Pelot et al., 2007; National Association of Charter School Authorizers [NACSA], n.d.). One of the most prolific and powerful of the policy networks is ALEC, which provides state lawmakers with policy experts and model charter school policy language (ALEC, 2020; Reckhow, 2012). In its work on education policy, ALEC has consistently referenced the CER and their annual analyses of state charter school laws as a foundational metric when developing model charter school policy for legislators (ALEC, 2017; CER, 2018).

Annual Analyses of State Charter School Laws

Charter school advocacy groups regularly research and analyze charter school laws in each state for their relative impact on the chartering community. Two of the most established and influential of these groups are the CER and the National Alliance for Public Charter Schools (NAPCS; CER, 2020; NAPCS, n.d.-a).

CER

CER began publishing annual rankings of the states regarding their charter school legislation in 1996 using a numeric rubric converted into a letter grade using the typical A–F grading scale (Candal, 2018). Because CER advocates for the deregulation of charter schools, that vantage point underscores the methodology for their analyses (CER, 2018). Four components feed into their rubric to determine the overall state scores: (a) the allowance and presence of multiple, independent authorizers; (b) the number of charter schools permitted and caps on growth; (c) operational and fiscal autonomy; and (d) equitable funding when compared

to traditional public schools. Notable for its lack of representation in the CER metrics are any evaluative measures relating to student achievement or charter school accountability. Over the years, CER has consistently given higher scores to charter laws that are permissive and lower scores to those which are restrictive or prescriptive (Candal, 2018; Chi & Welner, 2008).

NAPCS

The annual NAPCS analysis compares each state's charter school law against the model law developed by NAPCS (NAPCS, n.d.-a). Indeed, the publication of their annual analysis is titled *Measuring up to the Model*. Twenty-one components factor into the NAPCS rubric and, while many of these fall into corresponding categories with the CER components, NAPCS expands their analysis to include accountability, performance, monitoring, and transparency. While NAPCS does not convert state scores into letter grades, they do provide component scores, composite scores, and an overall ranking for each state (NAPCS, n.d.-a).

Legislative Influence on Oversight

State charter school laws provide the structure and conditions under which charter schools operate. They also confer statutory authority and power on the authorizers to conduct oversight activities. As a negative example, from 2011 through 2016, Indiana charter school law did not define authorizers as agencies of the state. That omission prevented authorizers from accessing or viewing any student level data due to the Indiana Department of Education's interpretation of FERPA regulations (Indiana Authorizer Access to Education Records Act, 2013/2015/2017). For six years, charter school authorizers in Indiana conducted oversight activities by relying on aggregate data supplied by the charter schools and then used that same unverifiable data to evaluate the effectiveness of those schools.

Illegal Activity Within the Charter School Sector

Poorly written laws can have unintended and deleterious consequences. It is estimated that \$1 billion in educational funding has been lost to various forms of charter school fraud and mismanagement (Burris & Bryant, 2019). Allegations of illegal activity within the charter school sector abound from news organizations, judicial agencies, and various watchdog groups (Strauss, 2020). Recent allegations of charter school scandals have included the false reporting of enrollment (Scanlon, 2020), money laundering (McCormick, 2020), wire fraud (Big Island Now, 2020), kickbacks (Front Porch News, 2020), conspiracy (Taketa, 2019a), misappropriation of public funds (Byard, 2019), misuse of public funds (Wenzke, 2019), and ghost students (Thompson, 2019).

Conceptual Framework

The hallmark principle of charter school theory is the tradeoff between regulation and accountability. As state and local regulations are decreased, accountability in the form of educational outcomes should increase commensurately. Student achievement becomes the primary measure of accountability closely followed by operational and fiscal soundness (Bulkley & Fisler, 2003; Mintrom & Vergari, 1997a).

Advocacy Groups and Charter Policy Influence

Advocacy organizations champion their causes, and in the case of charter schools, they target state policy development (CER, 2018, p. 5). However, the insertion of charter school advocacy groups such as CER, NAPCS, and ALEC into the policy development side of charter school regulation raises ethical questions regarding influence and bias, especially as they pertain to efficacious accountability. Chi and Welner (2008) in “Charter Ranking Roulette,” investigated CER’s annual charter school state law analyses and concluded, “From the perspective of CER,

the best charter school laws are those that facilitate the easiest path for charter creation and the least regulation” (p. 278).

Advocacy Groups and Public Relations Influence

Once state charter school laws are enacted, a second level of potential influence unfolds as charter advocacy groups analyze state charter school laws, each using their own model policy as the standard for comparison, and then report their results through press releases and other media outlets. As would be expected, those states with laws that favored the advocate’s model language earned higher scores than those that did not (CER, 2018; Ziebarth, 2019). This correlation between model policy language and higher scores is significant because, as Chi and Welner (2008) contended, “CER’s rankings frame the charter school movement” (p. 275).

The Relationship Between Charter Law Scores and Allegations

Charter schools, while not directly evaluated by the advocacy groups, are each located within a state and, therefore, have an associated state score, grade, or rank. Charter schools have also been the subject of numerous allegations of illegal activity, often occurring over multiple years (McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019), indicating that some state charter school laws may not provide adequate regulation. This study will seek to examine the relationship between state charter school law scores and allegations of illegal activity within the charter school sector (see Figure 1).

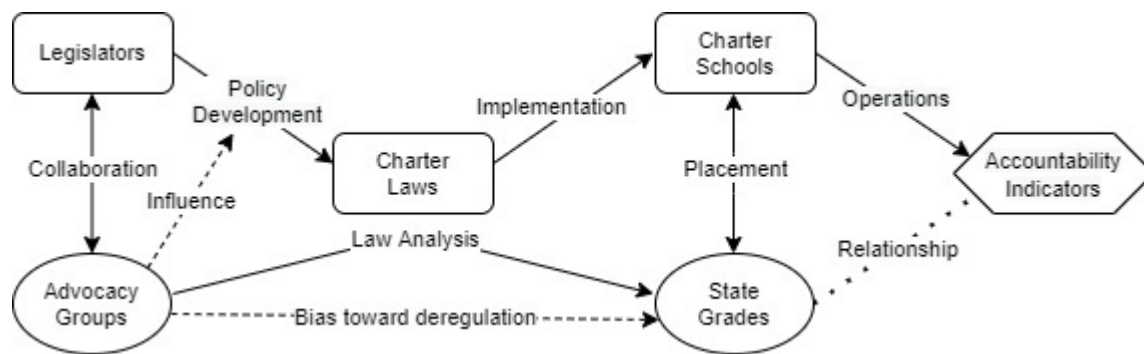
Statement of the Problem

Charter schools and traditional public schools are both tuition-free and publicly funded from state education budgets (Davis, 2013; Snyder et al., 2019; Tell, 2016). Charter schools and traditional public schools compete for the same pool of state education dollars (Bifulco, 2014). Educational funding that is misappropriated or misused reduces the scope of available services

for all students and is a betrayal of the public trust. The charter school sector is rife with reports of illegal activity (Bischoff & Kelley, 2018; Byard, 2019; McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019; S. Wang, 2020; Wenzke, 2019). Adjudicated cases describe illegal activities that went undetected for years and involved substantial public funds (Arizona Attorney General’s Office, 2019; U.S. Attorney’s Office, District of New Mexico, 2017, U.S. Attorney’s Office, Southern District of Texas, 2019).

Figure 1

Conceptual Framework for the Study



Note. The concept map is time sequential from left to right, indicating the progression of charter school activities and relationships from legislative policy development to accountability indicators. Solid connectors indicate actions, dashed connectors show conditions, and the dotted connector exposes the potential relationship between state charter school law grades and accountability indicators. Figure created by author.

It is estimated that \$1 billion in educational funding has been lost to various forms of charter school fraud and mismanagement (Burris & Bryant, 2019). Between 2018 and 2020, three of the largest charter school fraud reports each involved alleged losses of educational funding in excess of \$50 million (Bischoff & Kelley, 2018; Taketa, 2019b; S. Wang, 2020). Despite their ubiquitous nature, reports of illegal activities within the charter school sector are

not found in every state. Some states have avoided charter school scandals while others have reported multiple cases since the inception of their charter school law (The Center for Popular Democracy & Integrity in Education, 2014). Because each state develops its own charter school law, differences between the laws abound (Fordham, 2017; Robertson, 2015).

The fact that reports and adjudicated cases of illegal activity within the charter school sector often involve millions of dollars, can span multiple years without detection, and yet are not found in all states points to the possibility of deficiencies in some state charter school laws.

Purpose of the Study

The purpose of this quantitative study was to determine if a relationship existed between state charter school law scores and allegations of illegal activity within the charter school sector. State charter school laws provide the legal authority, mechanisms, and boundaries under which charter schools and their oversight agencies operate (Robertson, 2015). Because each state develops its own charter school law, differences between the laws abound (Fordham, 2017; Robertson, 2015). Charter school operators in some states have been embroiled in scandals as evidenced by allegations, charges, and convictions of illegal activities (Bischoff & Kelley, 2018; Byard, 2019; McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019; S. Wang, 2020; Wenzke, 2019).

Policy Development

State legislators draw on expertise from multiple sources when developing policy language (Holyoke et al., 2009; Kirst & Wirt, 2009). Education policy has been strongly influenced by the influx of money from philanthropic foundations (Tompkins-Stange, 2016). Foundations have overwhelmingly promoted charter schools, privatization, and deregulation in their funding of resources for legislators (Scott, 2009).

ALEC

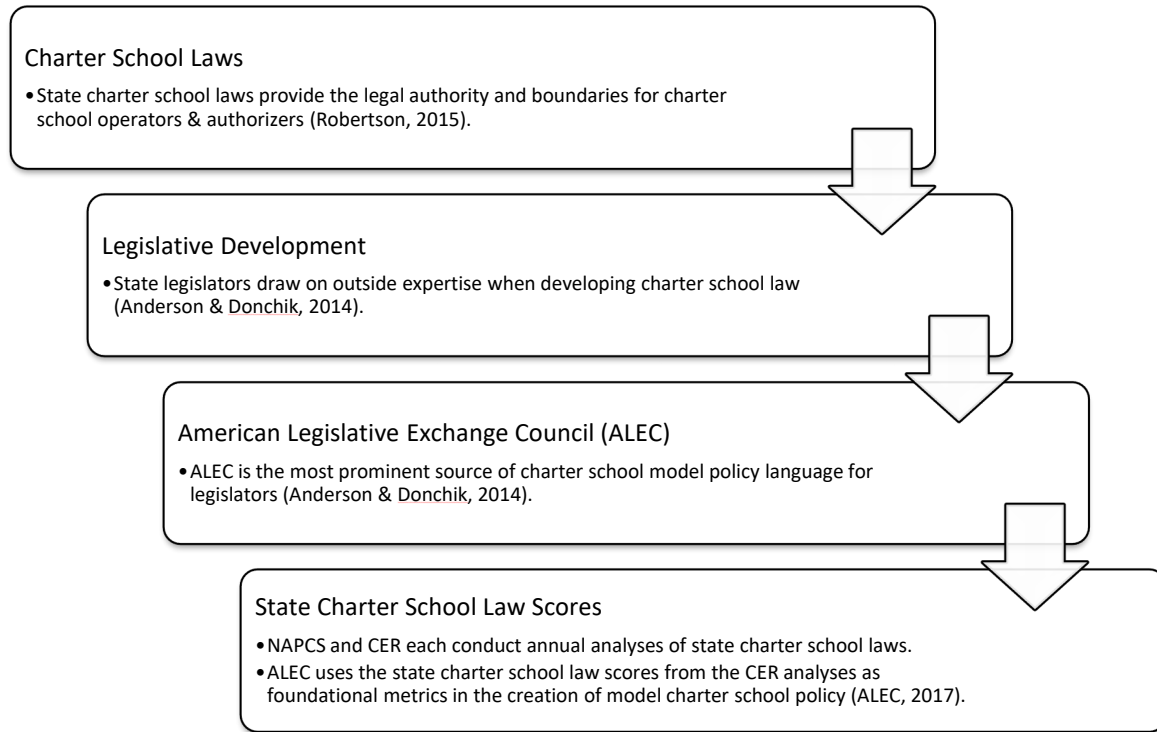
One of the most prominent legislative resources has been ALEC which claims a membership that includes one out of every four state legislators. ALEC is dedicated to free markets and promotes school choice, charter schools, and vouchers (ALEC, n.d). State lawmakers with membership in ALEC are provided with access to policy experts and model charter school policy language (G. L. Anderson & Donchik, 2014).

Impact of State Charter School Law Analyses

NAPCS and CER are charter school advocacy organizations that conduct yearly analyses on state charter school laws. ALEC has consistently used the CER analyses to inform its own work on education policy and as a foundational metric for developing model charter school policy for legislators (ALEC, 2017; CER, 2018). The connection between state legislators, ALEC's model charter school policy language, and the CER state charter school law analyses is significant because, as Chi and Welner (2008) contended, "CER's rankings frame the charter school movement" (p. 275) and provide the basis for labeling charter laws as "weak" or as "strong." Figure 2 displays the drilldown through charter school policy influences.

Research Questions

This study sought to answer one overarching research question: does a relationship exist between state charter school law scores and allegations of illegal activity within the charter school sector? Allegations of illegal activity within the charter school sector were investigated through two descriptive questions. State charter school law scores were examined through three inferential questions, bifurcated along the scores produced by the CER and the NAPCS charter school law analyses.

Figure 2*Drilldown Through Charter School Policy Influences*

Note. NAPCS = National Alliance for Public Charter Schools; CER = Center for Education Reform. Figure created by author.

Questions 1–2 relate to allegations of illegal activity, and Questions 3–8 relate to state charter school law scores. The questions are as follows:

1. What is the nature of allegations brought against charter school operators when allegations of illegal activities exist?
2. What proportion of allegations against charter school operators are converted into charges and what proportion of charges are then converted into convictions?

3. Are CER state charter school law scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017?
4. Are NAPCS state charter school law scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017?
5. Are CER state charter school law sub-scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017?
6. Are NAPCS state charter school law sub-scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017?
7. Do CER state charter school law scores predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017?
8. Do NAPCS state charter school law scores predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017?

Significance of the Study

The relationship between charter school corruption and state charter school laws is a growing concern. Researchers have investigated charter school corruption from the perspectives of deregulation (Green et al., 2016; Tienken, 2021), governance (DeJarnatt, 2013; C. E. Finn et al., 2017), and prosecutorial solutions (Chapman, 2018). Studies have also investigated state charter school statutes (Ertas, 2020; Green et al., 2018; Moran, 2014) and charter law ranking

systems (Chi & Welner, 2008; Scott & Barber, 2002; Witte et al., 2003). This study adds to the literature by examining the relationship and predictive nature of state charter school law scores on the presence of allegations of charter school corruption. The information derived from this study may allow for more informed decisions by legislators when reviewing or amending state charter school laws. Similarly, charter school organizations and lobbyists may utilize the information to address problematic statutes proactively.

Assumptions

In this study, it was assumed that the governmental agencies alleging illegal activity have sufficient evidence to warrant those allegations. The *Criminal Justice Standards for the Prosecution Function* (American Bar Association, 2017) requires prosecutors to file criminal charges only if they have probable cause and believe that evidence will support a conviction. It was assumed that the governmental agencies filing the charges were adhering to the prosecutorial standards. It was also assumed that not all illegal activity was uncovered by the relevant agencies. Historical evidence of charter school corruption (Bischoff & Kelley, 2018; Taketa, 2019b; S. Wang, 2020) demonstrates that illegal activities often persist for years, and that undetected illegal activity is present in any given year.

Delimitations

This study was limited to those states which met the dual criteria of having a charter school law and one or more charter schools in operation during the 5-year span from 2013–2017. For this study’s purpose, the District of Columbia (Washington, D.C.) was considered a state. The study was also limited to charter schools that were in operation in the United States anytime during the 5-year span from 2013–2017. The selected 5-year span provided a robust sample population while simultaneously limiting the study to a recent span of years.

The study was limited to allegations, charges, and convictions of illegal activity that are: (a) associated with the operations of a charter school, (b) alleged to have occurred between 2013 and 2017, and (c) were officially levied by a governmental agency. Limiting the reports to governmental agencies increased the likelihood that frivolous or unsubstantiated allegations were excluded from the study. Additionally, allegations involving non-fiscal crimes such as academic fraud, civil rights, and ethics were excluded.

The data for the sub-score analyses and the predictive modeling were limited to allegations, charges, or convictions reported to have occurred in 2017, the first year that CER transitioned to their current scoring rubric. In this study, predictive modeling was limited to one year to avoid related variables.

Limitations

It is plausible that charter school population variance among the states may introduce an inherent bias. Because this study examined the presence of alleged illegal activity at the state level, states with larger populations of charter schools naturally have more opportunities for illegal activities to arise.

It is plausible that additional instances of illegal activity within the charter sector have occurred within the study's period but have not yet been uncovered or reported. Recently decided cases of charter school fraud (McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019) reveal that illegal activities within charter schools' operations were occurring for multiple years before being uncovered. Additionally, because illegal activities often span multiple years, the probability of a Type I error may be increased.

It is plausible that some of the allegations in the study may not result in charges or convictions. It is also plausible that not all uncovered potential crimes may be included in

governmental allegations or charges. Agencies may have taken a narrow approach and limited the charges to those which were deemed provable or a broad approach and incorporated all potential violations. In either case, allegations do not always result in charges, nor do charges always lead to convictions.

It is plausible that unconverted allegations included in the study may be converted to charges or convictions after the study's conclusion. Court cases often take years to traverse the pathway from that which has been alleged to obtaining a final disposition.

Definition of Terms

The following terms, whether defined or undefined in the narrative, will provide additional clarity to the reading of the study:

Allegation refers to a statement or assertion of something thought to be true but not yet proven to be true (Legal Information Institute, n.d.).

Charge is a formal act by the legal system accusing someone of criminal activity (Legal Information Institute, n.d.).

Conviction refers to a legal decision by a judge or a jury that the defendant is guilty of the charge that was levied by the governmental agency (Legal Information Institute, n.d.).

Fraud refers to an action intentionally designed to acquire financial or similar gain through false statements, misrepresentations, concealment, or deception (Justia, n.d.).

Ghost students refer to students enrolled in a school, for which the school receives funding, but for whom few to no educational services are provided (Scavelli, 2019).

Illegal enrichment refers to actions whereby the primary result is the illegal gaining of personal wealth or institutional funds (i.e., false advertising, self-dealing).

Indictment refers to formal charges issued by a grand jury stating that enough evidence exists of a crime to justify a trial (Offices of the U.S. Attorneys, n.d.).

Organized crime refers to actions by a cluster of related and centralized business operations set up for the main purpose of illegally taking funds (i.e., conspiracy, money laundering, organized fraud).

State grade refers to CER's transposition of their state charter school law scores into an A–F letter grade (CER, 2018).

State score refers to the composite charter school law score for each state, obtained through the application of the annual analyses conducted by CER and by NAPCS.

Sub-score refers to a score that is one part of the larger state score. The sub-scores, when added together, combine to produce the state score.

Theft from charter refers to actions whereby the primary result is the illegal taking of charter school funds (i.e., embezzlement, misappropriation, theft).

Theft from state refers to actions whereby the primary result is the illegal taking of state funds (i.e., enrollment fraud, false claims act, funding fraud).

Theft from federal refers to actions whereby the primary result is the illegal taking of federal funds (i.e., federal program theft, tax evasion).

Theft from institutions refers to actions whereby the primary result is the illegal taking of funds from non-governmental institutions (i.e., banks, lenders, foundations).

