

# Report for Congress

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## Public Charter School Accountability

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## Summary

A public charter school is a publicly funded elementary or secondary school that is operated according to the terms of a charter or contract granted by a public chartering agency. The terms of a school charter typically include provisions granting autonomy in the operation of the school in exchange for adherence to specific accountability requirements, and are limited to a set number of years. In order to retain or renew its charter, a school must adhere to the accountability requirements written into its charter and also must continue to attract enough students to continue functioning as a viable school.

A public charter school may be accountable to a number of concerned actors, both internal and external to the school, for a variety of actions or outcomes. This report focuses on accountability relationships external to the school, such as those involving students' families, communities, and the broader society. Means through which a charter school may be held accountable for specific actions or outcomes include the terms of its charter, provisions in federal and state statutes that apply generally to all schools or more specifically to all charter schools, and the satisfaction of parents and community members.

Currently, 39 states, the District of Columbia, and Puerto Rico have charter school laws, and charter schools are operating in all but three of those states. Charter schools are being held accountable for results, as outlined in charter agreements or as required by federal and state law, by chartering agencies and state educational agencies, although through somewhat differing means and to degrees of effectiveness that vary from state to state. Charter schools also are being held accountable through market mechanisms, such as parental satisfaction, with the result that many have waiting lists while others have been forced to close because of insufficient enrollment.

The federal government supports charter schools primarily through the Charter Schools program, a competitive federal grant program administered by the U.S. Department of Education which awards funds for charter schools that have met certain eligibility, including accountability provisions. While in general public charter schools have received broad support during the past several Congresses, a proposal to legislate more rigid accountability requirements specific to public charter schools was among a host of accountability issues debated during the recent reauthorization of the Elementary and Secondary Education Act (ESEA). Ultimately, in passing the No Child Left Behind Act (NCLBA) to reauthorize the ESEA, the Congress voted to retain the Charter Schools program accountability requirements as previously enacted, and to enact comprehensive accountability requirements that will apply generally to each public school, irrespective of its charter status. As the 108<sup>th</sup> Congress oversees implementation of NCLBA accountability requirements, it may pay close attention to the performance of charter schools.

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# Public Charter School Accountability

## Introduction

A public charter school is a publicly funded elementary or secondary school that is operated according to the terms of a charter or contract granted by a public chartering agency. The terms of a charter typically provide the charter school operator with increased autonomy in how to operate the school, often including exemption from, or flexibility in the application of, many of the state or local regulations otherwise applicable to public schools in exchange for greater accountability for results or outcomes. Charters usually are granted for a set number of years, typically ranging from 5 to 15. In order to retain or renew its charter, a school must adhere to the accountability requirements written into its charter and also must continue to attract enough students to continue functioning as a viable school.

This report examines public charter school accountability, with a focus on the federal role. In examining charter school accountability, however, we first consider *to whom, for what, and how* charter schools are held accountable and then examine how charter school accountability is being carried out in the states. We then provide an overview of the federal role in charter school accountability and describe how accountability provisions in the NCLBA (P.L. 107-110) apply to public charter schools.

## Aspects of Charter School Accountability

### ***To Whom?***

To whom charter schools are accountable is a complicated question, concerning multiple types of accountability and involving relationships between a variety of actors. First, accountability may be internal or external to a charter school.<sup>1</sup> Internal accountability concerns relationships operating within the school, such as between a school governing board and teachers, and might involve the adherence to school guidelines and procedures or to a specified curriculum. External accountability concerns relationships between the school and outside actors. In regard to external accountability, charter schools are accountable both to the broader society, through

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<sup>1</sup> For further discussion of internal and external accountability, see U.S. Department of Education. Office of Educational Research and Improvement. *A Study of Charter School Accountability*, by Paul Hill *et al.*, Center on Reinventing Public Education, June 2001. (Hereafter cited as ED, *Charter School Accountability*). See also Vergari, Sandra. The Regulatory Styles of Statewide Charter School Authorizers: Arizona, Massachusetts, and Michigan, *Educational Administration Quarterly*, v. 36, no. 5, December 2000. pp. 730-757, where bureaucratic and market accountability are described.

relationships between the school operator, the governing board, public chartering agencies, and other government entities; and to individuals, through relationships with students and parents. In this report, we focus on external accountability.

