



Eric Brower

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Charter Schools and Labor Relations

Labor relations between charter school educators and administration has received significant debate recently, particularly in the areas of unionization and collective bargaining. On one side, educators and unions claim that charter school educators are due proper professional employment rights such as collective bargaining and unionization. On the other, government education departments and charter school administrations say that the educators work for quasi-private institutions and are not guaranteed the same employment rights as a public employee.

Scope of the Problem

In recent years, New York State has seen an effort to create more charter schools. In New York City, charter schools have proven to be somewhat successful in providing students with educational opportunity. Recently, unions, such as New York State United Teachers (NYSUT), have begun to draw attention to labor issues within charter schools (NYSUT 2014). Though charter schools may offer new educational opportunity across New York, particularly downstate, labor and educational worker advocacy groups worry about protecting the rights of these educators.

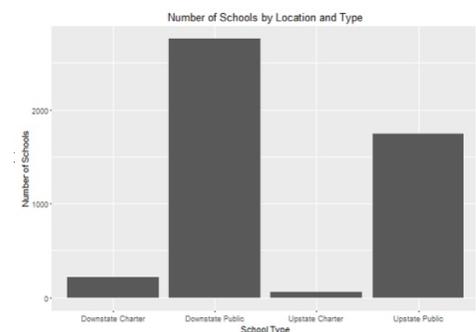
When considering labor issues, some examples often cited in regards to charter schools include lack of unionization rights and working contracts for faculty. This can mean long hours for faculty and lack of many benefits that unionized educators often receive, such as tenuring and clear, agreed upon performance standards (McGrath 2012). Without the ability to assemble in unions, the faculty have little leverage to collectively bargain for benefits and better working conditions (McGrath 2012). These issues have been brought to light in recent years as New York State attempts to expand its charter school system.

Current policies do not make it clear if charter school educators are to enjoy the rights of a public employee or a private employee. Since charter schools are funded both privately and publicly, it is not clear which standard of employment they are to adhere to. This creates ambiguity in terms of the treatment that they might expect from their employers. Specifically, teachers being designated as

employees of public schools may be allowed certain unionization, employment protections, and collective bargaining rights that charter school or private school educators may not be guaranteed or granted at all (Concordia University 2013; McGrath 2012).

Past Policy

The New York State Charter School Act of 1998 was passed with the goal of providing the student of youth of New York State with expanded educational opportunities. This bill afforded the state government the ability to approve charter schools (NYSED 2014). Due to the relatively new concept of state funded charter schools, not much additional past policy exists (NYSED 2014). In New York, most past policy is in the form of regulations and legislation regarding funding and construction of charter schools.



As a result of the unclear position of faculty and conditions that may allow an employer great leverage over a professional employee, many job candidates in

education have become skeptical of working for charter schools. This may cause an issue with adequately staffing charter schools. Additionally, some charter school educators report poor working conditions, long hours, and low job satisfaction as a result of working without the protection provided by unions and labor contracts (Concordia University 2013).

Current Policy

In 2013, the state legislature passed legislation that carved out a grey area for charter school faculty. With New York State Charter School Regulation 119.2, state charter schools became legally able to hold their employees to either standard of employment, private or public (NYSED 2014). This regulation particularly focused on retirement benefits to employees. The scope of this legislation, however, has gone beyond retirement programs and has extended to general acceptance of charter school faculty not being entitled to full public employee benefits, such as unionization and collective bargaining rights, as they fit into a grey area of both private and public workers. This creates an issue for employees looking to better their working conditions as faculty can often be fired at will for their attempts at collective action (McGrath 2012).

New York Charter School Regulation 119.2 was created because charter schools are not purely public nor purely private institutions. Therefore, some may argue

against holding charter school educators specifically to one set of regulations or the other. Since charter schools receive private endorsements, donors may argue that they are a private organization. On the other hand, charter schools also receive substantial public funds, making it difficult to not hold them to some level

of public governance. For this reason, it may seem only prudent to create a purgatorial arrangement for charter schools, in which they are neither public entities nor private entities.

The New York State Board of Regents is the governing body of charter schools in New York State. The Board of Regents was vested with this power in New York State Charter School Regulation 3.16. This regulation was passed in December 2013 and further created the idea of charter schools as quasi-public institutions (NYSED 2014). Charter schools, therefore,

must simultaneously answer to public authorities, but operate somewhat privately. This is especially evident in a financial context. In the same vein, New York State Charter School Regulation 119.1 denoted that charter schools are to receive funding from private sources, such as from private companies, however, the state government may pay to cover deficits between actual costs of running a charter school and private funding shortfalls (NYSED 2014).

New York does not currently have any legislation requiring charter schools to grant faculty members labor contracts or collective bargaining rights. Some states, such as California, have noted an issue with the quasi-public nature of charter schools and the unfair treatment faculty may receive. In 2013, California passed the Educational Employment Relations Act which upheld the right of charter school educators to unionize and collectively bargain for labour contracts, at a localized level, without fear of repercussions from their employer (CPERB 2013). This piece of legislation may lead the way for other states with charter school systems to remodel their labour relations policy in respect to charter schools. New York, currently, has adopted no such legislation (NYSUT 2014, CPERB 2013).

In Alabama, state regulations specifically address charter school educator collective bargaining rights. Legislation in Alabama prohibits any infringement on the rights of charter school educators to assemble and form unions. Indiana has a very similar set of regulation that protect collective bargaining, allowing charter school educators to organize into collective bargaining units (ECS 2016).

Other states have allowed charter school educators to choose to work independently or as a member of a union. States with laws like this include Ohio and Minnesota. Regulations that allow charter school educators to individually decide to work independently or join a union may take pressure off of state education institutions to protect the unionization rights of educators and place that power in the hands of the educators (ECS 2016).





Organization Contact Information

New York State Department of Education

89 Washington Avenue
Albany, NY 12234
(518) 474-3852

New York State Board of Regents

89 Washington Avenue
Board of Regents, Room 110EB
Albany, NY 12234
(518) 474-5889
RegentsOffice@nysed.gov

New York State United Teachers

800 Troy-Schenectady Road
Latham, NY 12110
(518) 213-6000
(800) 342-9810

Key Organizations

Many organizations are invested in education in New York State. Some key policy drivers are government agencies, lobbying groups, and unions. Among these organizations, the New York State Department of Education, the New York State Board of Regents, and New York State United Teachers are major players.

- **New York State Department of Education (NYSED):** This state agency is tasked with regulating charter and public schools in New York State. NYSED has had great influence over proposed and implemented education policy in New York State.
- **New York State Board of Regents:** The New York State Board of Regents oversees the legitimacy and meeting of state standards for schools in New York State.
- **New York State United Teachers (NYSUT):** NYSUT is New York State's leading union for educators. The union largely represents public school teachers, though they have recently turned some attention toward advocating on the behalf of charter school teachers and examining state charter school policy.

Glossary of Terms

Charter School: A privately managed, tax-payer funded school exempt from some rules that public schools are held to (NEA 2015).

Public School: A school funded and supported by government institutions.

Collective Bargaining: The process by which laborers, represented by unions, negotiate terms of employment and the benefits thereof (AFL-CIO 2016).

Unionization: The ability of laborers to form a body for representation in collective bargaining (NLRB 2016).

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Eric Brower

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