Summary and Organization of the Study

The study sought to determine if a relationship exists between state charter school law scores and allegations of illegal activity within the charter school sector. In other words, could the odds of finding illegal charter school activity in any given state be predicted by the states'

charter school law scores? Advocacy groups have been successful in promoting and influencing charter school legislation (Allen et al., 2012) and providing state lawmakers with policy experts and model charter school law language (G. L. Anderson & Donchik, 2014). Both CER and NAPCS, prominent advocates for charter schools, have regularly analyzed and scored charter school laws in each state for their relative impact on the chartering community (CER, 2020; NAPCS, n.d.-a). ALEC, an organization whose membership includes 25% of state legislators, uses the CER analyses of state charter school laws to inform its work on education policy and as a foundational metric in the development of model charter school law language for legislators (ALEC, 2017; CER, 2018). Thus, the state charter school law analyses are influential in the development of state charter school policy. With charter schools continuing to expand in number and allegations of charter school fraud and other illegal activity persisting, it is necessary to explore any associative or predictive connections between charter school laws and allegations of illegal activity within the charter school sector.

This dissertation is divided into five chapters. Chapter one introduces the study by providing contextualization, background information, the conceptual framework, a statement of the problem, the purpose of the study, the research questions, the significance of the study, assumptions, delimitations, limitations, definition of terms, and concludes with a summary and organization of the study. Chapter two reviews the literature that explores the topics of educational reform, school choice advocacy, and charter schools. Chapter three provides the methodology for the study including the research design, research questions, null hypotheses, population and sample selection, data collection and tabulation, data analysis, and summary. Chapter four reports the descriptive statistics and the results of the statistical tests conducted for each research question. Chapter five discusses the findings, conclusions, and implications.

CHAPTER 2

LITERATURE REVIEW

This literature review begins with an overview of contemporary education reform in the United States and then explores the nexus between advocacy groups and charter school laws. Along the way, explorations are conducted into the establishment and proliferation of charter schools, as well as their structure, accountability, and political actors. The final section concludes with an examination of illegal activities within the charter school sector.

Educational Reform in the United States

Education involves the structured imparting of knowledge, especially when linked to a set of skills or profession (Merriam-Webster, n.d.). These professions and their requisite skills are continually changing as the industrial revolution gives way to the information revolution. Education, in response, is continually evolving or reforming.

Historic Targets of Reform

In the mid-1970s, the American public was becoming increasingly concerned over declining student achievement. Student scores on standardized assessments were dropping as was the United States' ranking on international tests and measurements (Chubb & Moe, 1990). Public sector demand was high for the educational system to respond with improvements. Reform efforts were predominantly focused on improving the knowledge and expertise of public school teachers (Ravitch & Vinovskis, 1995; Resnick & Resnick, 1992; Tyack & Cuban, 1995). This thrust of institutional improvement as the main actor in educational reform continued

through the mid-1990s as exemplified by the complementary educational agendas of Presidents Bush (America 2000) and Clinton (Goals 2000). The national agenda was focused on setting standards, creating common assessments, and bringing forth systemic improvement for state and local education (Stedman et al., 1993).

Planting the Seed for Change: Economist Milton Friedman

In contrast to the national focus on institutional improvement, an alternate agenda promoting the reinvention of the U.S. educational institution was beginning to take root. This agenda is typically cited back to economist Friedman's (1955) work, *The Role of Government in Education*, where he presented the case for replacing the state funding model for education with a voucher system. Friedman's work, while not widely accepted at the time, planted the seed for educational choice (Henig, 1994). He advocated for the state to issue monetary vouchers to parents of school age children to fund the tuition at the school of their choice, whether public or private. Schools would then redeem the vouchers from the state's treasury. A primary drive for Friedman's proposal was his idea that competition among the schools for the vouchers would drive school improvement. According to Friedman, public schools maintained a monopoly in the educational marketplace and had little real incentive to reform (Friedman, 1955; Halpin & Troyna, 1995; Hill & Jochim, 2009; Popho, 1998; Rothstein & Jacobsen, 2006).

Setting the Stage: Population Shifts and Segregation

Between the end of World War II and 1960, a significant shift occurred in the population of the United States. Millions of families, spurred on by housing shortages and new freeways, moved from the city centers to the suburbs. Most of these families were young, middle class, and well educated (Holme, 2002; Jackson, 1987). At about the same time, millions of Blacks living

in the rural south began moving to larger cities. Over the next 30 years, the percentage of urban Whites fell from 80% in 1950 to about 30% in 1980 (Julius, 1987).

The segregation of the population was also along economic lines and was reflected in the local schools. By 1980, one out of every three urban Blacks was impoverished (Julius, 1987). Suburban schools, predominantly White and relatively wealthy, consistently performed better than urban schools, which were largely Black and lacked sufficient finances. School choice was principally a matter of geographic location, and wealthier families had the means to relocate (Holme, 2002). Civil rights groups began challenging the equity of public education from a socioeconomic standpoint. *Swann v. Charlotte-Mecklenburg Board of Education* (1971) mandated busing from urban neighborhoods to the suburban schools. Shortly thereafter, *Keyes v. School District No. 1, Denver, Colorado* (1973) established federally mandated desegregation and brought the term *White flight* into the popular vernacular (Armor & Schwarzbach, 1978; Rury, 2020).

Setting the Stage: Desegregation and the Rise of Private Schools

The educational landscape in the 1960s and 1970s was also influenced by the exodus of millions of students into private schools. White Southerners responded to federal and state desegregation efforts by forming both religious and non-religious private schools (Carl, 2011; Henig, 1994). Religious conservatives throughout the United States, in response to the abolition of prayer in schools and their view of the secular philosophies making their way into the public schools, began the Christian school movement. Both groups were supported philosophically by the Catholic Church which represented the largest private school sector across the country (Carl, 2011). Coleman et al. (1982) added to the national discourse by contending that Catholic schools

achieved better results than public schools when serving comparable students despite having fewer resources.

Flashpoint: *A Nation at Risk*

In 1983, the National Commission on Excellence in Education, sponsored by the United States Department of Education, produced *A Nation at Risk: The Imperative for Educational Reform* (Gardner et al., 1983), an evaluative report on the condition of education in the United States. The report acknowledged that while many excellent schools existed, public schools as a system were declining in performance. According to the authors, Scholastic Achievement Test (SAT) scores had consistently declined from 1963 to 1980 as had the percentage of students attaining superior score designations. Schools across the country were generalized as having lowered expectations and reduced academic standards. At the time of the report, 35 states were purported to require only one year of math and one year of science for high school graduation. Recommendations in the report were framed around content, standards, instructional time, teaching, and leadership. The report became a catalyst for action as state assemblies produced legislation mandating accountability directives and educational commissions (Bell, 1993). For its part, the media excoriated the public school system with coverage and headlines that were almost exclusively negative (Bracey, 2003).

Teacher unions at the national level responded to the report. Albert Shanker, president of the American Federation of Teachers, and Mary Futrell, his counterpart at the National Education Association, both lent qualified support to the report's recommendations (Bell, 1993). Shanker addressed the report in a speech to the National Press Club in 1983 and again in 1988. He sought to capitalize on the report by placing the blame for deficient performance on the administrative bureaucracy in which teachers operated. Shanker portrayed teachers as

educational professionals who needed more academic freedom to produce better results. If teachers were untethered, he argued, the innovation and creativity within the teaching profession would be unleashed to solve the performance crisis. He envisioned teachers creating new autonomous schools within existing school districts and even within district schools to serve targeted student populations. School reform under his plan was framed around the teacher and remained firmly within the current educational system (Kahlenberg, 2007; Shanker, 1983, 1988a).

Counterpoint: *Perspectives on Education in America*

Sandia National Laboratories (Sandia) produced a study, *Perspectives on Education in America* (Carson et al., 1993), effectually rebutting the claims of *A Nation at Risk* (Gardner et al., 1983). The Sandia study found that the decrease in high school completion rates reported by Gardner et al. (1983) was due to the compounded effects of the metric used to define dropouts and the dramatic influx of immigrants into the United States. Dropouts can be measured in multiple ways. The *event* dropout metric described the percentage of students who voluntarily left the public school system in any given year while the *cohort* metric described the percentage of dropouts for a single class over time. The *status* metric, which was used by Gardner et al., encompassed all adults who did not have a high school diploma, including recent immigrants. In the years leading up to *A Nation at Risk* (Gardner et al., 1983), legal immigration had increased from just under 200,000 per year in 1940 to over 600,000 in 1980. Adding to that number, the Immigration and Naturalization Service (INS) estimated that illegal immigration was escalating, and had surpassed 200,000 each year (Carson et al., 1993, p. 300). Because of these factors, the Sandia authors reasoned that high school completion rates in *A Nation at Risk* (Gardner et al., 1983) misrepresented the performance of U.S. high schools by including millions of recent

immigrants who had never been in the U.S. educational system. According to the Sandia report, “It is not reasonable to hold the U.S. K–12 education system responsible for someone who ‘dropped out’ in another country, then immigrated here past school age” (Carson et al., 1993, p. 305).

Standardized test scores, as reported by Carson et al. (1993), also tell a different tale than that which was reported by Gardner et al. (1983). While it was true that SAT scores were in decline, the reason for the drop was found to be something other than student performance. A review of the data revealed that “more students in the bottom half of the class are taking the SAT today than in years past” (Carson et al., 1993, p. 272). As the population total of SAT test takers increased in the United States, average SAT scores declined. This was to be expected since more “average” students were attempting to enter college. In addition, the population of SAT takers for whom English was not their native language was increasing each year. When factoring for the increased population of test takers, “the average performance of ‘traditional’ test takers on the SAT has actually improved over 30 points since 1975” (Carson et al., 1993, p. 270). Also included within the Sandia report were assertions that the National Assessment of Educational Progress (NAEP) scores had remained constant or had slightly improved from 1978 to 1986 (Carson et al., 1993).

The Sandia report concluded that the “average performance of U.S. students on international standardized tests remains low” (Carson et al., 1993, p. 288), but explained that cross-cultural comparisons of educational systems using single point tests were of little value. Assessments like the International Assessment of Educational Progress (IAEP) were predicated on curricular sequencing. Those countries which matched the curricular sequence would score higher than those which did not. Cultural factors were also at play. For some countries, scoring

well on the IAEP was highly valued and educators dissected the test to determine proper content, approach, and sequencing. Those countries which designed their curriculum around the international tests were expected to score higher than countries like the United States whose curriculums were set at the state level and aligned to state standards (Carson et al., 1993).

Introduction of the Charter School Concept

Contemporaneously with the release of *A Nation at Risk* (Gardner et al., 1983), Minnesota launched Access to Excellence (Perpich, 1985) which, among other educational reforms, promised school choice in the form of open enrollment across school districts. While district boundary lines remained in place, parents could petition other districts for enrollment. School districts were monetarily incentivized to accept the transfer students through the receipt of state funds apportioned for the students. The measure passed in 1988 and Minnesota became the first state to mandate and fund open enrollment (Junge, 2012).

By the end of the 1980s, a relatively new educational concept called *chartered school* was beginning to gain exposure. The term charter had first been applied to an educational restructuring concept in a 1974 conference paper by Ray Budde. At the time, the paper was met with a tepid response and educational reformers continued to focus their efforts on changes that were more politically viable (Garn & Cobb, 2001). In the ensuing years, the national discourse on school reform shifted toward choice and Budde published the paper in 1988 under the title *Education by Charter* (Budde, 1988, 1989; Renzulli & Roscigno, 2005). Budde's educational reform proposal was the first comprehensive response to *A Nation at Risk* (Gardner et al., 1983) and contained all the fundamental tenets of the modern understanding of charter schools (Tell, 2016). Shanker, following his 1988 National Press Club address, penned *Restructuring Our Schools* (Shanker, 1988b) in which he also referred to the new schools as charter schools.

Significantly and distinct from Budde's vision, Shanker kept the new chartered schools within the framework of the traditional public school district and, therefore, still influenced by the local teacher's union (Kahlenberg, 2007; Shanker, 1988b).

Rational Choice Theory

By 1990, the national discourse on education was highly critical of the current public school system and the failed attempts at reformation (Steinberg & David, 1991). A 1990 Gallup poll found that only 21% of respondents felt that the public schools, nationally, were worthy of an A or B grade (Elam, 1990). Educational reform discussions were firmly centered on school choice rather than on school improvement or school restructuring (Hill & Jochim, 2009). Integral to much of the educational research was the rational choice theory (RCT) or market theory which stated that individuals would consistently choose options they believe would maximize their preferences (Boyd et al., 1994; Coleman, 1992; Henig, 1994). RCT, as applied to school choice, stated that parents, if given the opportunity, would choose the school that best fit the educational needs of their child (Berends, 2020). Along the thinking of Friedman (1955), Chubb and Moe (1990) proposed a system of allowing parents to choose schools through the issuance of educational vouchers. The marketplace dynamics of parental choice would create competition among the schools with the anticipated results of increased responsiveness, productivity, and efficiency. Kolderie (1990) argued that school choice did not exist when the options were all similar and originated from within the same educational system. He advocated for the creation of new innovative schools to be operated by contract, or charter, outside of the school district administrative structure. Authorizing agencies, approved by the government, would be created to oversee the process. Kolderie postulated that the monopoly on education that was held by the local school districts would need to be removed for educational reform to occur. Nathan (1997)

promoted that charter schools should be viewed as competitors to traditional public schools and that the interaction between the two would force improvement on the stagnant public school system. Policy studies soon emerged discussing the relationship between the charter school and potential government oversight agencies (Hill & Jochim, 2009; Hill et al., 2002).

Resistance to the Charter School Concept

Resistance to the charter concept came from public school advocacy groups in the form of teacher unions, both local and national, administrator groups, and policy advocates such as the Center for Education Policy (DeBray-Pelot et al., 2007). A recurring theme against school choice was that it weakened the local public school system by drawing away money, students, and political support (Abrams, 2016; Henig, 1994). Godwin and Kemerer (2010) argued that students who came from families who opted for the alternative were generally more motivated and interested in learning than students from the non-choosing families. The exodus of these motivated students, they reasoned, had a deleterious effect on the culture of the school for the students who remained. Anti-choice advocates contended the American citizen had a moral onus to put public interest ahead of private interest. The need for an educated citizenry with common experiences and exposure to diverse economic and cultural backgrounds was a societal interest (Labaree, 1997). Equality was also cited as a driver for opposition to the charter concept. Education should be a common experience regardless of wealth, location, or ability (Burris, 2014). Curricular expectations and rigor should be as equivalent as possible among schools (Baker & Welner, 2010). Charter schools, by virtue of their disparate curriculum, methodologies, and exclusivity, created an inequitable experience (Wolf, 2020).

Despite considerable efforts in the early 1990s to stop charter legislation from advancing, the defenders of traditional public education were losing most of the policy battles. By 1994,

teacher unions at the state level had largely abandoned attempts at blocking legislation and were instead focused on shaping the charter legislation as it moved forward (Holyoke et al., 2009).

The intent of the unions was to keep all the new charter schools within the structure of the local school district and thereby cause all charter school employees to be subject to the district's collective bargaining agreement (Buechler, 1996). Research describing the relationship between unions and charter laws found it to be inversely proportional. Weaker unions were associated with more permissive charter laws while stronger unions were related to charter laws that were more restrictive (Mintrom, 2000).

The Adoption of the Charter School Concept in Legislation

The first charter school legislation was enacted in 1991 in Minnesota, three years after introducing open enrollment. Originally called outcome-based schools, the legislation was designed to afford teachers and parents the freedom to create new public schools outside the traditional school district system. The stated legislative purpose was to provide new educational opportunities for students and to create an arm of “research and development” (Junge, 2012, pp. 4–5) within the K–12 sector of public education. The following year, California joined the charter school landscape, and, in 1993, six more states enacted charter policy (Mintrom & Vergari, 1997a).

Improving America's Schools Act (1994)

At the federal level, Lieberman (D-CT) and Durenberger (R-MN) built upon the work of Budde (1988, 1989), Shanker (1983, 1988a, 1988b), and Kolderie (1990) by sponsoring the first federal charter school law. President Bill Clinton included the charter school provisions in the Improving America's Schools Act (1994), a reauthorization of the Elementary and Secondary Act of 1965 (Hess & McShane, 2018; Junge, 2012).

Goals 2000: Educate America Act

Goals 2000: Educate America Act (1994), initiated by President Clinton, focused on creating academic standards, aligning policies and accountability programs to state standards, and restructuring the governance system to allow for local authority regarding instructional practices. States were encouraged, not mandated, to take corrective actions with failing schools. By 2004, every state but one had developed academic standards for most subjects (Hess & McShane, 2018; Kirst & Wirt, 2009). Included in the federal legislation was the first authorization of federal funds for charter schools (Office of the Under Secretary, 2004). An amendment added to the Charter Schools Program (CSP) for the purpose of providing a competitive grant program for the “planning, program design, implementation, replication, and expansion of charter schools” (Hess & McShane, 2018, p. 128). In 1995, the funding provided for the CSP was slightly over \$4.5 million (U.S. Department of Education, 2020).

No Child Left Behind Act of 2001

No Child Left Behind Act of 2001 (NCLB, 2002) was the landmark education legislation signed into law by President George W. Bush. Building and expanding on Goals 2000, NCLB increased the federal role in education by establishing new standards and goals for schools. A significant departure from Goals 2000 was the prescriptive mandate for corrective actions for schools deemed to be failing. Teachers were to be highly qualified (HQT) according to federal definitions and schools were to be measured by a new criterion known as adequate yearly progress (AYP). Each state education agency (SEA) was required to create measures of AYP based on national or state level standardized tests in grades 3–8 for math and language arts. Because accountability was derived from these tests, they became colloquially known as “high stakes tests.” Schools that did not meet AYP were subject to corrective measures which became

increasingly more punitive the longer the school remained in AYP failure (Hess & McShane, 2018; Kirst & Wirt, 2009; Spring, 2018). The chartering community benefitted from increased funds available for CSP grants and by the end of the Bush presidency in 2008, the annual CSP funding had reached \$198 million (U.S. Department of Education, 2020). NCLB was replaced in 2015 because the “prescriptive requirements became increasingly unworkable for schools and educators” (U.S. Department of Education, n.d., p. 1).

Race to the Top Fund

The American Recovery and Reinvestment Act (ARRA, 2009) was signed into law by President Barack Obama. A key component to ARRA was the Race to the Top Fund (RTTT) which allocated an additional \$4.35 billion of federal money to states through a competitive grant program. Much like NCLB, RTTT focused on student achievement, closing achievement gaps, improving graduation rates, preparing students for college and career, and establishing rigorous state academic standards. However, RTTT took the approach of monetarily incentivizing states to enact legislation favorable to federally defined conditions for education innovation and reform. Significant for the chartering community was the inclusion of legislative conditions regarding charter school viability. To qualify as an applicant for ARRA funds, states were required to remove limitations on the number of charter schools, ensure equitable funding for charters when compared to regular district schools, and provide charter school funding for facilities (Office of State Support, 2009). By the time RTTT ended, 46 states had legislation in place to qualify for ARRA funds, thus ensuring open doors for charter schools (Office of State Support, 2015).

Elementary and Secondary Act of 2015

The Every Student Succeeds Act (ESSA, 2015) reauthorized the Elementary and Secondary Education Act of 1994 and replaced NCLB. Among the several changes to federal education policy, ESSA eliminated the NCLB requirements for AYP, HQT, and the prescriptive corrective actions for failing schools (National Association of Secondary School Principals, n.d.). ESSA expanded the breadth of the academic standards to include college and career readiness (CCR) goals and mandated their inclusion in statewide assessments. Noteworthy provisions for the chartering community were included to support and grow local innovations through public-private partnerships to turn around the lowest performing schools. Two grants specifically mentioned in ESSA were Promise Neighborhoods and Investing in Innovation, both from the Office of Innovation and Improvement, which encouraged school choice and charter schools (DeBray-Pelot et al., 2007; U.S. Department of Education, n.d.). By the time President Obama left office in 2016, the annual CSP funding had risen to almost \$332 million. ESSA continued under President Donald Trump and increased the CSP funding for 2019 to approximately \$422 million (U.S. Department of Education, 2020). As of 2019, all but five states had charter school policies on the books (Rafa et al., 2020).