A key entity involved in holding charter schools accountable is the authorized public chartering agency. Thirty-nine states, the District of Columbia, and Puerto Rico have charter school laws and each allows different agencies to grant school charters. Agencies authorized under state laws to grant school charters include:

- local boards of education or school districts,
- state boards of education,
- state boards for charter schools,
- chief state school officers,
- independent school boards,
- intermediate school districts,
- county and municipal governments,
- vocational-technical school districts,
- public colleges and universities,
- community colleges, and
- private colleges and universities.

In some states, only local boards of education or school districts may charter schools, while in others, only the state board of education or chief state school officer may grant charters. In other states, the state board of education can approve a charter on appeal of a decision by a local board or district. In about a quarter of states, multiple agencies may grant school charters, while in some others, interdependent approval is required, usually by both the local and state boards of education.<sup>2</sup>

Characteristics such as the number and type of public chartering agencies in a particular state are significant in the application of school accountability. According to the U.S. Department of Education's (ED) *Evaluation of the Public Charter Schools Program*, the administration of accountability requirements appears to depend partially on the size of the chartering agency. The study reports that, in general, where the chartering agency is a larger, non-local agency responsible for all or multiple charter schools — particularly state agencies — there is evidence of a sound capacity to monitor accountability.<sup>3</sup> In Massachusetts, for example, the state Board of Education is the sole chartering agency and also is the agency responsible for enforcing accountability requirements.<sup>4</sup> This is held to simplify the accountability process, because there is a clear line of accountability between the school and a

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<sup>2</sup> U.S. Department of Education. Office of the Under Secretary. *Evaluation of the Public Charter Schools Program: Year One Evaluation Report*, by Lee Anderson *et al.*, SRI International, December 2000, Exhibit L-1. p. 111 (hereafter cited as ED, *Evaluation of the Public Charter Schools Program*).

<sup>3</sup> *Ibid.*, p. 52-54.

<sup>4</sup> Massachusetts has two types of charter schools — Commonwealth charter schools and Horace Mann charter schools. Horace Mann charter schools first must be approved by a local school committee, but both types of schools receive their charter from the state Board of Education.

single, well-resourced accountability agency. In states with multiple independent chartering agencies, the study reports, it becomes more difficult to monitor accountability throughout the state. Local boards or agencies that charter only a few schools generally are less well equipped to adequately monitor performance. As chartering agencies mature, however, the ED report indicates that some have demonstrated improvement. For example, in Michigan, a state with multiple chartering agencies, Central Michigan University has undertaken efforts to improve its processes for approving and reviewing charter schools after having been criticized for being too lenient.<sup>5</sup>

As the number and type of entities authorized to charter schools vary across states, so do the accountability relationships between charter schools and their chartering agencies. While in some instances charter schools are directly accountable only to the chartering agency, according to ED's *Evaluation of Charter Schools*, charter schools are accountable to more than one agency in most states.<sup>6</sup> In the majority of the states where only local educational agencies (LEAs) are authorized to charter schools, ED found that both the chartering agency and the state educational agency (SEA) were identified as being responsible for charter school accountability.<sup>7</sup> In states with multiple chartering agencies and which allow for the treatment of charter schools as independent LEAs, accountability relationships may involve a charter school being accountable both to its chartering agency under the terms of its charter, and also to the SEA for certain statewide requirements. In addition to the charter schools themselves, most states also require chartering agencies to prepare and submit reports on charter school accountability.

Charter schools are considered by some as having a direct accountability relationship with parents and the community that typically is not present in conventional public schools, by the necessity of their direct support in order to continue to operate.<sup>8</sup> Accountability to parents is most readily evident through their opportunity to exercise school choice. Whereas, traditionally (though not always), students attending a conventional public school have been assigned to a particular school based on their place of residence, students who attend a public charter school often have chosen to attend a school that draws students from a geographic area that spans conventional school attendance areas or district boundaries.

