

Charter Schools Teachers in America:

A better model for education

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introduction

The Charter school model for hiring, firing and retaining qualified educators is better than the traditional public school model and should be universally adopted in the United States. This is because of the effects of performance on pay, the flexibility of Charter school hiring and firing decisions, and the increased level of diversity in charter school teachers and education models. These factors lead to better quality teachers in charter schools, which leads to better education for students.

Pay for performance

Because of the nature of charter school regulation, charter schools attract high-quality educators, while low-quality educators are dissuaded from joining the profession or are terminated for poor performance.¹ The first reason for this is because charter schools are not obligated to pay based solely on experience but rather on a mixture of significant factors such as

¹ Julie Kowal, Emily Ayscue Hassel, & Bryan C. Hassel, *Teacher Compensation in Charter and Private Schools, Snapshots and Lessons for District Public Schools*, CENTER FOR AMERICAN PROGRESS (FEB. 6, 2007) available at www.americanprogress.org/wp-content/uploads/issues/2007/02/pdf/teacher_compensation.pdf at 10.

the subject being taught, the performance of the teacher, and the performance of the school overall.²

Opponents of charter schools often cite to lower overall salaries as a reason why charter school teachers are worse off and of poorer quality than traditional educators.³ While it is true that charter school teachers make a lower base salary overall, \$37,000 versus \$44,500 for the average public school teacher,⁴ there are a few good reasons for this; the first is that, on average, charter school teachers are at the beginning of their careers while traditional teachers are near the end.⁵ The average age of a charter school teacher is 38, compared to 43 in traditional public school.⁶ At the minimum that represents five additional years of teaching experience for public school educators. Since the average starting age of teachers is twenty-six and that almost eighty percent of all starting teachers have a bachelor's degree⁷ that means an average teacher in a public school has seventeen years of experience versus twelve for the average charter school teacher, the difference leads to major differences in salary. Using the New Mexico teaching salary schedule for example, the average public school teacher would make \$36,183 compared to \$32,285 for the average charter school teacher, a difference of almost \$4,000 a year.⁸ Using Georgia as another example, the average public school teacher would make \$43,721 compared to

² Michael Porgursky & Dale Ballou, *Personnel Policy in Charter Schools*, THOMAS B. FORHDAM FOUNDATION (Aug. 1, 2001) available at http://www.edexcellencemedia.net/publications/2001/200108_personnelpolicyinsharterschools/personnel_policy.pdf at 16

³ Dennis Van Roekel, *Charter Schools: Proceed Deliberately, Monitor Dilligently, and Learn what can be Scaled up*, NATIONAL EDUCATION ASSOCIATION (2008) available at WWW.Nea.org/assets/docs/HE/mf_PB17_CharterSchools.pdf

⁴ Id.

⁵ Id.

⁶ Ashley Kaiser & Freddie Cross, *Beginning Teacher Attrition and Mobility: Results from the First Through Third Waves of the 2007-08 Beginning Teacher Longitudinal Study*, NCES 2011-318, 1-45 (Sept. 2011) (see preliminary data file at 3)

⁷ Id.

⁸ *AT1 2012-13 Salary Schedule*, www.aps.edu/human-resources/salary-schedules/salaries/at1-salary-schedule accessed Mar. 25, 2013 3:39 p.m.

\$40,012.⁹ However, the experience gap goes much beyond the simple difference in age; forty-three percent of charter school teachers have taught for three years or less, compared to eighteen percent of public school teachers.¹⁰ In the inverse, Twenty-five percent of public school teachers have twenty or more years of experience compared to less than eight percent of charter school teachers.¹¹ Thus the oft cited differences in teacher salary has much more to do with the youth of the charter school system itself and the youth of the educators within the charter school system than an actual difference in salary.