Policy Diffusion

Policy diffusion is the concept that policies in one political unit are influenced by the policies of other political units (Gilardi & Wasserfallen, 2019). Research into the diffusion of policy across the United States has revealed that a multitude of factors are in play. Economic conditions and crisis perception (Daley & Garand, 2005), policy entrepreneurs (Baumgartner & Jones, 1993; Mintrom, 1997), competition between states (Volden, 2002) and policy learning or imitating success (Nicholson-Crotty & Carley, 2016; Walker, 1969) are all significant influences

affecting the spread of policy from one state to another. Specific to the diffusion of charter school policy, Renzulli and Roscigno (2005) found geographic proximity to be a highly significant factor in legislative mimicry between states. Wong and Langevin (2007) established that charter policy adoption in Republican controlled governorships was nearly three times higher when compared to those controlled by Democrats. Additionally, states with low levels of classroom spending were positively associated with the passage of charter legislation. This latter finding served to support the theory that competition brought about through charter schools held the promise of greater efficiency (Holyoke et al., 2009). Finger (2018) added to the research by determining that charter policy was strongly related to interest groups who received some form of direct benefit from the policy.

Professional advocacy networks were integral to the spread of legislative policy. In their research into the diffusion of educational reform, Mintrom and Vergari (1998) defined these networks as a collection of individuals with shared common interest in a policy area and who are directly and indirectly connected. One such network, ALEC, has been successful in deliberate educational policy diffusion. Underwood and Mead (2012) found that Wisconsin, Indiana, and Ohio all introduced similar legislative bills in 2011 proposing substantive changes to collective bargaining and school funding using the model policy language provided by ALEC. Their research also uncovered that Tennessee's Virtual Public Schools Act incorporated direct quotes from the ALEC model policy on virtual education (Underwood & Mead, 2012). Shaffer et al. (2018) established that Indiana voucher law closely mirrored the ALEC proposed language and noted that 27 Indiana legislators, including the chair of the education committee, were members of ALEC. The Indiana Education Reform Package of 2011, and as amended in 2016, were both nationally promoted by ALEC as model policy (ALEC, 2016). Despite the effects of diffusion,

both intentional and organic, charter school policies were found to have a high degree of variability from state to state (Fordham, 2015, 2017; Rhim et al., 2007; Shober et al., 2006).

School Choice Advocacy

By the year 2000, the general public was expressing increased frustration in the progress of the traditional public school system (Hess & McShane, 2018; Kirst & Wirt, 2009). The consumer mentality, which had been increasing throughout the 1990s, was making inroads into the educational system. In response, 34 states had joined the chartering movement by enacting some form of charter school legislation (Bulkley & Fisler, 2003).

The Rise of Educational Conservatism

The spread of charter school policy across the United States was facilitated by the corresponding rise of educational conservatism which cut across political divides. The centrality of educational conservatism was clearly demonstrated in the complementary initiatives of Presidents George W. Bush (R) with NCLB (2002) and Barack Obama (D) with ARRA (2009). Collectively, these enactments from both sides of the political aisle helped to propel the charter school movement forward (Hess & McShane, 2018).

While school choice was a position held by educational conservatives on both sides of the political aisle, it was for decidedly different reasons (Wells et al., 1999). Republican educational conservatives tended more toward viewing school choice as an avenue for market driven accountability whereas those on the Democratic side typically promoted choice as an avenue for social justice (Saltman, 2018). Carl (1994) demonstrated that the view of market driven privatization found common ground with the push for parental choice. Over the years, school choice had taken on many forms including open enrollment, vouchers, magnet schools, tax

credits, education savings accounts, and charter schools (Ford & Merrifield, 2013; Saltman, 2018).

Notwithstanding the political centrality of the movement, educational conservatives diverge into two main groups: cultural conservatives, also known as neoconservatives, and fiscal conservatives, alternately known as neoliberals or corporate school reformers. Cultural conservatives tend to emphasize curriculum and pedagogy. Educational content is valued and a common body of knowledge for all society is essential. To corporate school reformers, the primary purpose of education rests in workforce preparation. The successful transition from student to worker or to higher educational levels is paramount (Saltman, 2018).

Cultural Conservatives

The Common Core State Standards Initiative was the seminal work to arise out of this camp. Developed through a collaboration between the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO), the Common Core was “to ensure all students, regardless of where they live, are graduating high school prepared for college, career, and life” (Common Core State Standards Initiative, n.d., p. 1). Two distinct categories of standards were created. College and career readiness standards addressed the body of knowledge and processes that students were expected to know prior to graduation. K–12 academic standards were then added as the structural framework for curricular content from elementary school through high school (Common Core State Standards Initiative, n.d.). Charter schools were valued for their potential varied and innovative pedagogical approaches to the delivery of this content.

Fiscal Conservatives

Corporate school reformers have held the greater political sway throughout the past twenty years. Since the publication of *A Nation at Risk* (Gardner et al., 1983), corporate school reformers have focused on improving the outcomes of schooling in the United States. Choice and competition were viewed as requisite drivers for improvement, and educational deregulation and privatization together were seen as the means to that end (Harvey, 2007). Parents, and subsequently students, were viewed as consumers who would shop around for the best educational deal. Schooling under this lens must be measurable and quantifiable to provide parents with the basis for informed choice (Saltman, 2018; Sullins & Miron, 2005).

The passage of NCLB in 2001 provided a ready marketplace for companies involved in providing standardized assessments and test preparation materials. All states were mandated to develop or adopt tests that annually measured student achievement in reading and math in grades 3–8 as well as once in high school (Close et al., 2018). Commensurately, the business sectors involved with test prep and testing developed into multi-billion-dollar industries (Leistyna, 2007; Tampio, 2019). The Common Core content standards established by cultural conservatives provided the objectives for the fiscal conservatives to measure and quantify. Charter schools, by virtue of offering an educational option or choice, were valued by corporate school reformers for bringing competition to the district school monopoly (Saltman, 2018).

Advocacy Groups

The educational marketplace in the United States is a \$2 trillion business with billions spent each year to affect educational conditions and outcomes (Bertrand et al., 2018; IBISWorld, 2020). Choice advocacy groups have been successful in promoting and generating legislation establishing charter schools on the educational landscape (Allen et al., 2012). Early influencers

on policy reform included Washington-based think tanks such as the Heritage Foundation, the American Enterprise Institute, the CATO Institute, and the Brookings Institute. The Heritage Foundation was the most successful of the early influencers in generating educational reform by supplying policy makers with short, concise position papers tied to educational research (Carl, 1994). After the first charter law passed in 1991, national support organizations expanded in number and influence. Foundations such as the Walton Family Foundation, the Bill & Melinda Gates Foundation, and the New Schools Venture Fund provided strategic financial support to organizations that promoted school choice and specifically charter school policy (Ferrare & Setari, 2018; Zeichner & Peña-Sandoval, 2015). Advocacy groups used the infusion of funds to increase capacity and establish a national presence. Organizations such as Public Impact and the CER focused primarily on research and the dissemination of reform-friendly information. Others, such as NAPCS and NACSA, provided resources and networking for the charter sector (CER, 2020; Ferrare & Setari, 2018; Kirst, 2007; Public Impact, n.d.).

Educational Philanthropy

Education reform in general and charter schools in particular have greatly benefitted from the monetary support provided by philanthropists and foundations (Baltodano, 2017; Reckhow & Snyder, 2014). Barkan (2013) and Johnson (2018) reported that philanthropic organizations annually infuse about \$1 billion into public education in the United States. While this money comes from a vast number of organizations, the lion's share is concentrated into a few mega-donors (Baltodano, 2017; Barkan, 2011; Kumashiro, 2012), the core of which were the Ely and Edythe Broad Foundation, Bill & Melinda Gates Foundation, and the Walton Family Foundation (Hess & Henig, 2015; Ravitch, 2013). During the late 1990s, these mega-donors began to increase their giving dramatically toward education reform advocacy while commensurately

decreasing their funding flows into traditional public education (Hess, 2012; Reckhow & Snyder, 2014). Swensson and Ellis (2016) described how this infusion of private money into educational reform fundamentally altered the public nature of policymaking in both federal and state legislatures. The allure of philanthropic funding is reported to create alliances between wealthy education reformers and policymakers, thus giving private interests an outsized decision-making role in crafting policy language (Lubienski, 2013; Ravitch, 2013; Simon, 2015; Swensson & Ellis, 2016).

Venture Philanthropists

The shift in educational philanthropy toward the creation of new educational opportunities rather than systemic improvement coincided with the rise of a new generation of donors, many who had made their fortunes in Silicon Valley (Hess, 2012; Reckhow & Snyder, 2014; Scott, 2009). Historically, educational philanthropy had been attentive to building institutional capacity through funding initiatives whose goals were to remedy inequalities, address local issues, or pilot new programs and practices with the intent of scaling up and promulgating successes to K–12 schools across the country (Colvin, 2005; Gasman, 2012). However, few of these programs expanded and fewer still survived once the funding was removed. One noted example of this lack of transference was the 1993 Annenberg Challenge, a \$500 million matching grant targeting systemic improvement in both public schools and their communities. For the grant recipients, conditions reverted back to pre-funding status once the monetary support was removed (Fleishman, 2007). Despite the influx of money, systemic improvements within public education remained elusive (Hess, 2012). The shift that occurred in educational philanthropy emanated from the new donors' focus on influencing the creation of new legislative policy designed to provide the legal basis for the public funding of school choice

(Barkan, 2013; Hess, 2012; Ravitch, 2013). Kumashiro (2012) explored this change by contrasting the previous focus of donations used to support existing work with the new focus on creating entryways into educational sectors. By pursuing school choice and privatization, these new philanthropists were leading policy change efforts to reframe education through creating the institutions they were funding (Scott, 2009). In the literature, these new philanthropists were collectively referred to as philanthrocapitalists or venture philanthropists (Baltodano, 2017; Barkan, 2013; Ravitch, 2013). Similar to venture capitalists who seek out companies for investing, venture philanthropists actively pursued innovators, educational reformers, and policymakers (Colby et al., 2005; Scott, 2009). Marked by their use of capital to support specific socio-educational policies and purposes, they had monetarily surpassed all other forms of philanthropy within the educational sphere (Barkan, 2011; Kumashiro, 2012; Saltman, 2010).

Policy Networks

According to Au and Ferrare (2014), venture philanthropists have increased their collective influence on educational reform through strategic partnerships with other venture philanthropists. Policy networks are formed as multiple philanthropists tend to target the same organizations for funding and use similar strategies in their pursuit of related policy outcomes (Sabatier & Jenkins-Smith, 1999; Scott, 2009). Policy network groups developed similar ways of referring to public education and school reform that made their agenda appear desirable despite its potential drawbacks. They did so by emphasizing the benefits of parental control and choice while minimizing any potential threat (Feuerstein, 2015). Scott and DiMartino (2010) established the coordination of effort between philanthropists, researchers, and reform advocates to affect the rapid expansion of charter schools within the urban setting. Charter schools, by virtue of adding competition within the public school system, were valued both as a means to increase

deregulation as well as provide the impetus for systemic improvement (Lubienski, 2013; Scott, 2009; Wisdom, 2015).

Two of the most active venture philanthropic organizations anchoring these policy networks in the educational arena were the Bill & Melinda Gates Foundation and the Walton Family Foundation (Baltodano, 2017; Barkan, 2011; Kumashiro, 2012). In 2019 alone, these two foundations collectively funneled over \$600 million into education (Bill & Melinda Gates Foundation, 2020; Walton Family Foundation, 2020). In 2008, the Bill & Melinda Gates Foundation was responsible for spearheading the development of the Common Core Standards and had invested close to \$2 billion in that endeavor (Ravitch, 2020). In that same year, Bill Gates and Ely Broad, another mega-donor, collectively spent \$60 million to insert public school curriculum standards and teacher quality into the 2008 presidential election (Scott, 2009). One year later, Race to the Top (RTTP) was launched by the Obama administration which required the endorsement of common national standards as a prerequisite qualification of eligibility for states to apply for the billions that RTTP offered. The Common Core Standards were the only national standards available, and forty-five states signed on (Ravitch, 2020).

Philanthropic Funded Research

Researchers have also described the strategic funding of pro-reform research as another methodology that venture philanthropists used to support the advancement of education reform (Hess & Henig, 2015; Lubienski et al., 2009). Rather than receiving proposals from outside the organization, they regularly designed projects and hired or funded individuals who were likely to produce favorable results (Barkan, 2013). Vergari (2007) observed that neutrality in educational research had all but vanished and that conclusions could be predicted simply by looking at the name of the author or sponsor of the research. Feuer (2016) further investigated the philanthropic

effect on research and noted that research independence was diminished by the goals of strategic philanthropy, the diminishing pool of federal funds, and researcher employment being tied to funding.

Charter Law Analysis and Rankings

Educational research has also been conducted by advocacy groups, often receiving funding from one or more venture philanthropists, with the goal of strengthening their position or furthering their cause. Two of these groups, NAPCS and CER, have regularly researched and analyzed state charter school laws for their relative impact on the chartering community (CER, 2020; NAPCS, n.d.-a). NAPCS and CER each publish a yearly ranking of states about the strength of their charter school legislation (Candal, 2018; Ziebarth, 2019).

NAPCS

The charter school law analyses conducted by NAPCS includes 21 components derived from the basic charter school concepts of autonomy and accountability. Imbedded within the components are measures of flexibility, deregulation, financial support, accountability, performance, monitoring, and transparency. NAPCS uses its own model charter school law as the standard against which all state charter school laws are compared. Over the past several years, NAPCS has affected state charter school policy by assisting state legislators craft or revise legislation using the NAPCS model charter school law. With the 2019 analysis, NAPCS added a disclaimer that the states whose legislators used NAPCS to help craft charter school policy received a positive ranking effect (Ziebarth, 2019).

CER

The CER analyses produce scores in the areas of: (a) the presence of multiple, independent authorizers; (b) the number of charter schools permitted and caps on growth; (c)

operational and fiscal autonomy; and (d) equitable funding when compared to traditional public schools. Each area is given a score, and a rubric is used to formulate an overall state score. States are then assigned letter grades using the typical A–F grading scale. Notable for their absence from the CER metrics are any evaluative measures regarding accountability. CER is an advocate for the deregulation of charter schools, and it is this vantage point that underscores the methodology for their analyses (CER, 2018). According to Allen (2017), founder and CEO of CER, “the emphasis [of the charter movement] should be on eliminating hurdles to growth” (para. 21). Over the years, CER has consistently given higher scores to charter laws that are permissive and lower scores to those which are restrictive or prescriptive (Candal, 2018; Chi & Welner, 2008). Among the supporters CER lists as their “longest-running and most prolific givers” (CER, n.d.-a, para. 1) are The Broad Foundation, The Bill & Melinda Gates Foundation, and The Walton Family Foundation.

A critical look into charter law ranking systems was conducted by Chi and Welner (2008). Their research found that the charter law evaluation systems using grades or rankings were value dependent and likely to be misleading due to the general public’s lack of understanding of the values underpinning the rankings. Scott and Barber (2002) reported that a political value was inherent in the CER analyses and that higher scores were given to laws that were more permissive or resulted in deregulation. Markedly absent from the CER assessments were any components analyzing the quality of education, academic standards, or student achievement. In a similar vein, researchers noted that within the chartering movement, laws that were more permissive were designated as strong laws whereas those that were more restrictive or prescriptive were called weak laws. Permissive charter laws were valued because they provided minimal barriers, few restrictions, and the greatest flexibility for establishing and operating

charter schools (Candal, 2018; Chi & Welner, 2008; Renzulli & Roscigno, 2005; Ziebarth, 2019).

ALEC

Charter school policy networks supply resources, policy analysis, and model policy language for state legislators (ALEC, 2020; DeBray-Pelot et al., 2007; Underwood & Mead, 2012). One of the most prolific and powerful policy networks was ALEC whose stated goal was to ensure legislators were equipped to win policy debates in their local legislative arenas (ALEC, 2020; Ravitch, 2013; Reckhow, 2012; Saltman, 2010). In the mid-1990s, ALEC's membership included over 2,400 state legislators from both major political parties and represented all 50 states. Of those members, almost one-third held leadership positions in their legislatures. While ostensibly bipartisan, the membership was primarily Republican with a subset of conservative Democrats. ALEC's stated pillars of limited government and free markets aligned squarely with the choice movement (G. L. Anderson & Donchik, 2014). It is noteworthy that the mission of ALEC was also to provide the private sector with an "unparalleled opportunity" (LeFevre & Hederman, 2001, p. 4) for a seat at the table in developing public policy. ALEC determined that the then current educational system, despite receiving large increases in funding, was unable to make necessary systemic improvements and that new educational models were needed to circumvent the "entrenched public education system" (LeFevre & Hederman, 2001, p. 8) and bring choice and freedom to parents and students. Charter schools, vouchers, and tax credits were all potential contenders in the search for the new system. The extent to which the membership of ALEC abandoned the public educational system was summed up in their hope for an "entirely new system" (LeFevre & Hederman, 2001, p. 8) within 50 years. Feuerstein (2015)

investigated the origin of parent trigger laws in the United States and found ALEC to be a primary driver framing the public school system as a broken institution.

Charter Schools

Charter schools in the United States are publicly funded semi-independent schools that operate outside of and parallel to the local school district administrative structure (Betts & Hill, 2010; Office of the Under Secretary, 2004; Snyder et al., 2019). Despite functioning outside the school district structure, charter schools are not private schools. They are funded by public dollars and open to all students (Tell, 2016). Because both charter schools and district schools serve to educate students, shared objectives can create the appearance of commonality. Both educate students along a set of determined curricula, and both are often measured by the same performance objectives. Charter schools, however, are fundamentally different from district schools in the core elements of establishment, oversight, governance, and accountability (Hill et al., 2001; McFarland et al., 2019; Office of Educational Research and Improvement, 1997). Wide differentiation also occurs within the charter school sector. Even the most cursory review reveals broad differences in structure, pedagogy, population, size, management, and results (Bulkley, 2011; Gleason, 2019; Tell, 2016). Despite the dissimilarities among the schools, the core concept found at the heart of each charter school is the promise of superior performance in return for reduced regulations (Office of Inspector General, 2012; Stillings, 2005).

Charter School Theory

Charter school theory is premised on the concept of coupling increased autonomy with increased accountability (L. Anderson & Finnigan, 2001; Bulkley & Fisler, 2003; Mintrom & Vergari, 1997b). The establishment of charter school legislation would provide the conditions under which new schools would arise, thus expanding choice and variability (Kolderie, 1990;

Nathan, 1997). Autonomy and flexibility would be delivered through waivers from certain state laws and regulations as well as through a governance structure independent from local school districts (Garn & Cobb, 2001; Mintrom & Vergari, 1997a). Accountability would come through the mechanisms of parental choice and charter contracts. It was reasoned that if charter schools were not performing, they would encounter the bifold risk of parents withdrawing their children and oversight agencies terminating the charter contract (Hess, 2004; Kolderie, 1990; Sullins & Miron, 2005). The relationship between autonomy and accountability was postulated to promote innovation in the areas of curriculum, pedagogy, and organizational efficiency (Henig, 1994; Mintrom, 2001). This interplay of autonomy, accountability, and innovation would provide the conditions for improved student achievement, parental satisfaction, and teacher empowerment, while simultaneously raising the overall quality of traditional public school districts by virtue of competition for student enrollment (Bulkley & Fisler, 2003).

Legal Establishment of Charter Schools

All public schools exist through legislation enacted at the state level (Manna, 2012). Charter schools, though a subset of public schools, exist through additional state legislation distinct from traditional public schools (Robertson, 2015). By 2019, 45 states had passed legislation instituting and funding charter schools (Rafa et al., 2020). Fundamental to all charter school legislation is the establishment of an authorizer. Authorizers, alternately known as chartering agencies or sponsors, are legislatively granted the authority to approve the formation of charter schools (L. Anderson & Finnigan, 2001; Tell, 2016). Absent that authority, local school districts would operate virtually all state funded primary and secondary schools (National Center for Education Statistics, n.d.). In states that have enacted charter school legislation, charter school authorizers may include local education agencies or school districts, state

education agencies, higher education institutions, independent charter boards, municipal governments, and not-for-profit organizations (L. Anderson & Finnigan, 2001; Gustafson, 2013; NACSA, 2016). According to a Public Agenda (2015) study, 90% of charter school authorizers were local school districts.