According to some, the existence of charter schools as a choice for parents may have the effect of making both charter and conventional public schools more directly accountable to parents by providing them with more school choices, creating competition between schools and resulting in only the best performing schools being able to attract and retain students. Others remain skeptical that sufficient objective information is available to allow parents to make informed decisions.<sup>9</sup> In addition

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<sup>5</sup> ED, *Charter School Accountability*, p. 57.

<sup>6</sup> ED, *Evaluation of the Public Charter Schools Program*, p. 44.

<sup>7</sup> *Ibid.*, p. 45.

<sup>8</sup> ED, *Charter School Accountability*, pp. 6-7.

<sup>9</sup> However, under ESEA sec. 1111, states and LEAs are required to make publicly available  
(continued...)

to the accountability relationships described above, charter schools also are accountable to a variety of other actors such as teachers, unions, financial donors, and community interests, but whose roles are not central to this discussion.

### ***For What?***

Charter schools may be held accountable for activities specific to the terms of their charter. This may include the provision of a high quality education to students, often measured in terms of meeting or exceeding state standards according to state assessments, or in terms of performing better than other public schools at educating similar students. It may include developing and adhering to a high quality and innovative education curriculum that might not otherwise be available in conventional public schools. It also may include providing educational opportunities that meet the needs of students being ill-served in their current environment, such as disadvantaged or at-risk youth. Charter schools also may be held accountable for adhering to generally accepted financial and management practices. In addition to the terms of a charter, a school may be held accountable for satisfying parents or attracting and retaining enough students to justify the continued operation of a school.

Charter schools also may be held accountable for activities of a general nature and not specific to any school's charter, such as adherence to federal, state, and local statutes and regulations that are not subject to waiver, as well as statewide standards and assessment goals. Such activities represent types of accountability that apply to all public schools — conventional and charter alike. Activities for which all schools are to be held accountable are likely to be those that are deemed by society as essential to the successful operation of public schools. Some would argue that the accountability requirements written into schools' charters should specify results or outcomes that are more demanding than those required of conventional public schools. Others would argue that satisfying the terms of a school's charter and attracting a sufficient student body are the sole criteria by which charter schools should be measured.

### ***How?***

The method by which a charter school is held accountable depends on state law, and in general begins even before the school commences operations through the charter review and approval process. This consists of reviewing and basing the granting of a school charter on items such as a school's proposed mission, education plan, and curriculum; how the school will be innovative; how the school will be financed; its facilities plan; and specific accountability requirements. In a few states, chartering agencies have adopted rigorous charter approval processes to help ensure

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<sup>9</sup> (...continued)

“report cards” depicting the success of LEAs and public schools (to include charter schools) at meeting ESEA accountability requirements. A discussion of requirements for school report cards may be found in CRS Report RL31487, *Education for the Disadvantaged: Overview of ESEA Title I-A Amendments Under the No Child Left Behind Act*, by Wayne Riddle.

that those schools granted charters are ready to succeed. Among such agencies are the Massachusetts Board of Education and, more recently, some of the public universities in Michigan.

As charter schools operate, they can be held accountable through a variety of means, to include requiring:

- charter schools to prepare and update accountability plans and submit annual reports;
- chartering agencies or other public entities to conduct periodic site visits and to review reports and other information provided by charter school operators; and
- the publication of information about charter schools, such as gains or declines in students' academic achievement, whether there is a waiting list or open seats in the school, and whether the school gains accreditation.

As schools' charters come up for renewal, chartering agencies are responsible for conducting some degree of review, depending upon the terms of state law. Typically the review process informs the decision of whether to renew or revoke a school's charter. In some states, agencies other than those granting school charters also have a role in accountability, such as by setting and enforcing state academic content standards and accountability requirements. Subject to the outcome of this review, the chartering agency can renew or revoke a schools' charter.