The second reason base salaries may appear lower is that charter schools take a much more market-based approach to salaries and compensation growth.¹² A 2001 study from the *Thomas B. Fordham foundation*, a survey of multiple charter school jurisdictions, found that most charter schools paid beginning salaries that were approximately equal to those at traditional public schools.¹³ The study also found that while traditional public schools almost universally pay teachers on a pay scale based on experience, charter schools can and do take many factors into account in deciding salary.¹⁴ The *Fordham foundation* study found that a quarter of charter schools took superior performance into account and that thirty percent offered a pay incentive for teachers in hard to staff positions, such as math or science.¹⁵ Another study from the *Center for American Progress* found that only 23 percent of charter schools used the same schedule as their district, with many more using a modified salary schedule and about a quarter using no schedule

⁹ John Barge, *Georgia department of Education state salary schedule 2012*, archives.gadoe.org/DMGetDocument.aspx/fy%2012%20Annual%20State%20annual%20Schedule.pdf accessed Apr. 9, 2013 at 4:38 p.m.

¹⁰ Van Roekel, *supra* note 3 at 2

¹¹ Jennifer Sable, Jane Thomas & Quansheng Shen, *Documentation to the NCES Common Core of Data Public Elementary/ Secondary School Universe Survey: School Year 2003-04*, NCES 2006-324, 1-119 (2006) (see table 6)

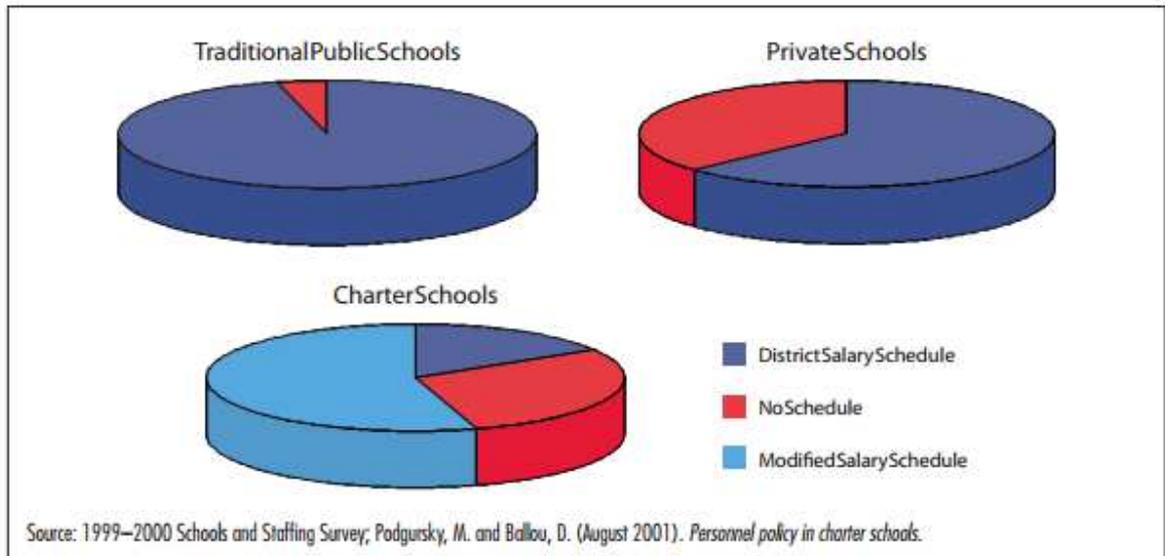
¹² Porgursky & Ballou, *supra* note 2 at 15.

¹³ *Id.*; See also Kowal, Hassel & Hassel, *supra* note 1 at 6 (noting that in 1999-00 charter schools paid beginning salaries slightly above those of traditional public schools).

¹⁴ Porgursky & Ballou *supra* note 2 at 16.

¹⁵ *Id.*

at all.¹⁶ Figure 1 below represents the relative flexibility charter schools have in payment schedule compared to traditional public schools.