Structure and Key Actors

There are four primary components or actors within the charter school arrangement: an authorizer, a governing board, an operator, and a charter or contract (C. E. Finn et al., 2017). Authorizers, as previously discussed, establish the legal standing of the charter school as a publicly funded educational institution, construct and execute the charter contract, and monitor or oversee the adherence of the charter school to the contract (L. Anderson & Finnigan, 2001; L. Anderson et al., 2003; Gustafson, 2013). Contracts, referred to as charters, are developed between authorizers and governing boards to delineate the conditions under which the charter schools are established, operate, and are evaluated (Bulkley, 2001; Nathan, 1997; Ziebarth, 1999). The governing board, also called the organizing agency, is typically an IRS-approved non-profit. Most of the time, the board of the non-profit either serves as the charter governing board themselves or appoints the board. Rarely are charter school boards ever elected by local taxpayers (Baker & Miron, 2015). The operator is a site-based management organization that hires staff, sets the curriculum, manages resources, and runs the school (C. E. Finn et al., 2017; Koppich, 1997; Nathan, 1997). Operators are divided into one of two categories: community-based organizations (CBOs) or management organizations (MOs). CBOs are usually local, mission-oriented, and non-profit while MOs tend to be national in scope and are subdivided by tax status. Of the MOs, charter management organizations (CMOs) are non-profits while education management organizations (EMOs) have the status of for-profit (Brown et al., 2004;

Hill et al., 2001; Wohlstetter et al., 2011). As private businesses, for-profit EMOs are often shielded from public oversight and disclosure rules, complicating both the board's governance and the authorizer's oversight (Pazhouh et al., 2015).

Authorization

Authorizers are tasked with three fundamental responsibilities: evaluating applications, performance monitoring, and determining renewals or terminations (Hassel & Vergari, 1999; Vergari, 2001). Because they are not involved in the daily operations of charter schools, authorizers typically rely on outputs such as reports, minutes, audits, and other documentation (Mumma & West, 2018). NACSA, the preeminent association for authorizers, states that “a quality authorizer refrains from directing or participating in educational decisions or choices” (NACSA, 2018, p. 18) that are allocated to the school within the charter contract. Performance monitoring, often referred to by the term oversight, consists of evaluating compliance with the charter contract as well as the performance measures established within the charter (Sugarman & Kuboyama, 2001). Performance monitoring has consistently included academic and fiscal indicators. Yearly statewide academic assessments and growth measures usually provide the basis for the determination of academic health (Christie et al., 2014; Vergari, 2000). Financial health typically involves the inspection of yearly budgets, financial recordkeeping, and reviewing fiscal audits (L. Anderson & Finnigan, 2001). Hornbeck and Malin (2019) reported that state auditors have played an increasingly significant role in the fiscal monitoring of charter schools.

Charter School Board and Governance

Governance, as opposed to oversight, is process oriented and is the responsibility of the charter school's governing board. The charter school board establishes and oversees the policies

underpinning the daily operations of the charter schools over which they govern. They adopt budgets, have fiduciary responsibilities, enter contracts, are accountable for student achievement, and are legally responsible for the school (Dingerson & Ross, 2016; C. E. Finn et al., 2017). Fordham (2015) investigated the charter school governance provisions for 43 states and found that governance was primarily the creation of the charter school operator and was delineated in the application or in the charter itself. Furthermore, she reported that only nine states had statutory mandates regarding the membership or composition of the charter board (Fordham, 2015). This lack of statutory definition has contributed to the wide variability found in charter school governance structure, membership, and affiliations (Baker & Miron, 2015; Sullins & Miron, 2005).

Operations and Management

Operators are distinct from service providers or vendors in that they have executive authority over the charter schools they operate (Miron & Gulosino, 2013). Within the research, operators have been classified into three types: freestanding, charter management organizations (CMOs), and education management organizations (EMOs). The term freestanding is used to describe operators that are independent, having authority over one or two schools. Freestanding operators are almost exclusively non-profit and local. Larger management organizations, having authority over multiple schools, are sub-divided into the other two types. CMOs are non-profit while EMOs are for-profit (Baker & Miron, 2015; Emerson, 2013; Wohlstetter et al., 2011). Non-profit operators, both freestanding and CMOs, tend to be mission-oriented and rooted in civic responsibility (Henig et al., 2005). NAPCS (David, 2018) indicated that non-profit operators accounted for approximately 88% of all charter schools during the 2016–2017 school

year. Of that number, 65% were freestanding and functioned independently from any management organization. The remaining 23% of the non-profits were classified as CMOs.

Together, CMOs and EMOs account for about 35% of the charter school population. The for-profit EMOs tend to operate larger schools, accounting for 12% of schools but 18% of enrollment (David, 2018). Within the virtual school sector, EMOs enrolled more than four times the number of students than all other types of virtual schools (Miron et al., 2018; Molnar et al., 2019). Twenty years after the establishment of the first charter school, the for-profit EMO landscape had consolidated into 14 organizations accounting for 70% of the multi-million-dollar for-profit charter management sector (Miron & Gulosino, 2013).

Many states do not allow charters to be held by for-profit organizations. However, Morley (2006) suggested that many charter schools could not be clearly differentiated as either non-profit or for-profit and proposed that operators should be viewed on a continuum with non-profit at one end and for-profit at the other. He found that 19% of the non-profit organizations that held charters contracted with for-profit entities for management services (Morley, 2006).

Accountability Measures

Charter school accountability is bifurcated along two avenues: the charter contract and public choice (Bulkley, 2001; Manno et al., 1998; Vergari, 2000). The charter contract is a legal agreement between the authorizer and the charter school organizer delineating the framework and conditions under which the charter school will be allowed to operate (Cass, 2009; Kolderie, 1990). Integral to all charter contracts are the performance measures and the methodologies used to determine compliance. The most common performance measure is academic achievement with the subset of standardized test scores often providing the greatest influence (Bulkley, 2001; Mathis, 2016; Reed & Rose, 2018). The contract also specifies the consequences for missing the

performance marks, including provisions for non-renewal and charter revocation (Grady, 2012; Kolderie, 1990).

Parental choice establishes accountability by providing families with the capacity to vote for or against schools through choosing to enroll or go elsewhere (Chubb & Moe, 1990; Henig, 1994). The power of parental choice creates a vested interest on the part of the charter school administration to be responsive to their patrons (Blitz, 2011). Alternately, choice also creates a condition in which social networks can have enormous impact on the success or failure of a charter school irrespective of any academic successes (Berends, 2020).

Representation and Proliferation in the United States

Over 3.3 million students attended charter schools in 2018 which is a 675% increase since 2000. During that period, the average enrollment size for charter schools increased from 200 students in the fall of 2000 to 430 students in 2018. Charter schools now account for about 7% of all public schools (Hussar et al., 2020). NAPCS (n.d.-a) reported that 7,534 charter schools were in operation in 44 states in 2020. Over half of these schools (57%) were in urban settings while the remaining schools were split between suburban (31%), rural (7%), and town (5%) locations (NAPCS, n.d.-a). The demographics of charter school students revealed significant differences when compared to their traditional public school counterparts. Charter schools enrolled a greater percentage of Black (26% vs. 15%) and Hispanic (33% vs. 26%) students, had a higher percentage enrolled in high poverty schools (34% vs. 24%), and had more schools located in urban areas (56% vs. 25%) than their counterparts (K. Wang et al., 2019). From a fiscal standpoint, charter school students generate an income of \$41.6 billion each year when using the 2018 national average for per pupil funding (U.S. Census Bureau, 2020).

Differentiation and Variability

The charter school concept contends that autonomy, deregulation, and accountability will produce educational innovations (Chubb & Moe, 1990; Kolderie, 1990). When looking into how charter schools are differentiating from traditional public schools, Lubienski (2003) found innovations in governance and administration but little in curriculum or instructional practices. McShane and Hatfield (2015) studied over 1,100 charter schools and reported on the diversity of charter school options pertaining to pedagogical or curricular emphasis. They discovered about half of the charter schools to be undifferentiated from traditional public schools. Those that were differentiated were categorized into 13 academic models that specialized in either pedagogical emphasis or content specialization. The two most common models were those using an inquiry- or project-based curriculum and those adopting a strict disciplinary structure. Malkus and Hatfield (2017) investigated these 13 academic models and found they were distinct from the traditional public schools in the same attendance area. In response, Brewer and Lubienski (2017) contended that traditional public schools offered similar academic programs and that the charter schools were, overall, not pioneering or inventive in either curriculum or pedagogy.

The virtual school academic model, alternately called cyber or online schooling, has been the fastest growing model in the charter school sector over the past 10 years with close to a half million students in 39 states during the 2017–18 school year (Miron et al., 2018; Molnar et al., 2017, 2019). The hallmark of virtual schooling is the delivery of curriculum through electronic means, usually the Internet (Beck & LaFrance, 2017; Watson et al., 2004). Virtual schools are categorized as either full-time or hybrid. Full-time virtual schools provide all instruction electronically and typically use an asynchronous format allowing the student to access the content any time. Hybrid or blended models combine virtual content with some amount of

traditional classroom experience (Molnar et al., 2019). Parents reported the reasons for choosing virtual education over traditional schooling included flexibility of schedule, diverse and advanced coursework, medical conditions, and social or safety conditions (Archambault & Kennedy, 2017). The prevalence of virtual charter school options has provided millions of homeschool parents with free access to content and teachers (Borup & Kennedy, 2017; Huerta et al., 2006).

Academic Achievement and Impact

Research into the educational achievement or effectiveness of charter schools has produced a mixed bag of findings (Silvernail & Johnson, 2014). Studies have produced conclusions of negative impact (Ahn, 2016; Chingos & West, 2015; Orfield & Luce, 2016), positive impact (Abdulkadiroğlu et al., 2011; Gleason et al., 2014), mixed results (Betts & Tang, 2008; Center for Research on Education Outcomes, 2009; Gleason et al., 2010) and no impact (Akey et al., 2008; Clark et al., 2015; A. S. Finn et al., 2014; Spees & Lauen, 2019). Cohodes (2018) analyzed the approaches for estimating charter school impact on student achievement and found that while charter schools, on average, have no impact on student achievement, the subset population of urban charter schools using a *no excuses* approach consistently showed a positive impact.

Reports of Illegal Activity

Deregulation and autonomy can also open the door to other outcomes. Reports or allegations of illegal activity within the charter school sector have made it into academic journals but are typically used to bolster a general caution or advance a position (Chapman, 2018; Clabaugh, 2009; DeJarnatt, 2012, 2013; Dingerson & Daniel, 2014). Non-academic reports, however, abound from news organizations (Bischoff & Kelley, 2015; KTAR News, 2020;

Strauss, 2020; Taketa, 2019b), judicial agencies (Superior Court of the State of California, 2019; U.S. Attorney’s Office, Western District of Pennsylvania, 2013, 2018), and from those opposed to the school choice movement (Burris & Pfleger, 2018; The Center for Popular Democracy & Alliance to Reclaim Our Schools, 2015; Network for Public Education, n.d.-a). In fact, a Google search for “charter school” and “fraud” produced 1,680,000 results.

Types of Illegal Activity

Scandals in the charter school sector can be classified as internal or external to the organization. Internal scandals are typically associated with theft or misuse of funding. The problem lies with how the money was used by the charter, rather than how the money was acquired. Recent reports of internal scandals include the categories of embezzlement (Lai, 2020), theft (Bresswein, 2020), conflict of interest (Huntsberry, 2019), self-dealing (S. Wang, 2020), undocumented payments (Bodkin, 2020), nepotism (Jewson, 2020), and mismanagement (Jones & Pflaum, 2019). External scandals are typically associated with receiving funding under false pretenses. The sources for these funds include the state, the federal government, and financial institutions. Recent allegations of external scandals include the false reporting of enrollment (Scanlon, 2020), money laundering (McCormick, 2020), wire fraud (Big Island Now, 2020), kickbacks (Front Porch News, 2020), conspiracy (Taketa, 2019a), misappropriation of public funds (Byard, 2019), misuse of public funds (Wenzke, 2019), and ghost students (Thompson, 2019).

Levels of Allegations

Scandals can also be defined into three distinct levels: allegations, charges or indictments, and convictions. The lowest level is the allegation, which is a claim or report that someone has done something illegal. Within the scope of charter school scandals, allegations are typically

made by state auditors, authorizers, or other non-prosecutorial state agencies such as the department of education (Bischoff & Kelley, 2018; Hornbeck & Malin, 2019). Level two is comprised of charges or indictments and arises out of prosecutorial actions. A charge is an act by a governmental agency accusing someone of a crime. The term indictment is customarily reserved for federal charges whereas charge is typically non-federal such as by state or county agencies. The final level is the conviction which is a formal judgment of guilt issued by the court (Administrative Office of the U.S. Courts, n.d.).

Scale of Illegal Activity

The amount of money alleged to have been lost due to enrollment fraud within the charter school sector is staggering. Because funding follows the student, schools are financially incentivized to enroll more students (Chapman, 2018). Funding fraud occurs when schools report more enrollments than the number of students being educated. In 2020, the Indiana State Auditor issued a special investigation report seeking \$85 million back from Indiana Virtual and its sister school, Indiana Virtual Pathways Academy, due to alleged enrollment fraud and self-dealing (S. Wang, 2020). In 2019, the State of California indicted 11 people associated with the A3 charter school network for fraudulently collecting \$50 million through an enrollment scheme (Taketa, 2019a). The Oklahoma State Bureau of Investigation alleged in 2019 that the two principal leaders of Epic charter schools defrauded the state of \$10 million through a scheme to enroll and/or retain ghost students (Scavelli, 2019). In Ohio, the State Auditor alleged that the Electronic Classroom of Tomorrow (ECOT) fraudulently collected over \$60 million through inflated enrollment data (Bischoff & Kelley, 2018). The leader of Discovery Creemos Academy, a Goodyear charter school in Arizona, was sentenced in 2020 for fraudulently obtaining \$2.5 million in state funding through falsifying enrollment data (AP News, 2020). While these

examples represent only a handful of the allegations between 2018 and 2020, they collectively add up to more than \$200 million in alleged enrollment fraud within the charter school sector.

A Call for Research

Minimal academic research has been published on illegal activity within the charter school sector. Searches within ERIC, JSTOR, and ProQuest produced only one academic study (Ertas, 2020) suggesting a link between statutory deregulation and corruption within the charter school sector. Ertas (2020) called for more research into the institutional characteristics and conditions that enable illegal behavior within the charter school sector. This study adds to the research by looking into the relationship between state charter school law scores and allegations of illegal activity within the charter school sector. Specifically, this study explores the CER and NAPCS charter law scores for any association or predictive effect on alleged illegal activity within the charter school sector.

State charter school law provides the legal authority, mechanisms, and boundaries under which charter schools and their oversight agencies operate (Robertson, 2015). It is imperative that policy language not only provide clear definition to the proper structure and conditions under which charters operate but also empower the oversight agencies to execute their duties properly (Gustafson, 2013). Since 1995, ALEC has provided model education policy language for state legislators (ALEC, 2020). Included in the metrics that inform ALEC's charter school policy analyses are the CER charter school law policy scores (ALEC, 2017). NAPCS has also affected state charter school policy using their analyses and model charter school law (Ziebarth, 2019). Because the CER and NAPCS state charter school law scores provide foundational metrics in the development of the laws governing charter schools, this quantitative study sought

to determine if a relationship existed between state charter school law scores and allegations of illegal activity within the charter school sector.

Summary

The literature review was structured into three layered sections, each providing foundational information and context for this study. Section one, educational reform in the United States, provided an overview of the historical conditions and activities underpinning the establishment of the charter school movement. Section two, school choice advocacy, explored the political influences, policy networks, and funding mechanisms associated with the growth and proliferation of charter schools across the United States. In section three, charter schools are described according to structure, form, efficacy, and proliferation. Concluding the literature review is an exploration of the existence, scope and fiscal impact of illegal activity associated with charter schools. The literature established direct linkages between pro-reform advocacy and legislative policies, including the incorporation of pro-reform model policy language into state charter school laws. Minimal prior research was found exploring the relationship between state charter school laws and instances of illegal activity within the charter school sector.

CHAPTER 3

METHODOLOGY

The purpose of this study was to determine if a relationship exists between state charter school law scores and allegations of illegal activity within the charter school sector. This chapter describes the methodology that was used to answer the eight research questions stated in Chapter 1 and is presented in the following seven sections: (a) research design, (b) research question, (c) null hypotheses, (d) population and sample selection, (e) data collection, (f) data analysis, and (g) summary.

Research Design

A quantitative research approach using archival data sought to determine if a relationship exists between state charter school law scores and allegations of illegal activity within the charter school sector.

The study began by exploring and describing the data. Reports of illegal activities within the charter school sector include the nature and type of allegations, the conversion of allegations, the event timeframes, and the monetary impact associated with each event. Charter school data encompass population statistics, disbursement among the states, and the presence of allegations. Charter school law scores, and their component sub-scores, are explored and described.

The study then investigates the relationship between the charter school law scores and two specific populations: states without allegations of illegal charter school activity and states with allegations of illegal charter school activity. Independent measures tests explore the scores

and sub-scores from both CER and NAPCS on the groups to determine if significant differences occur. The study concludes with the exploration of the predictive nature of the state charter school law scores on the presence of alleged illegal activity within the charter school sector through the application of binary logistic regression.

Research Question

This study sought to answer one overarching research question: does a relationship exist between state charter school law scores and allegations of illegal activity within the charter school sector? Allegations of illegal activity within the charter school sector were studied through two descriptive questions. State charter school law scores were examined through three inferential questions, bifurcated along the scores produced by the CER and the NAPCS charter school law analyses.

Questions 1–2 relate to allegations of illegal activity, and Questions 3–8 relate to state charter school law scores. The questions are as follows:

1. What are the nature of allegations brought against charter school operators when allegations of illegal activities exist?
2. What proportion of allegations against charter school operators are converted into charges and what proportion of charges are then converted into convictions?
3. Are CER state charter school law scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017?
4. Are NAPCS state charter school law scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017?

5. Are CER state charter school law sub-scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017?
6. Are NAPCS state charter school law sub-scores different between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017?
7. Do CER state charter school law scores predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017?
8. Do NAPCS state charter school law scores predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017?

Null Hypotheses

H₀₃: There is no difference in CER state charter school law scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017.

H₀₄: There is no difference in NAPCS state charter school law scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools from 2013–2017.

H₀₅: There is no difference in CER state charter school law sub-scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017.

H₀6: There is no difference in NAPCS state charter school law sub-scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the population of states with charter schools in 2017.

H₀7: CER state charter school law scores do not predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017.

H₀8: NAPCS state charter school law scores do not predict the presence of allegations of illegal charter school activity among the population of states with charter schools in 2017.

Population and Sample Selection

Archival data were gathered on the population of charter schools, reports of illegal activity associated with the charter school sector, and the population of states with charter school laws. The sample was limited to the years 2013–2017.

The NAPCS (White, 2021) provided the population data for charter schools operating in the United States. According to their dataset, 8,290 charter schools were in operation in the United States during 2013–2017.

Reports of illegal activity, including allegations, charges, and convictions, were included only if levied by a governmental agency in their official capacity against individuals or entities associated with the charter school sector and arising out of their official connection with the charter school. Additionally, the study only included allegations, charges, or convictions that were associated with an illegal action that occurred during 2013–2017 with an accompanying financial component.

The population sample of states includes those which meet the dual criteria of having a charter school law and one or more charter schools in operation during the 5-year span from 2013–2017. For this study's purpose, the District of Columbia (Washington, D.C.) is considered

a state. Similarly, whenever a single year is researched, the population sample of states includes only those which meet the dual criteria of having a charter school law and one or more charter schools in operation during the year in question.

Data Collection

This study uses archival data that are available to the public.

Charter Schools

The NAPCS (n.d.-c) maintains a database of U.S. charter schools reaching back to 1992. Charter school data were requested and obtained from NAPCS (White, 2021) and included the names of the schools, the state in which the schools were operating, the year of opening, and, if applicable, the year of closure.