Chartering agencies can use a variety of methods and processes to review the schools they charter. In some instances, chartering agencies have created, or contracted with school inspection organizations such as in Chicago, Colorado, and Massachusetts. The latter patterns its review process on the British school inspection model.<sup>10</sup> In other instances, diffuse responsibility spread across multiple agencies has resulted in inconsistent application of accountability requirements. In some cases, it appears that chartering agencies have lacked the capacity to do an adequate job of monitoring and reviewing the schools they chartered and have been understaffed or lacking in resources.<sup>11</sup> Often times, insufficient or inconclusive data are available with which to discern progress on student achievement tests so accountability must be judged using other criteria.

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<sup>10</sup> Massachusetts Department of Education, *The Massachusetts Charter School Initiative*, 2001, p. 33.

<sup>11</sup> A case in point is Arizona which allows multiple agencies to charter schools. According to ED's *Evaluation of Charter Schools*, "The Arizona State Board of Education employs two staff members to oversee their 55 charter schools. Charter schools are only a small part of the responsibilities of this department that also established educational policy for all schools in Arizona. The State Board of Education has tried to tighten its application process, but once a charter is awarded, they do little more than monitor the schools for compliance" (p. 36). In addition, in Arizona, several districts charter schools that operate outside of, and often far from, their district. These districts often are unable to adequately monitor the schools they charter.



Only a small number of charter schools have been in existence long enough to have had their charters subject to renewal and only a small fraction of these have had their charters revoked for failure to meet performance accountability requirements. Most of the few charter schools that have been forced to close were cited for failures in financial or managerial accountability. Some argue that part of the reason for the low number of school closures may be that the consequences of failure are so harsh that chartering agencies lack the wherewithal to close an underperforming school that might nonetheless be popular with parents.<sup>12</sup> Others offer that a school should be able to operate so long as it meets the demands of parents willing to choose it for their children.

## Charter School Accountability in the States

The manner and degree to which charter schools are held accountable vary from one state to another and are influenced, in part, by federal requirements. ED's *Evaluation of the Public Charter Schools Program* finds that charter schools, in general, are being held to accountability requirements that are the same or more demanding than those for conventional public schools. This includes participation in statewide assessments that measure the progress of charter school students in meeting the state's academic standards. Some state charter school laws specify that school district accountability requirements also apply to public charter schools located within certain districts. Thus, the administration of federal and state law and policy appears, in practice, to have resulted in statewide standards and assessments being applied to most public charter schools.

However, the authority through which public charter schools are held accountable to state standards and assessments and the administration of corrective action differs in each state. Reviews of state charter laws indicate that not all states have *statutory* requirements, that cannot be waived, specifying the applicability of statewide academic standards and assessments to all students attending charter schools.<sup>13</sup> Additionally, some analysts note that the accountability requirements written into school charters can be vague or not substantive, despite accountability being one of the central tenets of the charter school concept. This critique is widely recognized and has resulted in calls for improvements in charter school accountability processes. For example, the Center on Reinventing Public Education, notes that many government agencies do not have clear accountability processes in place for charter schools and that chartering agencies need to improve their methods

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<sup>12</sup> Bulkley, Katrina. Educational Performance and Charter School Authorizers: The Accountability Bind. *Education Policy Analysis Archives*, v. 9, no. 37, October 1, 2001. pp. 12-13. Accessed from Internet at [<http://epaa.asu.edu/epaa/v9n37.html>], October 2, 2001.

<sup>13</sup> See: American Federation of Teachers. Charter School Laws: Do They Measure Up? August 1996; and Center for Education Reform. Charter School Legislation: State-by-State Analyses. Accessed on November 6, 2001 at: [[http://www.edreform.com/charter\\_schools/laws/states.htm](http://www.edreform.com/charter_schools/laws/states.htm)].

of overseeing charter schools.<sup>14</sup> Some charter school advocates, concerned about current weaknesses in accountability systems, propose that charter schools adopt transparent charter school accountability principles, modeled after the Generally Accepted Accounting Principles (GAAP) employed by private-sector firms.<sup>15</sup>