Also, the *Center for American Progress* study found that charter schools used their salary schedules as a starting point in determining salary rather than the sole determination of salary as in public schools.¹⁷ That study noted that charter schools took a holistic approach to salaries, based upon the needs of the school and the kind of staff they wished to assemble.¹⁸ Fifty percent of charters consider performance in determining salary growth and thirty percent did not base salary on years of experience at all.¹⁹ Bonuses, which also effect the perception of a lower salary, are also much different in charter schools.²⁰ Individual performance bonuses in charter schools varied from one-time bonuses, advancements on the salary schedule, and other additions to base pay.²¹ Charter schools also used performance in the entire school as the basis for one-

¹⁶ Kowal, Hassel & Hassel, *Supra* note 1 at 7.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Podgursky & Ballou *supra* note 2 at 16

²¹ *Id.*

time pay increases.²² In stark contrast, only four percent of public school teachers surveyed said that they had received any kind of merit based reward.²³ The *Fordham* study noted that these one-time incentives to pay have little or no effect on base salary²⁴, making charter school teacher salaries appear lower on their face.

Accordingly, charter school teachers are more likely to be paid based on performance rather than experience, unlike the model at traditional public schools. This model will inevitably lead to educators that must perform in order to get paid rather than educators who get paid regardless of their performance.

Charter schools have more flexibility in hiring and firing procedures

The greatly increased flexibility available to charter schools in staffing decisions is another key reason that the charter school teacher model is better than the traditional public school model. Charter schools are better able to attract, hire, and retain quality educators while removing low quality educators. In contrast, traditional public schools have a variety of due process and collective bargaining agreement hurdles that greatly reduce their ability to make staffing decisions.²⁵

In hiring, for example, many charter schools do not require a teaching certificate to work there.²⁶ Opponents of the charter school system claim that by not needing accreditation, charter schools are free to hire educators who are not of good quality. However, two studies conduct in

²² Id.

²³ Id.

²⁴ Id.

²⁵ See for example *Cleveland Bd. Of Educ. V. Loudermill*, 470 U.S. 532, 545 (1985); *California Teachers Ass'n v. State of Cal.*, 20 Cal. 4th 327,338 (1999); Matthias Gafni, *Firing a Tenured teacher in California can be Tough*, *Contra Costa Times*, Jan. 27, 2013, www.mercurynews.com/breaking-news/ci_22454531?source=inthenews

²⁶ David Stuit & Thomas Smith, *Teacher Turnover in Charter Schools*, VANDERBILT UNIVERSITY, INSTITUTE OF EDUCATION SCIENCES IES R305A040043(2010) at 12.

New York and Los Angeles found that not only was state certification unable to predict a teacher's effectiveness but also that teachers without state certifications were just as effective as those who had them.²⁷ The biggest predictor in the effectiveness of a teacher throughout their career, a *Brookings institute* study found, was a teacher's impact on student performance in their first three years of teaching.²⁸ Additionally, Charter school teachers still have to meet the strict requirements for a "highly qualified" educational staff as set out by the *No Child Left Behind act (NCLB)*.²⁹ They must, under the *NCLB*, hold a bachelor's degree and have demonstrated competency in the subject matters they teach as required by state law.³⁰ Also, just as in public schools, Charter schools must meet the adequate yearly progress measures mandated by the *NCLB* and the state.³¹

In traditional public schools teachers are required to be accredited to work there. On top of the fact that accreditation does not constitute success school tenure laws cause a myriad of problems. The first problem with tenure is that most states require a teacher to be tenured or fired before their effectiveness has been established.³² The average probationary period for teachers is within three years, six states have a period less than that, and only eight have a period beyond three years.³³ The second problem is that once tenure is established, it is extremely difficult to

²⁷ Robert Gordon, Thomas Kane, & Douglas Staiger, *Identifying effective teachers using performance on the job*, THE BROOKINGS INSTITUTE, HAMILTON PROJECT DISCUSSION PAPER 2006-01, 1-35, 5 (April 2006); Thomas Kane, Jonah Rockhoff, & Douglas Staiger *What does certification tell us about teacher effectiveness*, ECONOMICS OF EDUCATION REVIEW, 615-631, 617 (2008) .