Charter School Law Scores

NAPCS and CER are charter school advocacy organizations that conduct yearly analyses on state charter school laws. Each group's analysis uses rubrics to score components. These scores, or more aptly, sub-scores, are combined to form an overall state score for each state that has a charter school law.

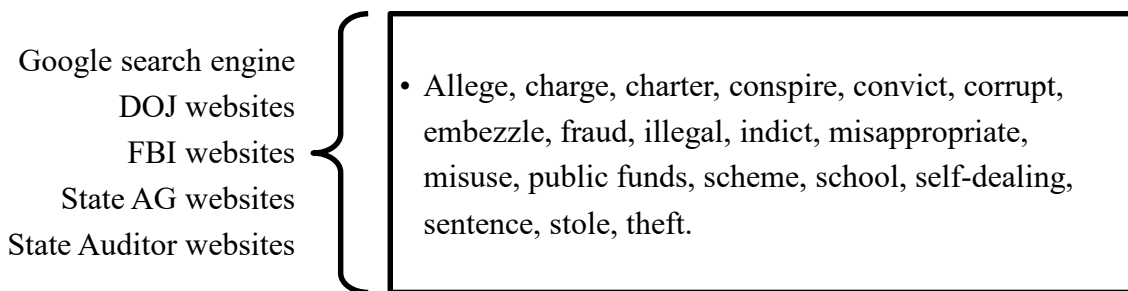
CER (n.d.-b) maintains a public webpage with their current charter school law analysis as well as an archive of prior years' analyses. CER state score data from the yearly analyses conducted during the timespan from 2013–2017 was obtained from the CER website and archives. Similarly, NAPCS (n.d.-b) also maintains a public webpage with their current charter school law analysis as well as access to their current and archived annual reports on charter school laws. NAPCS state score data from the yearly analyses conducted during the timespan from 2013–2017 was obtained from the NAPCS website and archives.

Allegations of Illegal Activity

Reports of allegations of illegal charter school activity that occurred during 2013–2017 were gathered from multiple online sources. The Network for Public Education (n.d.-b) clearinghouse on charter scandals maintains a comprehensive website on charter school scandals with links to original sources. The U.S. Department of Justice, the Federal Bureau of Investigation, States Attorney Generals, and States Auditors maintain public websites with searchable access to press releases and reports. Court cases, regulatory findings, and media investigations were discovered through general Internet searches. Figure 3 delineates the search terms (without permutations) that were employed in the discovery process.

Figure 3

Search Terms for the Discovery of Allegations



Note. DOJ = Department of Justice; FBI = Federal Bureau of Investigation; AG = attorney general. Figure created by author.

Tabulation of Data

Table 1 describes the data that was gathered and tabulated for each incident of alleged illegal activity within the charter school sector. The first two research questions explored this data. Research questions 3–8 explored the interaction between state charter school law scores from 2013–2017 and the presence of allegations of illegal activity within the charter school

sector. State charter school law scores and sub-scores were garnered from each of the 2013–2017 charter school law analyses conducted by CER and NAPCS. Each spreadsheet contains data identifying the year, the state, an indicator for presence of allegations, and the associated state charter school scores and sub-scores. Allegations are coded 0 (no) and 1 (yes) to indicate their absence or presence for the year in question.

Table 1

Heading Descriptions for the Tabulation of Allegations

Heading	Description
Incident	An alleged illegal activity associated with one charter school
Event	A group of related incidents
State	The state in which the incident occurred
SchID	The unique identifier for each charter school
IniYr	The year in which the incident began
Span	The number of years the incident has occurred
FnIYr	The final year in which the incident occurred
AlgYr	The year in which the initial allegation was levied
ChgYr	The year in which the initial charge was levied
CvtYr	The year in which the incident was adjudicated
Chrg	The formal charge levied by a governmental agency
ChgCat	A placeholder for the researcher to use to group charges
Funds	The money or funds associated with the incident
A-Agcy	The governmental agency that levied the allegation
C-Agcy	The governmental agency that levied the charge

Data Analysis

This quantitative study sought to determine if a relationship exists between state charter school law scores and allegations of illegal activity within the charter school sector. Allegations of illegal activity within the charter school sector were investigated through two descriptive

questions. State charter school law scores were examined through three inferential questions, bifurcated along the scores produced by the CER and the NAPCS charter school law analyses.

Descriptive Statistics

Charter schools operating at any time during the study's five-year period are described by population statistics and are broken down for each of the five years. Statistics are further bifurcated along the distinction of states with and without allegations. Population statistics include the total number of schools, range, mean, and standard deviation.

Charter school law scores for CER and NAPCS were examined for each of the five years. Tables display the range, mean, standard error of the mean, standard deviation, and confidence intervals. The law scores are further delineated to describe the statistics for those states with and without allegations. Tests for normality (Shapiro-Wilk) and homogeneity of variance (Levene's) were performed on the law scores for each year.

Research Question 1

Question 1 is a descriptive question about an observed sample. The sample includes all charter schools operating in the United States anytime during the five-year span from the 2013–17 school years. To be included in the study, the alleged illegal activity must have occurred during the same five-year span. Tables and figures depict the nature and dispersion of the allegations, associated timeframes, and monetary impact.

Research Question 2

Question 2 is a descriptive question about an observed sample. A diagram depicts the progression of the incidents through three categories: allegations, charges, and convictions. For this study's purpose, the category of convictions refers to the final adjudication which can include convictions, settlements, and plea deals.

Research Questions 3–6

Questions 3–6 are inferential questions about the population means of two independent groups: states without allegations of illegal charter school activity and states with allegations of illegal charter school activity. The dependent variables, state score and state sub-score (see Appendices A and B), are interval for both CER and NAPCS data. Two statistical tests are widely used to compare the means of an interval dependent variable for two independent groups. The independent samples *t*-test is used when each group displays normal distribution and homogeneity of variance. If the data violate either normality or homogeneity, the non-parametric alternative is the Mann-Whitney U (George & Mallery, 2021). The appropriate independent measures test was selected for each question based on the results of an examination of normality and homogeneity.

Research Questions 7 and 8

Questions 7 and 8 are inferential questions about the predictive nature of one continuous independent variable, state charter school score, on one binary dependent variable, state status. State status indicates the presence or absence of allegations of illegal activity within the state's charter school sector. Binary logistic regression is a statistical model used to predict the conditional probability of a binary dependent (outcome) variable from a continuous independent variable (Osborne, 2014). With one predictor variable (state score), a minimum sample size of 10 is needed to avoid overfitting (Moons et al., 2014). IBM SPSS Statistics (Version 29) was employed to perform the tests.

Summary

A quantitative research approach using archival data sought to determine if a relationship exists between state charter school law scores and allegations of illegal activity within the charter

school sector. This study examined two descriptive questions regarding the allegations of illegal activity within the charter school sector and three inferential questions about the relationship between charter school law scores and allegations of illegal charter school activity. Archival data were gathered on charter schools, reports of illegal activity associated with the charter school sector, and the states with charter school laws. The sample was limited to the years 2013–2017. Charter school data were obtained from the NAPCS charter school database and charter school law scores were collected from the CER and NAPCS annual public reports. Reports of allegations of illegal charter school activity that occurred during 2013–2017 were collected from multiple online sources including the U.S. Department of Justice, Federal Bureau of Investigation, States Attorney Generals, States Auditors, court cases, regulatory findings, media investigations, and the Network for Public Education. IBM SPSS Statistics (Version 29) was used to explore the variables, obtain descriptive statistics, and run tests of independent measures and regression.

CHAPTER 4

RESULTS

This quantitative study investigated if a relationship existed between state charter school law scores and the presence of allegations of illegal activity within the charter school sector. The study used extant charter school law score data from the CER and from the NAPCS. Charter school data were obtained from the NAPCS (White, 2021). Reports of allegations of illegal charter school activity were garnered from the Network for Public Education clearinghouse on charter scandals, the U.S. Department of Justice, the Federal Bureau of Investigation, States Attorney Generals, States Auditors, court cases, media investigations, regulatory findings, and general Internet searches.

This study focused on the five-year period from 2013–2017. The sample of states was limited to those which met the dual criteria of having a charter school law and one or more charter schools in operation. Charter schools which were active any time during the span of the study were included. Reports of illegal activity, including allegations, charges, and convictions, were only included if they were levied by a governmental agency in their official capacity against individuals or entities associated with the charter school sector, arose out of their official connection with the charter school, and had an associated financial component.

Population Statistics

During the five-year span from 2013–2017, there were 8,290 unique charter schools operating within 44 states. The charter school population per state ranged from 1 to 1,275 with a

five-year mean of 165.68. Reports of illegal charter school activity were found in 23 of the states with charter schools. Table 2 presents the charter school statistics for each year, both from a national perspective and by the sub-grouping of states with and without allegations.

Table 2

Charter School Population Statistics for 2013–2017

States	No. states	Charter schools						
		<i>n</i>	Min.	Max.	<i>M</i>	<i>SEM</i>	<i>SD</i>	
2013								
Without allegations	27	2,232	3	367	82.67	16.49	85.69	
With allegations	14	4,303	21	1,131	307.36	86.87	325.04	
Total	41	6,535	3	1,131	159.39	35.18	225.27	
2014								
Without allegations	26	2,459	3	374	94.58	17.88	91.05	
With allegations	15	4,317	24	1,183	291.40	87.27	337.99	
Total	41	6,830	3	1,183	166.59	36.42	233.19	
2015								
Without allegations	25	2,410	3	371	96.40	18.89	94.44	
With allegations	16	4,605	27	1,226	287.81	84.14	336.55	
Total	41	7,015	3	1,226	171.10	37.21	238.25	
2016								
Without allegations	28	2,357	3	301	84.18	15.59	82.50	
With allegations	14	4,575	34	1,253	326.79	95.53	357.42	
Total	42	6,932	3	1,253	165.05	37.29	241.63	
2017								
Without allegations	29	2,573	1	299	88.72	15.74	84.75	
With allegations	15	4,743	25	1,275	316.20	92.78	359.33	
Total	44	7,316	1	1,275	166.27	36.50	242.10	

Note. Min. = minimum; max. = maximum.

Charter School Law Score Statistics

During the five-year span from 2013–2017, CER conducted four charter school law analyses and NAPCS conducted five. CER did not conduct an analysis in 2016 which extended the validity of their 2015 scores through 2016. For the purpose of this study, CER's 2015 scores were measured against the NAPCS scores separately for 2015 and 2016. Of additional note is that the 2016 CER scores included an additional state, Mississippi, not found in the 2015 scores. Mississippi received a state score in 2015 but did not have any operating charter schools and, therefore, was excluded from the study for that year. Mississippi did have operating charter schools in 2016 and was added to the study for 2016. Tables 3 and 4, respectively, describe the CER and NAPCS state charter school law score statistics for each year, both from a national perspective and by the sub-grouping of states with and without allegations.

Normality

Due to the small sample size, determining the distribution of the groupings was essential for selecting an appropriate statistical method. Table 5 describes the results of Shapiro-Wilk tests that were performed on the state score data for each year included in the study. The distribution of CER scores for states with and without allegations did not depart significantly from normality. The distribution of NAPCS scores, however, did depart significantly from normality for states with allegations in 2013 ($p = 0.009$), and for states without allegations in 2014 ($p = 0.022$), 2015 ($p = 0.011$), 2016 ($p = 0.003$), and 2017 ($p = 0.008$).

Table 3*CER Charter School Law Score Statistics for 2013–2017*

States	<i>n</i> ^a	CER state score							
		Min.	Max.	<i>M</i>	<i>SEM</i>	<i>SD</i>	95% CI		
							<i>LL</i>	<i>UL</i>	
2013									
Without allegations	27	8.0	44.0	23.59	1.86	9.64	19.78	27.41	
With allegations	14	20.0	45.0	30.75	2.03	7.60	26.36	35.14	
Total	41	8.0	45.0	26.04	1.49	9.54	23.03	29.05	
2014									
Without allegations	26	8.0	37.0	23.65	2.11	10.75	19.31	28.00	
With allegations	15	20.0	43.5	30.03	1.60	6.21	26.60	33.47	
Total	41	8.0	45.0	25.99	1.53	9.77	22.91	29.07	
2015									
Without allegations	25	8.0	46.0	23.76	2.23	11.13	19.17	28.35	
With allegations	16	21.0	41.5	29.16	1.40	5.60	26.17	32.14	
Total	41	8.0	46.0	25.87	1.51	9.65	22.82	28.91	
2016 ^b									
Without allegations	28	8.0	46.0	23.59	2.00	10.57	19.49	27.67	
With allegations	14	21.0	41.5	29.86	1.49	5.59	26.63	33.08	
Total	42 ^c	8.0	46.0	25.68	1.48	9.61	22.68	28.67	
2017 ^d									
Without allegations	29	6.0	56.0	28.62	2.19	11.78	24.14	33.10	
With allegations	15	24.5	51.0	38.27	2.01	7.77	33.96	42.57	
Total	44	6.0	56.0	31.91	1.73	11.47	28.42	35.40	

Note. The state score refers to the overall composite score. CER = Center for Education Reform;

CI = confidence interval; min. = minimum; max. = maximum; *LL* = lower limit; *UL* = upper limit.

^a Refers to the number of states which received a charter school law score from CER and had active charter schools during that year. ^b CER did not conduct an analysis in 2016 which extended the validity of their 2015 scores through 2016. ^c The 2016 *n* includes an additional state which received a score in 2015 but did not have any operating charter schools until 2016. ^d In 2017, CER revised their scoring rubric increasing the maximum possible state score from 55 points to 65 points.

Table 4*NAPCS Charter School Law Score Statistics for 2013–2017*

States	<i>n</i> ^a	NAPCS state score							
		Min.	Max.	<i>M</i>	<i>SEM</i>	<i>SD</i>	95% CI		
							<i>LL</i>	<i>UL</i>	
2013									
Without allegations	27	42.0	172.0	116.30	6.42	33.35	103.10	129.49	
With allegations	14	77.0	151.0	131.64	5.08	18.99	120.68	142.61	
Total	41	42.0	172.0	121.54	4.67	29.91	112.10	130.98	
2014									
Without allegations	26	42.0	174.0	124.12	7.31	37.28	109.06	139.17	
With allegations	15	76.0	170.0	136.33	5.80	22.45	123.90	148.77	
Total	41	42.0	174.0	128.59	5.13	32.87	118.21	138.96	
2015									
Without allegations	25	41.0	174.0	125.96	7.45	37.27	110.58	141.34	
With allegations	16	79.0	161.0	134.00	5.09	20.36	123.15	144.85	
Total	41	41.0	174.0	129.10	4.95	31.69	119.09	139.10	
2016									
Without allegations	28	49.0	174.0	128.68	6.59	34.86	115.16	142.20	
With allegations	14	110.0	177.0	143.93	4.64	17.37	133.90	153.96	
Total	42	49.0	177.0	133.76	4.75	30.81	124.16	143.36	
2017									
Without allegations	29	48.0	174.0	130.48	6.39	34.40	117.40	143.57	
With allegations	15	126.0	173.0	144.33	3.52	13.64	135.78	150.88	
Total	44	48.0	174.0	134.86	4.44	29.48	125.90	143.83	

Note. The state score refers to the overall composite score. NAPCS = National Alliance for Public Charter Schools; CI = confidence interval; min. = minimum; max. = maximum; *LL* = lower limit; *UL* = upper limit.

^a Refers to the number of states which received a charter school law score from NAPCS and had active charter schools during that year.

Table 5*Shapiro–Wilk Tests for Normality of State Score Distributions*

States	<i>W</i>	<i>df</i>	<i>p</i>
CER state score distributions			
2013			
Without allegations	.972	27	.662
With allegations	.943	14	.458
2014			
Without allegations	.951	26	.245
With allegations	.942	15	.406
2015			
Without allegations	.950	25	.253
With allegations	.923	16	.190
2016			
Without allegations	.956	28	.283
With allegations	.927	14	.272
2017			
Without allegations	.986	29	.959
With allegations	.974	15	.908
NAPCS state score distributions			
2013			
Without allegations	.957	27	.321
With allegations	.821	14	.009
2014			
Without allegations	.906	26	.022
With allegations	.904	15	.110
2015			
Without allegations	.889	25	.011
With allegations	.909	16	.112
2016			
Without allegations	.872	28	.003
With allegations	.988	14	.998
2017			
Without allegations	.896	29	.008
With allegations	.948	15	.495

Note. The state score refers to the overall composite score. CER = Center for Education Reform;

NAPCS = National Alliance for Public Charter Schools.

Homogeneity of Variance

Due to the sharply different sample sizes, determining the population variances was essential for selecting an appropriate statistical method. Table 6 describes the results of Levene's tests that were performed on the data for each year. Variances for CER State Scores were not equal in 2014: ($p = .038$), 2015: ($p = .007$), and 2016: ($p = .020$). NAPCS State Scores displayed unequal variances in all years: 2013: ($p = .046$), 2014: ($p = .032$), 2015: ($p = .015$), 2016: ($p = .035$), and 2017: ($p < .001$).

Table 6

Levene's Tests for Homogeneity of Variances of State Scores

Year	<i>n</i>		Levene statistic	<i>df</i> ₁	<i>df</i> ₂	<i>p</i>
	Group 1	Group 2				
CER state score variances						
2013	27	14	1.18	1	39	.284
2014	26	15	4.63	1	39	.038
2015	25	16	8.22	1	39	.007
2016	28	14	5.90	1	40	.020
2017	29	15	3.57	1	42	.066
NAPCS state score variances						
2013	27	14	4.24	1	39	.046
2014	26	15	4.96	1	39	.032
2015	25	16	6.51	1	39	.015
2016	28	14	4.78	1	40	.035
2017	29	15	12.55	1	42	<.001

Note. Group 1 consists of states without allegations, and Group 2 consists of states with allegations. The state score refers to the overall composite score. CER = Center for Education Reform; NAPCS = National Alliance for Public Charter Schools.

Research Question 1

What is the nature of allegations brought against charter school operators when allegations of illegal activities exist?

This research question is subdivided into three sections: the nature of allegations, the incident timeframes, and the monetary impact associated with each incident. States are autonomous entities and, therefore, do not necessarily share common terminology when describing allegations or charges. In fact, different terms representing similar activities were commonly found between the states. For example, the terms enrollment fraud, FTE fraud, inflating attendance for funding, and fraud were each used by different states to describe the same type of illegal activity. The researcher found that the various terms naturally fell into nine categories. Of these categories, only the six that had direct financial implications were included in the study. The remaining three categories involved violations of civil rights, ethics, and sexual crimes. These non-fiscal categories, and the associated 23 charter schools, were excluded from this study.

Nature of Allegations

Because crimes, or alleged crimes, often violate multiple laws, the number of allegations levied during each charter school incident varied. Table 7 depicts the dispersion of the allegations among the categories. In all, 354 allegations across the six categories were alleged against the 154 charter schools included in the study. Theft, in one form or another, was the predominant, overarching category and was further sub-divided into four groupings based on the ownership of the funds at the time of the theft: charter school funds (25.14%), state funds (21.47%), federal funds (3.95%), and institution funds (4.24%). The predominant form of theft from each sub-group was as follows: embezzlement (charter school), funding fraud (state),

illegal use of program funds (federal), and fraudulent loans (institution). In all, the various forms of theft accounted for 54.8% of the allegations. The remaining two categories, illegal enrichment (23.73%) and organized crime (21.47%), each contained elements of theft but also provided some element of student benefit. Illegal enrichment was generally characterized by a conflict of interest between the charter school operator and the vendor supplying the goods or services to the charter school, while the designation of organized crime was applied when related businesses were set up for the purpose of exploiting the charter school finances.

Table 7

Nature and Dispersion of Allegations of Illegal Activity

Category	<i>f</i>	%	Description
Theft from charter	89	25.14	Theft of charter school funds or property
Theft from state	76	21.47	Theft of state funds or property
Theft from federal	14	3.95	Theft of federal funds or property
Theft from institution	15	4.24	Theft of financial institution funds or property
Illegal enrichment	84	23.73	Self-dealing
Organized crime	76	21.47	A continuing, centralized criminal enterprise
Total	354	100.00	

Note. The researcher found that allegations which had direct financial implications naturally fell into six categories. The *f* here denotes how many allegations fell into each category. Allegations are unduplicated meaning that each allegation can only be in one category.