While, in general, the chartering agency is responsible to some degree for ensuring that a charter school adheres to the accountability requirements of its charter, in the majority of states, multiple agencies have some role in charter school accountability, to include the SEA which is required under ESEA Title I, Section 1116(c) to annually review the progress of each LEA receiving Title I-A funds in meeting the state's performance standards described in its state plan.<sup>16</sup> ED's *Evaluation of the Public Charter Schools Program* found that only in six states is the chartering agency reported as the sole entity responsible for charter school accountability. In 10 states, responsibility for charter school accountability resides at the state level, while in 22 states, agencies at multiple levels of government are responsible.<sup>17</sup>

Only in a few instances have charter schools been sanctioned for failure to adhere to academic accountability requirements (as previously stated, most accountability problems have been for financial or managerial reasons). ED's *Evaluation of the Public Charter Schools Program* reveals a small number of charter schools being sanctioned because of poor student academic assessment levels (one school closed, two not renewed, and one placed on probation, out of 837 schools chartered by 48 agencies that were included in the study).<sup>18</sup> The report does note, however, that in states in which the authority to charter schools is limited to either a state or local entity, charter schools are more likely to be sanctioned for accountability purposes (for any reason, not just student performance) than are charter schools in states in which multiple entities are authorized to charter schools.<sup>19</sup> Thus, ED's preliminary findings in its first year report are that chartering agencies that are responsible for many schools are better equipped to monitor the accountability of charter schools than are chartering agencies responsible for few schools, and that charter schools in states with a single level of charter authority — state or local — are more likely to be sanctioned for accountability purposes than are charter schools in states with chartering entities at multiple levels of government.

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<sup>14</sup> Center on Reinventing Public Education. Expanding Charter School Accountability. *The Education Digest*, October 2001.

<sup>15</sup> Manno, Bruno V., Chester E. Finn, Jr., and Gregg Vanourek. Charter School Accountability: Problems and Prospects. *Educational Policy*, v. 14, no. 4, September 2000. pp. 473-493. The authors propose that charter schools adopt Generally Accepted Accountability Principles for Education (GAAPE).

<sup>16</sup> It is ED's policy to treat charter schools which are not part of conventional LEAs as separate LEAs. Such charter schools are thus subject to SEA oversight regarding their progress in meeting state performance standards and on statewide assessments.

<sup>17</sup> ED, *Evaluation of the Public Charter Schools Program*, p. 44-47.

<sup>18</sup> *Ibid.*, p. 57.

<sup>19</sup> *Ibid.*, p. 58.

## Federal Policy on Charter School Accountability

The federal government provides support specifically for public charter schools under ESEA through the Charter Schools Program (Title V-B-1), in which ED awards competitive grants to SEAs or to charter school developers (in instances where either the SEA declines to apply for a grant or the SEA's application is denied). Charter schools also may be funded under the following ESEA Title V programs: Innovative Programs (Title V-A), through which funds may be used at the state or local level for the planning, design, and initial implementation of charter schools; and Voluntary Public School Choice Programs (Title V-B-3), through which the cost of transporting students to charter schools may be funded.<sup>20</sup> Additionally, the federal government encourages public charter schools as an option for students to transfer to if their school is identified for school improvement under Title I-A. Charter schools also are eligible for grants under a wide range of ED programs, such as Title I-A and IDEA, that are not aimed specifically at charter schools. While the federal government actively supports public charter schools, it has not enacted accountability requirements for all charter schools that are different from the accountability provisions generally applicable to all schools under the ESEA. However, the NCLBA amended the ESEA to specify that charter school accountability is to be administered in accordance with state charter school law.