²⁸ Kane, Rockhoff, & Staiger *Supra* note 27

²⁹20 U.S.C.A. § 6301 (West); *The Impact of New Title I Requirements on Charter Schools*, DEPT. OF EDU., www.2ed.gov/policy/elsec/guid/charterguidance03.pdf, accessed Mar. 25, 2013 at 11:05 p.m.

³⁰ *The Impact of New Title I Requirements on Charter Schools*, *Supra* note 29

³¹ *Id.*

³² Gordon, Kane & Staiger, *Supra* note 27

³³ Raegen Miller & Robin Chait, *Teacher Turnover, Tenure Policies, and the Distribution of Teacher Quality, Can high-poverty Schools Catch a Break?*, CENTER FOR AMERICAN PROGRESS (Dec. 2008) http://www.americanprogress.org/wp-content/uploads/issues/2008/12/pdf/teacher_attrition.pdf

show the required “just cause” to remove a teacher.³⁴ On top of which, the expense to many school districts is so great that firing a teacher isn’t cost effective.³⁵ This is largely due to due process requirements. In its landmark decision, the Supreme court found in *Cleveland Board of Education v. Loudermill* that not only are all public employees, including teachers, entitled to a hearing under the due process clause of the fourteenth amendment, but also that the district must continue to pay public employees during that process.³⁶ Charter schools, by contrast, are not subject to the same due process, since they are not government actors.³⁷ Some states, such as California, have taken that due process right a step further. In California the court held that the school board, as a matter of due process, must pay the legal fees of a tenured teacher that challenges the termination or suspension proceedings brought against them.³⁸ In California that can mean that removing sub-par teachers can only be accomplished by winning the case against that teacher at the cost of about \$200,000 per termination action and can take upwards of five years.³⁹ Dina Holder is perhaps the best embodiment of the failure of this process, convicted of misdemeanor child abuse in 2010, she retained her position as a classroom teacher until settling with the school district in 2013.⁴⁰ The convoluted, costly, and uncertain process of firing teachers in California is illustrated by figure 2.

³⁴ Michael J. Kaufman & Shereyn R. Kaufman, *Education Law, Policy, and Practice* 944 (2009)

³⁵ Jason Song, *Firing Teachers can be a costly and tortuous task*, L.A. times May 03, 2009 articles.latimes.com/2009/may/03/local/me-teachers3; Eltman, *Supra* note 29; Gafni, *supra* note 25