Incident Timeframes

Incidents may be limited to a one-time action or may be ongoing until discovered. While all the identified incidents were actively occurring during 2013–2017, many originated prior to 2013. The findings regarding the incident timeframes are summarized in Table 8. The total duration of each incident was included in the calculations for the associated ranges and means.

Of the 154 charter schools identified with alleged illegal activity, the incident duration ranged from 1–15 years with an average span of 3.39 years. Incidents went undetected, on average, for 5.1 years before allegations were levied.

Table 8

Timeframes Associated With Incidents of Alleged Illegal Activity

Timeframe	Incidents	Years				
		Min.	Max.	<i>M</i>	<i>SEM</i>	<i>SD</i>
Duration	154	1	15	3.39	0.217	2.69
Incident to allegation	154	1	18	5.10	0.222	2.76
Allegation to charge	126	1	3	1.09	0.028	0.31
Charge to conviction	109	1	7	1.99	0.100	1.04
Incident to charge	126	1	18	5.29	0.258	2.89
Incident to conviction	109	2	18	6.10	0.282	2.95
Allegation to conviction	109	1	7	2.08	0.111	1.16

Note. Incident timeframes are reported in years. All 154 incidents were active during the 5-year span from 2013–2017. Duration is the number of years from incident onset to cessation; incident is the point of the onset of the activity; allegation is the point of a formal non-prosecutorial governmental agency statement; charge is the point of formal prosecutorial charges; conviction is the point of final adjudication of the charges, and includes convictions, plea deals, and settlements. Min. = minimum; max. = maximum.

Monetary Impact

Table 9 summarizes the findings regarding the monetary impact associated with each incident. Two groupings are used to differentiate the data: incidents and events. An *incident* is a charter school with an associated allegation. The data contains 154 incidents and, therefore, 154 charter schools. The term *event* is used to group related incidents. Events, therefore, may have a one-to-one or a one-to-many relationship with charter schools. The 154 incidents were grouped

into 72 events. The monetary impact per incident was wide ranging from \$4,594 for a one-year embezzlement case to \$90,969,650 for a multi-year case of funding fraud. The 72 events each included from 1–19 incidents with an associated monetary impact spread between \$4,594 and \$220,000,000. The total amount of money alleged to have been illegally obtained was \$707,042,496 which averages to \$4,591,185 per incident or \$9,820,035 per event.

Table 9

Monetary Impact Associated With Incidents of Alleged Illegal Activity

Category	<i>n</i>	Per year (\$)		Total (\$)	
		Range	<i>M</i>	Range	<i>M</i>
Incidents	154	1,862–31,849,949	1,714,857	4,594–90,969,650	4,591,185
Events	72	2,297–110,000,000	3,330,386	4,595–220,000,000	10,100,607

Note. An incident is a charter school with an associated allegation while events are groups of related incidents. Accordingly, the 154 incidents are grouped into 72 events.

Research Question 2

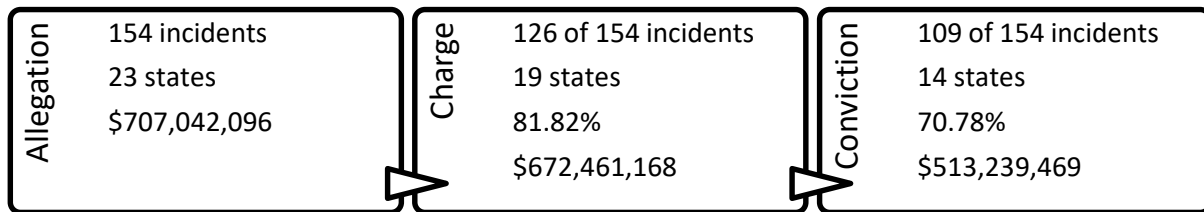
What proportion of allegations against charter school operators are converted into charges and what proportion of charges are then converted into convictions?

All 154 incidents progressed through the typical pathway of action onset to discovery to allegation. Allegations progressed to formal charges in 126 (81.82%) of the incidents and involved \$672,461,168. A final adjudication through convictions, settlements, or plea deals was obtained in 109 (70.78%) of the incidents and represented \$513,239,469. Incidents that have been charged but have not progressed to final adjudication number 17 (11.04%) and represent \$159,221,699. These cases may or may not still be active in the legal system. Incidents which have not progressed from allegation to formal charge number 28 (18.18%) and represent

\$34,580,928. These allegations may or may not eventually progress to charges. Figure 4 summarizes the disposition and progression of the 154 incidents.

Figure 4

Disposition and Progression of the Incidents through the Legal System



Note. A conviction refers to the final adjudication of the case and includes convictions, plea deals, and settlements. Figure created by author.

Research Question 3

The null hypothesis for research question 3 stated there is no difference in CER charter school law scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the states with charter schools from 2013–2017. The dependent variable was the CER charter school law score. The independent variable was the state status with two levels, (a) states without the presence of allegations and (b) states with the presence of allegations. Tests for normality (Shapiro-Wilk) and homogeneity (Levene's) were conducted for each year. Shapiro-Wilk (Table 5) indicated the data did not violate normality. Levene's test (Table 6) showed a violation of homogeneity for the years 2014, 2015, and 2016. With these results, the appropriate test statistics for this research question were the independent samples *t*-test for the years 2013 and 2017 and the non-parametric Mann-Whitney U test for years 2014, 2015, and 2016.

A Mann-Whitney U test was conducted to determine whether there is a difference in CER charter school law scores between states without allegations of illegal charter school activity and

states with allegations of illegal charter school activity for the years 2014, 2015, and 2016. Each year was tested independently. Table 10 depicts the full results of the tests for each year. The results indicate that states with allegations of illegal charter school activity had statistically higher CER charter school law rank scores than states without allegations in 2014 ($z = 2.23, p = .024, r = .35$) and 2016 ($z = 2.18, p = .028, r = .34$). There was no significant difference in ranks between the groups in 2015 ($z = 1.81, p = .071, r = .28$).

Table 10

Mann–Whitney U-Test Results for CER State Charter School Law Scores by State Status

Year	States without allegations		States with allegations		U	z	SE	p	r
	n	M rank	n	M rank					
2014	26	17.83	15	26.50	277.50	2.23	36.92	.024	.35
2015	25	18.30	16	25.22	267.50	1.81	37.39	.071	.28
2016	28	18.59	14	27.32	277.50	2.18	37.45	.028	.34

Note. The state score refers to the overall composite score. The term “allegation” refers to the presence of allegations of charter school illegal activity in the state. CER = Center for Education Reform.

An independent samples t -test was conducted to determine whether there is a difference in CER charter school law scores between states without allegations of illegal charter school activity and states with allegations of illegal charter school activity for the years 2013 and 2017. Each year was tested independently. Table 11 depicts the full results of the tests for each year. The results indicate that states with allegations of illegal charter school activity had statistically higher CER charter school law scores in 2013 $t(39) = 2.41, p = .021, d = 0.79$, and 2017 $t(42) = 2.86, p = .007, d = 0.91$, than states without allegations.

Table 11*Independent Samples t-Test Results for CER State Charter School Law Scores by State Status*

Year	States without allegations			States with allegations			<i>t</i>	<i>df</i>	<i>p</i>	Cohen's <i>d</i>
	<i>n</i>	<i>M</i>	<i>SD</i>	<i>n</i>	<i>M</i>	<i>SD</i>				
2013	27	23.59	9.64	14	30.75	7.60	2.41	39	.021	.79
2017	29	28.62	11.78	15	38.27	7.77	2.86	42	.007	.91

Note. The state score refers to the overall composite score. The term “allegation” refers to the presence of allegations of charter school illegal activity in the state. CER = Center for Education Reform.

Research Question 4

The null hypothesis for research question 4 stated there is no difference in NAPCS charter school law scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the states with charter schools from 2013–2017. The dependent variable was the NAPCS charter school law score. The independent variable was the state status with two levels, (a) states without the presence of allegations and (b) states with the presence of allegations. Tests for normality (Shapiro-Wilk) and homogeneity (Levene's) were conducted for each year. Shapiro-Wilk (Table 5) and Levene's tests (Table 6) indicated the data violated both normality and homogeneity. With these results, the appropriate test statistic for this research question was the non-parametric Mann-Whitney U test.

A Mann-Whitney U test was conducted to determine whether there is a difference in NAPCS charter school law scores between states without allegations of illegal charter school activity and states with allegations of illegal charter school activity for the years 2013–2017. Each year was tested independently. Table 12 depicts the full results of the tests for each year.

The results indicate there were no statistically significant differences in NAPCS charter school law rank scores between the groups in 2013 ($z = 1.75, p = .081, r = .27$); 2014 ($z = 0.79, p = .445, r = .12$); 2015 ($z = 0.16, p = .885, r = .03$); 2016 ($z = 1.05, p = .296, r = .16$); and 2017 ($z = 0.55, p = .586, r = .08$).

Table 12

Mann–Whitney U-Test Results for NAPCS State Charter School Law Scores by State Status

Year	States without allegations		States with allegations		U	z	SE	p	r
	n	M rank	n	M rank					
2013	27	18.65	14	25.54	252.50	1.75	36.36	.081	.27
2014	26	19.88	15	22.93	224.00	0.79	36.93	.445	.12
2015	25	20.76	16	21.38	206.00	0.16	37.41	.885	.03
2016	28	20.09	14	24.32	235.50	1.05	37.46	.296	.16
2017	29	21.74	15	23.97	239.50	0.55	40.38	.586	.08

Note. The state score refers to the overall composite score. The term “allegation” refers to the presence of allegations of charter school illegal activity in the state. NAPCS = National Alliance for Public Charter Schools.

Research Question 5

The null hypothesis for research question 5 stated there is no difference in CER charter school law sub-scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the states with charter schools in 2017. The dependent variables were the 2017 CER charter school law sub-scores. The independent variable was the state status with two levels, (a) states without the presence of allegations and (b) states with the presence of allegations. Results from Shapiro-Wilk (Table 5) and Levene’s tests (Table 6) indicated the data did not violate normality or homogeneity. With

these results, the appropriate test statistic for this research question was the independent samples *t*-test.

Independent samples *t*-tests were conducted to determine whether there is a difference in 2017 CER charter school law sub-scores between states with and without allegations of illegal charter school activity. Results, as depicted in Table 13, indicated that states with allegations of illegal charter school activity ($n = 15$) had statistically higher 2017 CER charter school law sub-scores for MA $t(42) = 2.14, p = .038, d = 0.68$; SU $t(42) = 2.10, p = .042, d = 0.67$; FI, $t(42) = 3.13, p = .003, d = 0.99$; and OF $t(42) = 2.14, p = .038, d = 0.77$, than states without allegations ($n = 29$). A combination of the four statistically significant sub-scores (MA-SU-FI-OF) produced a score which was statistically higher $t(42) = 2.92, p = .006, d = 0.93$, for states with allegations of illegal activity. There were no statistically significant differences in sub-scores between the groups for sub-scores AI, NC, SA, TF, PK, and FF.

Table 13

Independent Samples t-Test Results for 2017 CER State Charter School Law Sub-Scores by State Status

Sub-score	States without allegations (<i>n</i> = 29)		States with allegations (<i>n</i> = 15)		<i>t</i> (42)	<i>p</i>	Cohen's <i>d</i>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>			
MA	2.90	1.88	4.27	2.25	2.14	.038	0.68
AI	2.45	1.59	3.47	1.88	1.89	.066	0.60
NC ^a	6.45	3.65	7.40	2.64	0.99	.329	0.28
SU	1.76	1.35	2.60	1.06	2.10	.042	0.67
SA	3.86	1.77	4.87	1.19	1.98	.055	0.63
FI	3.41	1.24	4.67	1.29	3.13	.003	0.99
TF	2.76	1.43	3.60	1.35	1.88	.067	0.60
OF	4.57	2.34	6.13	1.25	2.41	.020	0.77
PK ^b	0.14	0.52	0.53	0.92	1.55	.138	0.59
FF	0.33	0.83	0.73	0.90	1.50	.142	0.48
MA-SU- FI-OF ^c	12.64	5.97	17.67	4.10	2.92	.006	0.93

Note. The state sub-score refers to the CER component scores which combine to create the composite score. The term “allegation” refers to the presence of allegations of charter school illegal activity in the state. CER = Center for Education Reform; MA = Multiple Authorizers; AI = Authorizer Independence of Local/State Authority; NC = No Charter Caps; SU = Scaling Up; SA = School Autonomy; FI = State Allows Freedom to Innovate; TF = Teacher Freedom; OF = Operating Funds; PK = Pre-K Funds; FF = Facility Funds/Financing.

^a Levene's test for equality of variances was found to be violated for the NC analysis

$F(1, 42) = 4.33, p = .044$. Due to this violated assumption, a *t* statistic not assuming homogeneity of variance was calculated. ^b Levene's test for equality of variances was found to be violated for the PK analysis $F(1, 42) = 14.7, p < .001$. Due to this violated assumption, a *t* statistic not

assuming homogeneity of variance was calculated. ^c MA-SU-FI-OF is a combination of the four statistically significant sub-scores.

Research Question 6

The null hypothesis for research question 6 stated there is no difference in NAPCS charter school law sub-scores between states with allegations of illegal charter school activity and states without allegations of illegal charter school activity among the states with charter schools in 2017. The dependent variables were the 2017 NAPCS charter school law sub-scores. The independent variable was the state status with two levels, (a) states without the presence of allegations and (b) states with the presence of allegations. Results from Shapiro-Wilk (Table 5) and Levene's tests (Table 6) indicated the data violated normality and homogeneity. With these results, the appropriate test statistic for this research question was the non-parametric Mann-Whitney U test.

A Mann-Whitney U test was conducted to determine whether there is a difference in 2017 NAPCS charter school law sub-scores between states without allegations of illegal charter school activity and states with allegations of illegal charter school activity. The results indicate that states with allegations of illegal charter school activity ($n = 15$) had statistically higher 2017 NAPCS charter school law rank sub-scores for FF, ($z = 2.40, p = .016, r = .36$) than states without allegations ($n = 29$). As you can see in Table 14, there were no statistically significant differences in sub-score ranks between the groups for any of the remaining 20 sub-scores.

Table 14

Mann–Whitney U-Test Results for 2017 NAPCS State Charter School Law Sub-Scores by State Status

Sub-scale	M rank for states		U	z	SE	p	r
	Without allegations ^a	With allegations ^b					
NC	23.71	20.17	182.50	−0.93	37.81	.355	.14
VA	22.48	22.53	218.00	0.03	17.64	.977	.00
MA	20.16	27.03	285.50	1.75	38.94	.081	.26
AS	21.83	23.80	237.00	0.50	39.04	.617	.08
AF	21.67	24.10	241.50	0.61	39.41	.543	.09
TP	24.00	19.60	174.00	−1.14	38.08	.253	.17
PB	21.76	23.93	239.00	0.60	36.13	.552	.09
MD	21.12	25.17	257.50	1.31	30.60	.191	.20
RR	22.34	22.80	222.00	0.12	36.69	.902	.02
SP	20.43	26.50	277.50	1.59	37.68	.111	.24
SB	21.93	23.60	234.00	0.49	34.03	.628	.07
EL	23.14	21.27	199.00	−0.51	36.06	.608	.08
LR	21.84	23.77	236.50	0.49	38.60	.623	.07
CB	20.76	25.87	268.00	1.37	36.75	.169	.21
MS	23.05	21.43	201.50	−0.42	38.22	.675	.06
EC	23.24	21.07	196.00	−0.61	35.43	.544	.09
SE	20.05	27.23	288.50	1.84	38.63	.066	.28
OF	21.14	25.13	257.00	1.05	37.47	.292	.16
FF	19.45	28.40	306.00	2.40	36.89	.016	.36
ER	20.62	26.13	272.00	1.47	37.05	.141	.22
FV ^c	18.54	19.75	171.50	0.38	27.40	.745	.06

Note. The state sub-score refers to the NAPCS component scores which combine to create the composite score. The term “allegation” refers to the presence of allegations of charter school illegal activity in the state. NAPCS = National Alliance for Public Charter Schools; NC = No Caps; VA = A Variety of Charter Schools Allowed; MA = Multiple Authorizers Available; AS =

Authorizer and Overall Program Accountability System Required; AF = Adequate Authorizer Funding; TP = Transparent Charter Application, Review, and Decision-making Processes; PB = Performance-Based Charter Contracts Required; MD = Comprehensive Charter School Monitoring and Data Collection Processes; RR = Clear Processes for Renewal, Nonrenewal, and Revocation Decisions; SP = Transparency Regarding Educational Service Providers; SB = Fiscally and Legally Autonomous Schools with Independent Charter School Boards; EL = Clear Student Enrollment and Lottery Procedures; LR = Automatic Exemptions from Many State and District Laws and Regulations; CB = Automatic Collective Bargaining Exemption; MS = Multi-school Charter Contract and/or Multi-charter Contract Boards Allowed; EC = Extracurricular and Interscholastic Activities Eligibility and Access; SE = Clear Identification of Special Education Responsibilities; OF = Equitable Operational Funding and Equal Access to All State and Federal Funding; FF = Equitable Access to Capital Funding and Facilities; ER = Access to Relevant Employee Retirement Systems; FV = Full-Time Virtual Charter School Provisions.

^a $n = 29$. ^b $n = 15$. ^c Only 37 states received sub-scores for FV (states without allegations, $n = 23$; states with allegations, $n = 14$).

Research Question 7

The null hypothesis for research question 7 stated CER state charter school law scores do not predict the presence of allegations of illegal charter school activity among the states with charter schools in 2017. The dichotomous dependent variable was the state status with the presence of allegations coded as no (0) and yes (1). The predictor variable was the 2017 CER charter school law score. The dataset contained 44 states of which 15 had allegations of illegal activity and 29 did not.

A logistic regression was performed to determine whether *CER Score* predicts if a state does, or does not, have allegations of illegal activities within their charter school sector. The overall model was found to be statistically significant [$\chi^2(1) = 7.932, p = .005$], with a Nagelkerke R-squared value of .23. Entry of *CER Score* into the model significantly improved model fit (null $-2LL = 56.46$, final $-2LL = 48.53$). The model correctly predicted 70.5% of cases with a sensitivity of 40% and a specificity of 86.2%. Table 15 shows that *CER Score* was found to be statistically significant in predicting the state's odds of having allegations of illegal activities within their charter school sector or not [Wald (1) = 6.05, $p = .014$]. In particular, the odds of a state having allegations of illegal activities within their charter school sector were increased by 10% for every additional one-point increase in *CER Score* (OR = 1.096).

Table 15

Logistic Regression Coefficients Predicting the Type of State Status for 2017 CER State Charter School Law Scores

Predictor	<i>B</i>	<i>SE</i>	Wald	<i>p</i>	<i>OR</i>	95% CI for <i>OR</i>	
						<i>LL</i>	<i>UL</i>
CER score	0.092	0.037	6.046	.014	1.096	1.019	1.180
Constant	-3.755	1.357	7.654	.006	0.023		

Note. $df = 1$. The CER score refers to the overall composite score for each state from the 2017 CER state charter school law analysis. CER = Center for Education Reform; CI = confidence interval; *LL* = lower limit; *UL* = upper limit.

Research Question 8

The null hypothesis for research question 8 stated NAPCS state charter school law scores do not predict the presence of allegations of illegal charter school activity among the states with charter schools in 2017. The dichotomous dependent variable was the state status with the presence of

allegations coded as no (0) and yes (1). The predictor variable was the 2017 NAPCS charter school law score. The dataset contained 44 states of which 15 had allegations and 29 did not.