### Charter School Accountability Proposals Considered in H.R. 1 (107<sup>th</sup> Congress)

As the 107<sup>th</sup> Congress considered reauthorization of the ESEA, the Senate passed H.R. 1 after incorporating a provision into Title I-A that would have required a minimum amount of rigor in the accountability requirements that states applied to charter schools. It stated:

Each State plan shall provide an assurance that the State's accountability requirements for charter schools (as defined in Section 5120), such as requirements established under the State's charter school law and overseen by the State's authorized chartering agencies for such schools, are at least as rigorous as the accountability requirements established under this Act, such as the requirements regarding standards, assessments, adequate yearly progress, school identification, receipt of technical assistance, and corrective action, that are applicable to other schools in the State under this Act. [Section 1111(b)(2)(H) — Senate]

This provision was dropped prior to enactment of the NCLBA. It would have explicitly required each state to adopt accountability requirements for charter schools that were at least as rigorous as those established under H.R. 1. While this provision specifically addressed accountability requirements for charter schools, it does not appear that absent it, accountability requirements for charter schools could have been any less rigorous than those otherwise applicable to public schools in the state. In

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<sup>20</sup> Per-pupil Facilities Aid Programs, and Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation also are authorized under ESEA, Title V-B. However, no funds have been appropriated for these programs for FY2002.

lieu of the Senate proposal, the conference committee decided to add the following language to the Title I-A accountability requirements:

ACCOUNTABILITY FOR CHARTER SCHOOLS.—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law. [Section 1111(b)(2)(K)]

Additionally, the following language was incorporated into the conference report:

Charter schools are public schools and therefore subject to the same accountability requirements of this Act as they apply to other public schools, including Sections 1111 and 1116, as developed in each state. However, there is no intent to replace or duplicate the role of authorized chartering agencies, as established under each state’s charter school law, in overseeing the Act’s accountability requirements for the charter schools that they authorize. Authorized chartering agencies should be held accountable for carrying out their oversight responsibilities as determined by each state through its charter school law and other applicable state laws. This should be done in ways that do not inhibit or discourage the approval or oversight of innovative, high quality charter schools.

The provision at Section 1111(b)(2)(K) and the language in the conference report address concerns that absent the provision, there might have been some ambiguity as to the role of authorized chartering agencies vis-à-vis SEAs in overseeing ESEA accountability requirements for charter schools. During the ESEA reauthorization, neither the House nor the Senate proposed to amend substantively any of the accountability provisions of the Charter Schools program.

## **ESEA Title I-A Accountability Requirements**

Under the ESEA, as amended by the NCLBA, no distinction is made between conventional public schools and public charter schools in the application of the accountability requirements prescribed in ESEA Title I-A. All public schools remain subject to the same accountability requirements, with the exception that schools not accepting Title I-A funds are not subject to school improvement and corrective action requirements. According to ESEA Title I-A, each state plan for which funds are awarded “shall demonstrate that the state has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools.”<sup>21</sup> In addition, each state agency must have assessments that will be used to measure the success of local educational agencies and schools in meeting its student academic standards for, at a minimum, reading and math, and no later than school year 2007-2008, science. Each school and LEA is required to make adequate yearly progress (AYP) toward all students attaining proficiency by the end of school year 2013-2014, with results reported according to required demographic subgroups.<sup>22</sup> As previously mentioned,

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<sup>21</sup> ESEA Title I-A, Section 1111(b)(1).

<sup>22</sup> For further information on elementary and secondary education accountability provisions, see CRS Report RS21094, *Adequate Yearly Progress Under ESEA Title I: Estimates for* (continued...)

enforcement of ESEA accountability requirements, as applicable to public charter schools, is to be in accordance with state charter school law.

## **Charter Schools Program Accountability Requirements**

Federal law requires that charter schools funded under the Charter Schools program be subject to state accountability requirements in accordance with ESEA Title V-B-1, Section 5210, which defines the term “charter school” as a public school that, while exempted from certain significant state or local rules, is bound by certain federal requirements, including that it:

(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;  
and

\* \* \*

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

While no longer required under federal law, ED is completing a 4-year national study and other evaluations of charter schools, as required under a provision that had been a part of Public Charter Schools program prior to enactment of the NCLBA. The purposes of these projects include the evaluation of charter schools’ impact on student achievement, with results disaggregated according to student socioeconomic characteristics, and the evaluation of charter schools’ impact on the professional qualifications and turnover rate of teachers in charter schools.

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<sup>22</sup> (...continued)

*Three States Based on Specifications in H.R. 1 Conference Agreement*, by David P. Smole and Wayne C. Riddle.