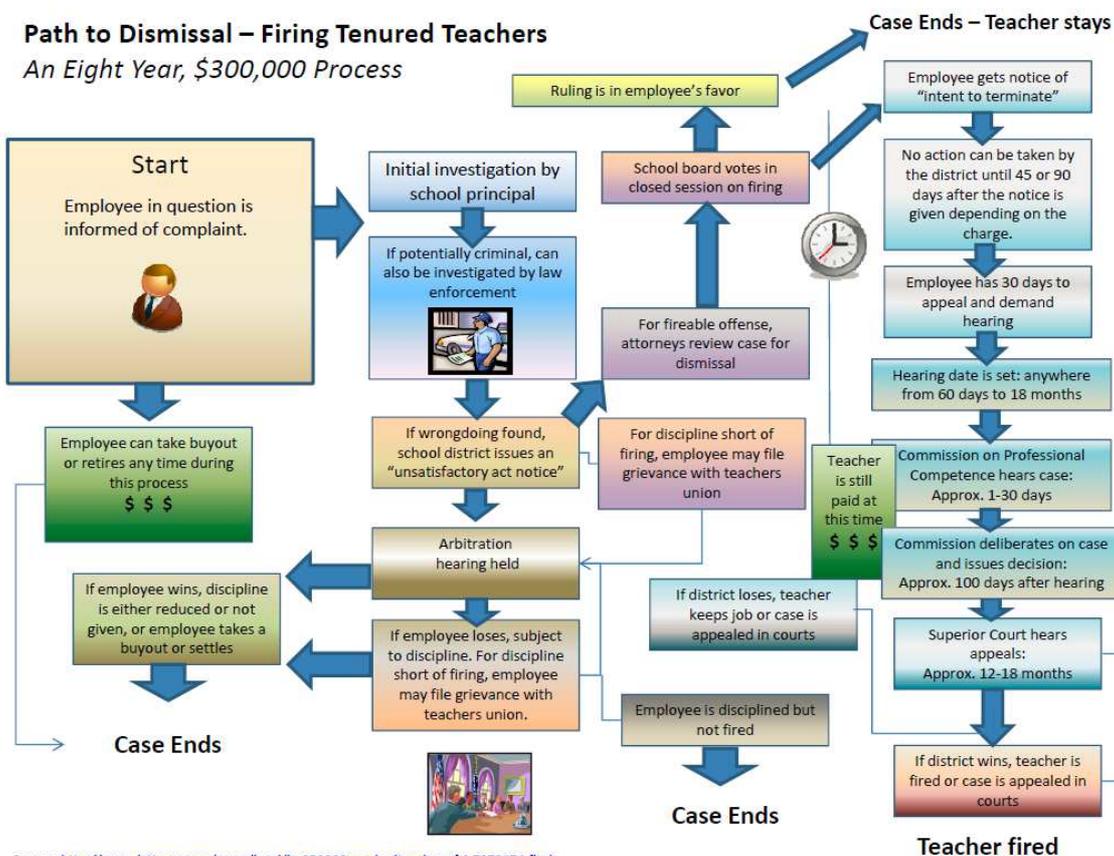
³⁶ *Cleveland Bd. Of Educ. V. Loudermill*, 470 U.S. 532, 545 (1985)

³⁷ *Caviness v. Horizon Cmty. Learning Ctr., Inc.*, 590 F.3d 806, 816 (9th Cir. 2010) (*holding* that educational services are not traditionally and exclusively the prerogative of the state and therefor charter schools are not state actors for staffing purposes).

³⁸ *Cal. Teachers Ass’n v. State of Cal.*, 20 Cal. 4th 327,338 (1999) (*finding* that an imposition of costs on teachers is constitutionally impermissible since it creates a chilling effect by penalizing a teacher’s rights to appeal their termination).

³⁹ Gafni, *supra* note 25.

⁴⁰ *Id.*



This is not unique to California; in New York, for example, the cost of firing a teacher is upwards of \$250,000.⁴¹ On average, according to an *American Progress* study, school districts throughout the country pay about \$100,000 to remove a teacher from the classroom.⁴² As a result of the costs associated with removing a tenured teacher, districts often move teachers from school to school within a district, a process referred to as “the dance of the lemons”.⁴³ The results of these practices are palpable, between 1995 and 2005 only 112 of 43,000 Los Angeles

⁴¹ Eltman, *Supra* note 29

⁴² Saba Bireda, *Devil in the Details, An Analysis of State Teacher Dismissal Laws*, CENTER FOR AMERICAN PROGRESS (June 2010) <http://www.americanprogress.org/wp-content/uploads/issues/2010/06/pdf/sabateacherdismissal.pdf>

⁴³ *Dancing Lemons*, CHICAGO TRIBUNE (June 28, 2010) http://articles.chicagotribune.com/2010-06-28/news/ct-edit-teachers-20100628_1_bad-teacher-chicago-teachers-union-teacher-evaluations

tenured teachers faced termination, in that same time frame New Jersey only fired 47 teachers out of more than 100,000.⁴⁴