A logistic regression was performed to see whether *NAPCS Score* predicts if a state does, or does not, have allegations of illegal activities within their charter school sector. The overall model was not found to be statistically significant [$\chi^2(1) = 0.500, p = .480$], with a Nagelkerke R-squared value of .02. The model correctly predicted 65.9% of cases with a sensitivity of 0% and a specificity of 100%. Table 16 shows that *NAPCS Score* was not statistically significant in predicting the state's odds of having allegations of illegal activities within their charter school sector [Wald (1) = 0.476, $p = .490$].

Table 16

Logistic Regression Coefficients Predicting Type of State Status for 2017 NAPCS State Charter School Law Scores

Predictor	<i>B</i>	<i>SE</i>	Wald	<i>p</i>	<i>OR</i>	95% CI for <i>OR</i>	
						<i>LL</i>	<i>UL</i>
NAPCS score	0.007	0.011	0.476	.490	1.007	0.986	1.029
Constant	-1.673	1.518	1.214	.271	0.188		

Note. $df = 1$. The NAPCS score refers to the overall composite score. NAPCS = National Alliance for Public Charter Schools; CI = confidence interval; *LL* = lower limit; *UL* = upper limit.

CHAPTER 5

DISCUSSION

This chapter will conclude the study by discussing the key findings of the research questions and their implications. It will also review the strengths and limitations of the study and recommend opportunities for future research. The closing section will discuss the author's personal experience with poorly constructed charter school laws.

This study sought to examine one overarching research question: does a relationship exist between state charter school law scores and allegations of illegal activity within the charter school sector? The investigation began with a look into the nature, timeframes, and monetary impact of alleged charter school illegal activities. State charter school law scores and sub-scores from the CER and the NAPCS were then examined for variances between the states with and without allegations of illegal charter school activity. The study concluded with an analysis of the predictive nature of the CER and NAPCS charter school law scores.

Findings, Conclusions, and Implications

This section departs from the normal structural pattern associated with the findings, conclusions, and implications in a dissertation. In order to provide the reader with a more coherent flow, this section collates the research questions into the three investigative topics: allegations of illegal activity, CER law scores, and NAPCS law scores. Within each of these focus areas, the dissertation returns to a normal pattern of presenting the findings for each

question, followed by the general conclusions and implications for the topic. In this way, the reader is afforded the opportunity to follow the research progression in a more holistic manner.

Allegations: Questions 1 and 2

Findings

Question 1: The Nature of Allegations. Allegations of illegal activity within the charter school sector were found in 23 of the 44 states with active charter schools during the five-year examination period from 2013–2017. These allegations were levied against 154 charter school entities, and each contained three components: the allegation(s), the timeframe, and the monetary impact. Allegation, in this context, refers to a range of terms including allegation, charge, and indictment. Each incident is associated with at least one allegation, and many have multiple. Timeframe includes the various time periods associated with each incident including when it started, when it was discovered, when it ended, and how long it was occurring. The monetary impact refers to the amount of money the charter entity was alleged to have illegally obtained or misused according to the governmental agency. The 154 incidents were associated with 354 allegations of illegal activity. The terminology used for the allegations varied across governmental agencies but naturally fell into six categories: theft from charter (25.14%), illegal enrichment (23.73%), organized crime (21.47%), theft from state (21.47%), theft from federal (3.95%), and theft from institution (4.24%). The four categories of theft were identified by the origin of the funds. The most common forms of theft from each category were embezzlement (charter), funding fraud (state), illegal use of federal program funds (federal), and loan fraud (institution).

Timeframes associated with the incidents varied from 1–18 years. While incident duration averaged 3.39 years, several were actively occurring for 10–15 years. Fifty of the 154

incidents that occurred during 2013–2017 originated prior to 2013. On average, incidents went undiscovered for 5.1 years and, when uncovered, charges were usually brought within a year. The distinction between the onset of allegations versus charges was found to be murky. Often, the agency’s allegation coincided with the formal charge, effectively eliminating any transition from stage 1 (allegation) to stage 2 (charge). There is no murkiness between charges and conviction or settlement, however, and those incidents that reached a final adjudication took, on average, an additional 2.08 years.

The alleged monetary impact from these 154 incidents, in terms of lost or misspent educational funding, was \$707,042,496. Because these incidents sometimes originated prior to 2013, this total reflects funds lost from all years. When adjusted for funds lost during 2013–2017, the monetary impact was \$607,996,190 which averages to a yearly loss of \$121,599,238. Total losses per state (2013–2017) ranged from \$34,099 (Idaho) to \$399,886,470 (California). One category dwarfed all others in terms of monetary impact. Though only representing 16.1% of the incidents, theft of state funds was associated with 94.1% of the total funding losses. Most of these alleged thefts were in the form of funding fraud and were usually the result of some form of inflated enrollment numbers. The three largest incidents (2013–2017) of this nature were found in California (\$220,000,000), Indiana (\$88,705,981), and Ohio (\$80,000,000).

The monetary impact was also found to be increasing. The 50 incidents which originated prior to 2013 had a total monetary impact of \$126,765,968 as compared to \$580,276,528 for those that originated during the 5-year period of the study. This represents a 358% increase in monetary impact.

Question 2: The Disposition of Allegations. Allegations progressed to formal charges in 126 (81.82%) of the incidents. Charges moved forward to convictions, settlements, or plea deals

in 109 (86.51%) of the incidents that were charged. This number represents 70.78% of the original 154 allegations and 72.59% of the monetary impact. Fifteen states, representing 65 incidents, were found to have all their allegations converted to charges. The remaining eight states were evenly split between partial conversions (23% – 91%) and no conversions. Those with no conversions, Connecticut, Idaho, Louisiana, and Oklahoma, had a combined 11 incidents totaling \$13,961,200. Ohio was also notable in that only three of its 13 incidents moved on to formal charges.

Eight states, encompassing 61 incidents, were able to convert 100% of their charges to a final adjudication (conviction, settlement, plea deal). Most notable of those was California which accounted for 48 of the successful conversions. Six states had success rates of between 50% – 93% (56 incidents) while the remaining five states (9 incidents) had no final adjudications.

Conclusions

The nature of illegal activity within the charter school sector, whether alleged or adjudicated, was predominately theft. Theft was sub-categorized by where the funds originated: charter funds, state funds, federal funds, or institutional funds. About 51% of the incidents had allegations associated with charter school funds and, within that sub-category, the two predominant forms were embezzlement and misappropriation. However, while theft from charter funds was the largest category by allegation count, it only represented 8.8% of the monetary impact. The largest monetary impact was due to enrollment fraud, a sub-category of theft from state funds. Enrollment fraud accounted for 65.7% of all monetary losses associated with charter school illegal activity.

Illegal activity within the charter school sector often went unnoticed for years. The study found that the average case of illegal activity went undiscovered for 5.1 years with eight states

reporting cases with latencies between 8–18 years. Illegal activity also persisted for many years. While the average duration was 3.39 years, 20 incidents representing nine states had active durations of illegal activity between 7–15 years.

Illegal activity within the charter school sector has significantly reduced the funding available for student learning. Though the 154 incidents represented a mere 1.86% of the population of charter schools, the alleged monetary impact was over \$700 million dollars. Those losses were incurred by 23 states with over \$460 million dollars tied to enrollment fraud. Because state funding tied to student enrollment is the greatest source of charter school funds, it is not surprising that enrollment fraud was found to be the preeminent source of monetary impact. What is, however, quite surprising was how quickly that type of theft can scale up. It only took two years for a charter school operator in California to collect \$220 million in fraudulently claimed enrollment funds. Similarly, \$80 million was fraudulently collected during a three-year period by a virtual charter school in Ohio.

The monetary impact of illegal activity within the charter school sector significantly increased over the course of the study. Of the more than \$707 million dollars associated with the 154 incidents, 18% of the monetary impact originated prior to 2013, 40% originated in the three years between 2013–2015, and 42% originated in the two years between 2016–2017. Most of monetary impact from 2016–2017 came from just two cases of enrollment fraud signaling an increase in the scale of incidents. Comparing the monetary impact between incidents which originated prior to 2013 to those originating during or after 2013, unveiled a sharp 358% increase.

The conversion of allegations and convictions ranges wildly among the states. This is not too surprising since charter school laws vary from state to state. Nationally, just over 18% of the

incidents did not transition from allegations to formal charges and about 13% of formal charges were not converted to convictions. While the 86.5% conversion rate (charges to convictions) was an amalgam of local, state, and federal prosecutions, it is interesting to note that it was found to be in keeping with the 2022 federal conversion rate, 86.7%, when filtered for similar charges (U.S. Courts, 2022). Several factors may be in play regarding these statistics. The allegations or charges may have been unfounded, unprovable, arisen from a misapplication or misunderstanding of the law, were not addressed in statute, or could still be traversing their way through the system, whether that may be investigative or prosecutorial.

Implications

The obvious question is how could these activities have gone undetected for so many years? The answer may lie in the affected states' legislative and regulatory structures for the operations of charter schools. The hallmark of the charter school concept is the trade of less regulation for increased accountability. But it is academic accountability, not regulatory oversight, that is the thrust of the charter concept (Office of Inspector General, 2012; Stillings, 2005). NACSA, the premier charter school authorizing association, has championed a "hands off" approach to oversight (NACSA, 2018). At the same time, charter school advocacy organizations, such as CER and NAPCS, have successfully lobbied for statutory waivers from regulations (CER, 2018; Ziebarth, 2019).

The findings regarding the nature and disposition of allegations draw into question the statutory and administrative provisions governing the chartering sector in each state. The number of illegal activities that can persist undetected for multiple years indicates that, for many states, the first line of defense may be the assumed altruistic disposition of the charter operator. But when that fails, it has done so in an egregious manner with harmful consequences for all

students. Of great concern are the illegal activities that never get charged or convicted, potentially due to deficiencies in charter school law statutes or regulations. State legislators who enact charter school laws designed to provide autonomy may, inadvertently or intentionally, also supply the illegal actors with a legal defense that disallows charges or convictions. The rapid escalation of monetary impact, especially in the area of funding fraud, signals a regulatory issue that must be addressed effectively. Charter school autonomy is not diminished by proper oversight and provisions for verified trust should be welcomed by all ethical actors within the chartering sector.

Charter School Laws. Because not all charter school operators are solely governed by altruistic motives, state legislators should start by re-examining charter school laws. Are definitions clear and can they be appropriately applied to all charter schools? Asynchronous virtual schools require unique definitions for engagement, attendance, the school day, and even the school year. What factors constitute a properly enrolled student and are those defined and transferable between traditional and virtual schools? In many of the cases of funding fraud, real students were enrolled but the same real students were not attending. Are enrolled students verified and, if so, how? Evidence from this study shows that the scale of enrollment fraud is increasing. Is there a distinction in the law between providing an education and providing the opportunity for an education? Academic progress should be a factor in funding or schools could potentially continue to receive funding from year to year for students who make little to no progress. Is there a defined barrier preventing charter school operators from self-dealing? Many of the allegations exposed charter school operators who profited from selling services or goods, often at exorbitant prices, back to the schools they were running. Are charter schools defined as

state entities or as private businesses? Unless that distinction is clear, the application of appropriate laws will continue to conflict and render some cases unprovable.

Agency Regulations. States have multiple regulatory agencies associated with K–12 public school education. The most prominent of these are usually a state board of education, a state department of education, and a state auditing agency. Each of these agencies has been providing regulatory guidance for traditional public schools for decades or even centuries. Over time, these regulations have been optimized to fit the specific needs of the agencies and tailored for the traditional public school. However, these fine-tuned regulations may not be appropriate for application to charter schools, especially those with unique structures, populations, or instructional models. When laws are intentionally broad in order to ostensibly provide greater autonomy, regulatory agencies must respond by examining and adjusting regulations to ensure proper applicability to all the various charter school models within their state. From a fiscal standpoint, many states are moving toward requiring threshold targets for educational versus operational school expenditures. Do these regulations also apply to charter schools? If not, why not? If the goal is increased student achievement, it does not make sense to exempt charter schools from regulations requiring a minimum threshold for educational expenditures. Of course, properly defining educational expenditures in a manner that could be effectively applied to all models of charter schools would be an important first step.

The Charter School Contract. The charter contract between the organizer and the authorizer delineates the conditions under which charter schools are established, operated, and evaluated. As such, the contract sets the standards for accountability and forms the first layer of potential oversight. If the contract terms and relationships are ambiguous or overbroad, authorizer oversight will be diminished. The scope of illegal activity indicates that charter

contracts should include a provision giving the authorizer broad authority if improper charter school activities are suspected. An additional complicating issue is that once the charter is executed, it becomes a two-party contract governed by contract law. With the decidedly significant role the charter contract has in limiting the functionality of oversight, it behooves each state to take a vested interest in the efficacy of all charter contracts prior to execution. At minimum, each state should establish the content to be covered, acceptable contract language, and provide a mechanism for state agency review.

Charter School Oversight. Charter schools are usually subject to four entities, each with varying layers of oversight: the charter board, the authorizer, the state school board and/or department of education, and the state auditor. Of these entities, only the charter school board and the office of the state auditor typically have the organizational or statutory authority to examine charter school finances. Authorizers are not involved in the daily operations of charter schools and typically rely on outputs such as department of education reports, state financial audits, charter board minutes, and charter school supplied documentation (Mumma & West, 2018). It is the charter board that establishes and oversees operating policies, adopts budgets, enters contracts, and is legally responsible for the school (Dingerson & Ross, 2016; C. E. Finn et al., 2017). However, Fordham (2015) found that charter board governance was primarily the creation of the charter school operator. If the charter school operator is predisposed to engage in illegal activity, it is reasonable that the charter school operator will also design the charter board in such a way as to conceal the illegal activity. That leaves the state auditor as perhaps the only non-partial oversight entity into fiscal matters, which supports the Hornbeck and Malin (2019) report that state auditors have played an increasingly significant role in the fiscal monitoring of charter schools. However, it was also noted that many of the incidents in this study successfully

passed multiple audits without illegal activity being detected. It was usually a whistleblower that triggered a state agency to take a closer look.

The anecdotal reports associated with the allegations were rife with finger pointing among the oversight agencies. This blame shifting, however, was not without some merit. For many of the affected states, the legislative attempt to provide charter school autonomy resulted in conditions that obfuscated the roles of oversight agencies. What is unclear is whether that obfuscation was intentional or the result of poor execution. However, the close relationships between state legislators and charter school advocacy groups, along with the advocacy groups' push toward deregulation, appear to favor an intentional act.

Charter boards often lacked expertise and stated that they relied on authorizers to flag areas of concern. However, authorizers in states often institutionalized the NACSA “hands-off” approach focused on yearly outputs such as academic reports and financial audits. State school boards and departments of education, often with more detailed charter school data than that which was available to the authorizer, relied on the authorizer to uncover potential issues. State auditors often vilified authorizers for lack of oversight only for further discovery to reveal that many of the incidents had successfully passed multiple financial audits. State charter laws and administrative rules must clearly delineate the lines of oversight responsibilities and arm the agencies with the proper authority to ensure that charter school operators are adhering to all requisite laws and regulations.

Red Flag Triggers. Much can be learned from examining the instances of illegal charter school activities. Fundamentally, these examinations can provide red flags for potential illegal activity that would warrant closer agency scrutiny. Rapid growth, high enrollment in ancillary programs, and virtual instruction were all associated with enrollment fraud. Cash flow or

budgetary concerns were common among those who were embezzling. The instances of self-dealing had a high degree of nepotism, no-bid contracts, and a history of purchasing second-hand or obsolete equipment. Despite the programmatic differences that may occur between charter and traditional public schools, the basic budgetary expenditures for comparably sized schools are similar. An expenditure category that departs from normality should warrant extra scrutiny. Those tasked with creating legislative rules and regulations should take note of these and other red flag issues and incorporate specific responsive actions to ameliorate any potential untoward activity.

CER Charter School Law Scores: Questions 3, 5, and 7

Significant Findings

Question 3: State Population Comparisons Using 2013–2017 CER Law Scores. A Mann-Whitney U test indicated that states with allegations of illegal charter school activity had statistically higher CER charter school law rank scores than states without allegations in 2014 ($z = 2.23, p = .024, r = .35$) and 2016 ($z = 2.18, p = .028, r = .34$). There was no significant difference between the groups in 2015 ($z = 1.81, p = .071, r = .28$). An independent samples t -test indicated that states with allegations of illegal charter school activity had statistically higher CER charter school law scores in 2013 $t(39) = 2.41, p = .021, d = 0.79$, and 2017 $t(42) = 2.86, p = .007, d = 0.91$, than states without allegations.

Question 5: State Population Comparisons Using 2017 CER Law Sub-Scores. An independent samples t -test on the 2017 CER sub-scores indicated that states with allegations of illegal charter school activity ($n = 15$) had statistically higher 2017 CER charter school law sub-scores for MA $t(42) = 2.14, p = .038, d = 0.68$; SU $t(42) = 2.10, p = .042, d = 0.67$; FI $t(42) = 3.13, p = .003, d = 0.99$; and OF $t(42) = 2.14, p = .038, d = 0.77$, than states without allegations

($n = 29$). A combination of the four significant sub-scores (MA-SU-FI-OF) produced a score which was statistically higher $t(42) = 2.92, p = .006, d = 0.93$, for states with allegations of illegal activity.

Question 7: The Predictive Capacity of the 2017 CER Law Score. The 2017 CER state charter school law score was a significant predictor of states having allegations of illegal activities within their charter school sector. A logistic regression was performed to determine whether *CER Score* predicts if a state does, or does not, have allegations of illegal activities within their charter school sector. The overall model was found to be statistically significant [$\chi^2(1) = 7.932, p = .005$], with a Nagelkerke R-squared value of .23. Entry of *CER Score* into the model significantly improved model fit (null $-2LL = 56.46$, final $-2LL = 48.53$). The model correctly predicted 70.5% of cases with a sensitivity of 40% and a specificity of 86.2%. Table 15 shows that *CER Score* was found to be statistically significant in predicting the state's odds of having allegations of illegal activities within their charter school sector or not [Wald (1) = 6.05, $p = .014$]. In particular, the odds of a state having allegations of illegal activities within their charter school sector were increased by 10% for every additional one-point increase in *CER Score* (OR = 1.096).

Conclusions

Three aspects of the CER charter school law scores were examined. The variance in mean CER scores between the states with and without the presence of allegations of illegal activity within the charter school sector was looked at for each year from 2013–2017. The variance in mean CER sub-scores between the states with and without the presence of allegations of illegal activity within the charter school sector was examined for 2017. Finally, the predictive

nature of the 2017 CER score on the state status (presence of illegal activity within the charter school sector or not) was examined. Each aspect will be addressed in order.

Scores. CER charter school law scores or rank scores were statistically higher for the group of states with allegations of illegal charter school activity than the group of states without allegations in four of the five years. Because this study used census data, these results are representative of the population. According to CER, the deregulation of charter schools underscores the methodology for their analyses (CER, 2018) and, over the years, CER has consistently given higher scores to charter laws that are permissive and lower scores to those that are restrictive (Candal, 2018; Chi & Welner, 2008). Therefore, the higher CER scores that were previously found to be associated with more permissive charter school laws and less regulation have now also been found to be associated with increased illegal activity within the charter school sector.

Sub-Scores. A deeper examination was conducted on the 2017 analysis by investigating the *CER sub-scores* between the groups of states with and without allegations of illegal charter school activity. The CER state scores are a composite of 10 sub-scores, each with varying ranges. The mean sub-scores of MA (multiple authorizers), SU (scaling up), FI (freedom to innovate), and OF (operating funds) were all found to be statistically higher for the group of states with allegations, and each with large effect sizes. When the significant sub-scores were combined, the resulting combination was found to be statistically higher for states with allegations than for states without allegations. The combination (MA-SU-FI-OF) produced a very significant *p*-value (.006) in concert with a very large effect size (Cohen's $d = 0.93$).

Predictive Nature. The 2017 *CER Score* was found to be a significant predictor of illegal activity within the charter school sector. As a state's *CER Score* increases, so do the odds

of finding allegations of illegal activity. Specifically, the odds of a state having allegations of illegal activities within their charter school sector were increased by 10% for every additional one-point increase in *CER Score*. As a matter of course, during their analyses, CER converts their state scores into letter grades using the conventional A–F system. Higher scores receive the higher letter grades. Thus, states with CER letter grades of A or B had greater odds of illegal charter school activity than the states that were graded as D or F. Additionally, because CER classified charter laws with high scores as strong laws and low scores as weak laws, those charter school laws that CER designated as strong are associated with increased odds of illegal activity.

Implications

According to CER, there are too many states that “hamper charter schools with weak laws and needless regulations” and “weak charter school laws create weak charter schools” (CER, 2018, p. 5). In their 2018 analysis subtitled *The Essential Guide for Policymakers & Advocates*, CER provides “examples of how regulations and other aspects of poorly conceived charter school policies impact charter operators and students” (CER, 2018, p. 5). This study provides a look into the fiscal impact of deregulating charter school policies and a counterpoint to the CER advocacy for “strong” charter school laws.

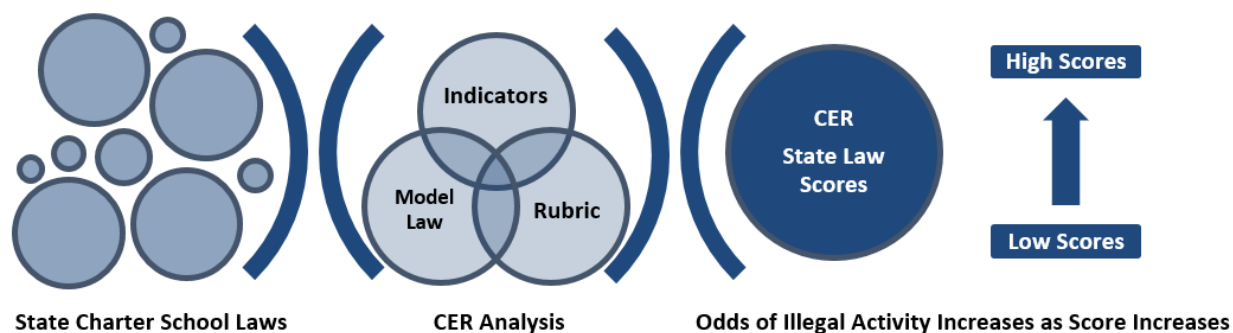
CER Model Law. The charter school laws for which CER advocates and which they designate as strong (higher scores/higher grades) were positively associated with illegal activity within the charter school sector in 2013, 2014, 2016, and 2017 and the 2017 CER Score was found to be a significant predictor of illegal activity within a state’s charter school sector. The odds of charter school sector illegal activity occurring in a state increased as the 2017 CER charter school law score increased. In other words, the more closely a state’s charter school law became aligned to the CER model law, the greater the odds of the state experiencing illegal

activity within their charter school sector. Figure 5 depicts a graphic representation of the finding. It should come as no surprise that deregulation produces untoward effects and opens the door to opportunities for financial abuse.

MA-SU-FI-OF. Sub-scores MA (multiple authorizers), SU (scaling up), FI (allows freedom to innovate), and OF (operating funds) were found to be statistically higher for states with allegations of illegal activity within the chartering sector. Of these four, only MA is expressly defined in CER literature and is used to describe a condition in charter law which allows for multiple authorizing agencies, including universities, independent state boards, and mayors. At first glance, this condition may appear innocuous. However, the effect may be a dilution of the authorizer talent pool leading to a negative impact on authorizer experience and competence. Additionally, because authorizers develop their own standards for acceptable charter school applications and establish the conditions under which the charter school operates, a multiple authorizer provision also sets the stage for organizers to shop around for the authorizer that provides the most freedom for their school.

Figure 5

Relationship Between Center for Education Reform (CER) State Law Scores and Illegal Charter School Activity



Sub-score SU (scaling up) is related to charter school growth but is not expressly defined by CER. The term may refer to the population growth within the school or to the replication of the charter model. In explaining the growth component, CER states that growth should not be limited to just “proven providers” (CER, 2018). The implication is that states (and authorizers) should allow unproven providers the same opportunities for growth. Unproven providers may pan out to be ineffective or even harmful. Affording them the opportunity to scale up prior to being proven through positive student results or some other valid metric sets the stage for colossal failures affecting thousands of students. It is now known that states which allow a more unfettered approach to charter school growth are also associated with increased illegal activity within their chartering sector.

Sub-score FI (allows freedom to innovate) is within the CER category of operational autonomy but is not expressly defined. It most likely refers to a condition in the law that allows for various “innovative” learning models including virtual or online learning. The virtual model has proven to be ripe for abuse. Both Ohio and Indiana have had allegations of charter school operators using the virtual school model to obtain tens of millions of educational dollars illegally through enrollment fraud. The laws, and more specifically the regulations, that were designed for a brick-and-mortar school, whether traditional public or charter, simply do not fit the virtual model. State agencies need to optimize their regulations to address the differences in the virtual model. It was not surprising that the sub-score addressing the allowance of virtual schools would also have the lowest *p*-value (.003) and the greatest effect size (Cohen’s *d* = 0.99).

Sub-score OF (operating funds) is within the CER category of funding equity but is not expressly defined. It most likely refers to a condition in the law which funds the charter schools in an equitable manner as traditional public schools. While there are various reasons why charter

schools may be funded at reduced levels, the most basic is the expense differential. Many charter schools do not offer transportation, do not have debt service payments, and virtual charters do not have expenses for buildings, utilities, or food services. Funding these at an “equitable” level actually produces an inequality of funding, giving the charter operator more funding above their expense level than that which is experienced by traditional public schools. States with this type of “equitable funding” are also associated with increased illegal activity within their chartering sector.

Faulty Precepts. As previously noted, research on charter school innovation has shown a marked lack of creativity or innovation (Brewer & Lubienski, 2017). Even with the “regulations that hamper creativity and innovation” removed, charter schools still end up looking like, acting like, and teaching like traditional public schools. Coupling this evidence with the finding that charter schools, on average, have no impact on student achievement (Cohodes 2018), leads to the conclusion that the charter school concept itself is built on a faulty precept. Why do we believe that the privatization of the educational system (charter schools) is the only way to unleash innovation for the benefit of student learning? Why do we believe that the key to unlocking educational excellence and academic achievement lies in handing the reins to those who have the greatest incentive to make a profit? If the charter school concept is truly valid, let it be tested empirically. Let each state which allows charter schools also choose two to three traditional public-school districts and place them under the same regulatory conditions as the charter schools. Without head-to-head studies, where each school is operating under identical conditions, the precept that privatization is the answer is merely an unfounded supposition. And yet, somehow, that supposition has become our societal norm. How and why, that has accrued points more toward propaganda advocacy than toward sound reasoning.

Deregulation. Deregulation may be accomplished through a multitude of avenues. One method, often under scrutinized, is through the intentional or unintentional misapplication of regulations. This is akin to attempting to put a square peg into a round hole. When agency regulations that are designed for traditional public schools are not adjusted or adapted for the various charter school models, in order to ensure commensurate regulatory purposes, it has the same effect as purposeful deregulation. Additionally, deregulation may also come through an obfuscation of authoritative oversight. Anecdotes from the numerous reports associated with the allegations of illegal charter school activity indicate a tension exists between various charter school oversight agencies. That tension often was made manifest during the aftermath of the discovery of the illegal activity. In many instances, the various agencies faced ambiguous responsibilities, unclear delineation of oversight, and conflicting interpretations of legislative mandates.

The findings in this study call for a critical inspection of charter school policy for those states that have received high scores from the CER law analyses. Because CER does not include any accountability measures in their analyses, the first order of business for legislators should be to examine thoroughly the statutory language governing provisions for accountability and oversight. As noted, CER has long advocated for the deregulation of charter schools and the removal of any obstacles to growth in the charter sector (Allen, 2017; CER, 2018). But charter school autonomy and flexibility are not mutually exclusive to proper oversight and regulation, especially as it pertains to finances. It is up to state legislators to provide the proper balance by coupling *effective* fiscal accountability and oversight with the charter sector's desire for autonomy and flexibility.

NAPCS Charter School Law Scores: Questions 4, 6, and 8

Significant Findings

Question 4: State Population Comparisons Using 2013–2017 NAPCS Law Scores. A Mann-Whitney U test indicated that there were no statistically significant differences in NAPCS charter school law rank scores between the groups in 2013 ($z = 1.75, p = .081, r = .27$); 2014 ($z = 0.79, p = .445, r = .12$); 2015 ($z = 0.16, p = .885, r = .03$); 2016 ($z = 1.05, p = .296, r = .16$); and 2017 ($z = 0.55, p = .586, r = .08$).

Question 6: State Population Comparisons Using 2017 NAPCS Law Sub-Scores. A Mann-Whitney U test indicated that states with allegations of illegal charter school activity ($n = 15$) had statistically higher 2017 NAPCS charter school law rank sub-scores for FF ($z = 2.40, p = .016, r = .36$) than states without allegations ($n = 29$). There were no statistically significant differences between the groups for any other sub-score.

Question 8: The Predictive Capacity of the 2017 NAPCS Law Score. The 2017 NAPCS State Charter School Law Score was not a significant predictor of allegations of illegal charter school activity. A logistic regression was performed to see whether *NAPCS Score* predicts if a state does, or does not, have allegations of illegal activities within their charter school sector. The overall model was not statistically significant [$\chi^2(1) = 0.500, p = .480$], with a Nagelkerke R-squared value of .02. The model correctly predicted 65.9% of cases with a sensitivity of 0% and a specificity of 100%. *NAPCS Score* was not statistically significant in predicting the state's odds of having allegations of illegal activities within their charter school sector [Wald (1) = 0.476, $p = .490$].

Conclusions

Three aspects of the NAPCS charter school law scores were examined. The variance in NAPCS rank scores between the population of states with and without the presence of allegations of illegal activity within the charter school sector was looked at for each year from 2013–2017. The variance in NAPCS rank sub-scores between the population of states with and without the presence of allegations of illegal activity within the charter school sector was examined for 2017. Finally, the predictive nature of the 2017 NAPCS score on the state status (presence of illegal activity within the charter school sector or not) was examined. Each aspect will be addressed in order.

Scores. NAPCS charter school law rank scores were not found to be significantly different between the groups of states with and without allegations of illegal charter school activity for each of the years in the study. Because this study used census data, these results are representative of the population.

Sub-scores. A deeper examination was conducted on the 2017 analysis by investigating the NAPCS sub-scores between the groups of states with and without allegations of illegal charter school activity. The NAPCS state score is a composite of 21 sub-scores, each with varying ranges. Of the sub-scores for 2017, only one, FF (equitable funding and facilities), was found to have a statistical difference in rank between states with and without allegations of illegal charter school activity.

Predictive Nature. Logistic regression indicated that the 2017 NAPCS charter school law score was not a significant predictor of allegations of illegal charter school activity. This finding is not surprising due to the earlier finding in Question 4 that there was no significant

difference in NAPCS rank scores between the states with and without allegations of illegal activities with the charter school sector.

Implications

Each NAPCS state charter school law analysis used its own model charter school policy as the comparator against state charter school laws (Ziebarth et al., 2017). Because there was no finding of an association between the NAPCS charter school law rank scores and the presence of allegations of illegal charter school sector activity, it can be reasoned that the underlying NAPCS model charter school policy was also not associated with the presence of illegal charter school sector activity. In a distinction from CER, the NAPCS rubric included multiple accountability measures addressing charter schools, charter school operators, and charter school authorizers. In fact, the 2017 NAPCS analysis rated Maryland's charter school law as the weakest in the nation partially due to insufficient accountability measures (Ziebarth et al., 2017). However, it must also be noted that even those NAPCS indicators that targeted accountability measures were neither positively nor negatively associated with the presence of illegal activity. In other words, how a state scored on an accountability indicator had no bearing, positively or negatively, on an association with allegations of illegal activity. This finding may be more related to how NAPCS assessed and scored all indicators rather than a statement on any associative dimension of the accountability indicators. Because this study found that NAPCS state scores are not associated with illegal activity within the charter school sector or with increased odds of states having those activities, it would be prudent for state legislators to give serious consideration to an examination of the NAPCS model charter school law policy. The inclusion of accountability measures, even those which may not be associated with a decrease in illegal activity, is surely a more measured, careful approach to the development or revision of charter school policy.

Strengths of the Study

This study investigated the total population of states with charter school laws. Since census data were obtained for each of the five years included in the study, these findings are representative of the population. The study also repeated the statistical analysis on census data for five consecutive years. The repeated measures create a robust representation of the population.

Limitations of the Study

This study has potential limitations. Some of these were identified during the design phase while others became apparent during the study. These potential limitations are identified and discussed in this section.

The discovery process to uncover verified data related to illegal activity within the chartering sector was found to be a potential limiting factor. Not all governmental agencies produce press releases or maintain a searchable database. This lack of notification or access to source material could cause an underreporting of allegations and potentially suppress the population of states with allegations. However, scandals involving schools and educational funding tend to make the news and are often the topic of discussion on social media. Because very few reports in this study were abandoned due to a lack of agency source material, and none from news agencies, the population sample of incidents included in the study is considered robust.

Charter school population variance among the states was wide-ranging, which could potentially introduce an inherent bias. Because this study examined the presence of alleged illegal activity at the state level, those states with larger populations of charter schools naturally had more opportunities for illegal activities to occur. Opportunities, however, are not causative.

Illegal activity was found in one state with a population of just 21 charter schools while another state with 374 charter schools had no reported incidents. This disparity underscores the annual findings of both the CER and NAPCS analyses that established a high degree of variability in state charter school laws (CER, 2018; Ziebarth, 2019). Variability in state policies leads to an associated variability in the framework under which charter schools operate. For this reason, each state which met the dual criteria of having a charter school law and one or more charter schools in operation, was included in the study.

The hidden nature of illegal activity and the lengthy adjudication process introduces a potential limiting factor. It is plausible that additional instances of illegal activity within the charter sector have occurred within the study's period but have not yet been uncovered or reported. Recently decided cases of charter school fraud (McCormick, 2020; Scanlon, 2020; Taketa, 2019a; Thompson, 2019) reveal that illegal activities within charter schools' operations were occurring for multiple years before being uncovered. It is also plausible that not all uncovered potential crimes may be included in governmental allegations or charges. Agencies may take a narrow approach and limit the charges to that which is deemed provable or a broad approach and incorporate all potential violations. In either case, allegations do not always result in charges, nor do charges always lead to convictions. Finally, it is plausible that unconverted allegations included in the study may be converted to charges or convictions after the study's conclusion. Court cases often take years to traverse the pathway from that which has been alleged to obtaining a final disposition. Selecting the 2017 school year as the most recent year to be included in the study provided a robust 5–10-year span of time to mitigate delays in discovery and adjudication.

Recommendations for Future Research

This study was a state level examination of the relationship between state charter school law scores and allegations of illegal activity within the charter school sector. This study could be expanded by looking into state charter laws and administrative regulations between the state groups for commonalities, differences, and alignment with advocacy groups. Further research could also examine the 154 charter schools for characteristics and the circumstances related to illegal activity.

Because educational policy is moving further toward unleashing privatization while simultaneously increasing the prescriptive regulations on traditional public schools, researchers should examine the various influences on educational policy development. What, and who, influences educational policy? Are legislators informed by peer reviewed research or by white papers with agenda-selected quasi-studies? How and why has this duplicative system arisen?

If the charter school concept is truly effective, let it be tested empirically. Let each state that allows charter schools also choose two to three traditional public-school districts and place them under the same regulatory conditions as the charter schools. Without head-to-head studies, where each school is operating under identical conditions, the precept that privatization is the key to innovation, efficiency, and achievement is merely an unfounded supposition.

Final Thoughts

Poorly constructed charter school laws, policies, and regulations can have enormous detrimental consequences both inside and outside the charter school sector. Two policy areas that have the potential for a high degree of impact concern the authority conferred upon the oversight agencies and the establishment of clearly defined, germane definitions. The historical development of Indiana charter school law proved to be deficient in each of these areas.

From 2011–2017, Indiana law did not define charter school authorizers as agencies of the state. The effect of that decision on authorizers was a legal preclusion from viewing any and all charter school data that had personally identifiable student information. Authorizers had been placed, legislatively, in a confounding legal situation. The same statutory language that stipulated their duties regarding oversight and reporting also prevented them from accessing or viewing the very data required for those duties. The only solution available to authorizers was to request their charter schools to compile and supply aggregate (non-PII) data. Authorizers then used that unverifiable data for oversight and reporting purposes. The Indiana legislature rectified that situation in 2017. What remains unclear, however, is why it took six years to do so.

Compounding the legal authority issue was legislative inaction regarding the definition of student attendance in a virtual setting. Despite allowing for the establishment of virtual charter schools in 2011, the Indiana legislature did not amend, update, or refine the definition of school attendance to account for virtual students. According to the Indiana definition for attendance, virtual students had to be physically present at the location where their educational program was being delivered. No mention was made, whether by statute, regulation, or rule, as to how that physical presence was to be established. Without guidance, virtual charter schools were tacitly left to interpret the attendance code as they saw fit. The attendance definition was amended in 2013 and added the phrase “virtual presence” but again failed to explain or define that which constitutes a “virtual presence.”

The requirement to adopt a student engagement policy was added to the law in 2017. While all charter schools were to comply, the provision was ostensibly added to address students within a virtual setting. Each school was to develop an engagement policy for the purpose of addressing any “student who regularly fails to participate in courses.” Once again, the absence of

legislative guidance resulted in schools creating and applying their own definitions for “regularly” and “participate.”

Every charter school law, policy, or regulation is, or should be, established for an intended purpose. And while that purpose is generally accomplished, many policies also result in unforeseen complications. As previously discussed, policy development is greatly influenced by self-interest advocacy organizations. State legislators would do well to remember that it is the practitioners, not the lobbyists, who will be implementing the policies. Including a broad spectrum of current practitioners from the local educational sphere in the development of policy would result in language that is practitioner-informed, well researched for current applications, and less likely to inflict unintended consequences.

It is my hope that state legislators across the country will prioritize non-partisan re-assessments of their states’ charter school policies. It is incumbent upon legislators to correct inadequacies in state charter school laws and provide the proper balance between effective guide rails and the charter sector’s desire for autonomy and flexibility. Every state has a wealth of educational expertise within their public school system, whether charter or traditional. These current practitioners stand at the ready to serve their legislative body in ways that only they can. It is time for legislators to decouple policy development from advocacy organizations and re-engage with practitioners because it is practitioners who are implementing the policies.

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APPENDIX A: 2017 CER SUB-SCORE DESCRIPTORS

Variable	Descriptor
MA	Multiple Authorizers
AI	Authorizer Independence of Local/State Authority
NC	No Charter Caps
SU	Scaling Up
SA	School Autonomy
FI	State Allows Freedom to Innovate
TF	Teacher Freedom
OF	Operating Funds
PK	Pre-K Funds
FF	Facility Funds/Financing

APPENDIX B: 2017 NAPCS SUB-SCORE DESCRIPTORS

Variable	Descriptor
NC	No Caps
VA	A Variety of Charter Schools Allowed
MA	Multiple Authorizers Available
AS	Authorizer and Overall Program Accountability System Required
AF	Adequate Authorizer Funding
TP	Transparent Charter Application, Review, and Decision-making Processes
PB	Performance-Based Charter Contracts Required
MD	Comprehensive Charter School Monitoring and Data Collection Processes
RR	Clear Processes for Renewal, Nonrenewal, and Revocation Decisions
SP	Transparency Regarding Educational Service Providers
SB	Fiscally and Legally Autonomous Schools with Independent Charter School Boards
EL	Clear Student Enrollment and Lottery Procedures
LR	Automatic Exemptions from Many State and District Laws and Regulations
CB	Automatic Collective Bargaining Exemption
MS	Multi-school Charter Contract and/or Multi-charter Contract Boards Allowed
EC	Extracurricular and Interscholastic Activities Eligibility and Access
SE	Clear Identification of Special Education Responsibilities
OF	Equitable Operational Funding and Equal Access to All State and Federal Funding
FF	Equitable Access to Capital Funding and Facilities
ER	Access to Relevant Employee Retirement Systems
FV	Full-Time Virtual Charter School Provisions