Moreover, even when the school districts must cut teachers due to budgetary concerns they cannot get rid of bad tenured teachers easily. Almost every school district in the country uses some kind of seniority based system in determining layoffs to make up for budget shortfalls.⁴⁵ These systems target younger teachers, and are for all intents and purposes quality-blind.⁴⁶ Because less experienced teachers make less there are more layoffs to achieve the desired budget cuts and since younger teachers tend to teach at low income minority schools the layoffs tend to hurt those schools that need the most help.⁴⁷ In a 2011 *Stanford University* study of seniority based layoffs, researchers found that a five percent budget reduction in New York would lead to a seven percent teacher reduction in fourth and fifth grade, twenty five percent more than if value-added effectiveness was used in determining layoffs.⁴⁸ This is significant, as the study points out while seventy-three percent of schools would lose less than ten percent of their fourth and fifth grade teachers, Twelve percent of schools would lose more than twenty percent.⁴⁹

In contrast, Charter schools are much more able, and much more likely to remove under-performing teachers and employ value based employment measures. In 2003 and 2004, for example, fifteen percent of charter school teachers were removed as the result of a school staffing action, compared to six percent of traditional public school teachers.⁵⁰ Interestingly,

⁴⁴ Eltman, *Supra* note 29.

⁴⁵ Donald Boyd, Hamilton Lankford, Susanna Loeb, James Wyckoff *Teacher Layoffs: An Empirical Illustration of Seniority Versus Measures of Effectiveness*, EDUCATION FINANCE AND POLICY 6-3, 439-454, 445 (2011)

⁴⁶ Dan Goldhaber, *Seniority-Based Layoffs, Can't We Do better?*, Blogs.Edweek.Org/edweek/Rick_Hess_straight_up/2011/01/Seniority_Based_Layoffs_Can't_We_Do_Better.html accessed Mar. 30, 2013 4:05 p.m.

⁴⁷ *Id.*

⁴⁸ Boyd, Lankford, Loeb & Wyckoff *Supra* note 45

⁴⁹ *Id.*

⁵⁰ Stuit & Smith, *Supra* note 26.

teachers in traditional public schools were more than twice as likely to be re-assigned as charter school teachers, seventeen percent to eight.⁵¹ It is highly likely this is due to the nature of hiring flexibility, it is easier for public school districts to reassign a problem teacher than fire them, while there are significantly fewer barriers to termination in charter schools. Also, charter school teachers are generally at will employees, and are much more likely to have short one-year employment contracts than traditional public school teachers.⁵² However, charter schools also have a higher voluntary turnover rate.⁵³ An article from *Vanderbilt university* points to a variety of possible factors for the higher voluntary turnover in Charter schools, including teacher dissatisfaction, the relative inexperience and age of Charter school teachers, and the lack of teaching certificates by many charter school teachers.⁵⁴ While many studies, such as the *Vanderbilt* study, point to the fact that a high turnover among teachers should have a negative impact on educational quality and a substantial additional cost to the school, these contentions are not supported by the evidence.⁵⁵ Nationally, Charter schools educate students at the cost of about \$9146 compared to \$10,977 at traditional public schools.⁵⁶ Also, charter schools generally perform about as well as traditional public schools.⁵⁷ On top of which, many charter school systems, such as *Charter School USA*, with low income minority students outperform their public school counterparts.⁵⁸ In Ohio, the “big eight” urban district charter schools performed

⁵¹ Id.

⁵² Robert Gordon, Thomas Kane, & Douglas Staiger, *Supra* note 27.

⁵³ Stuit & Smith, *Supra* note 26.

⁵⁴ Boyd, Lankford, Loeb & Wyckoff, *Supra* note 45.

⁵⁵ Stephen Cornman & Amber Noel, *Revenues and Expenditures for public Elementary and Secondary School Districts: School year 2008-09 (Fiscal Year 2009)* U.S. DEP'T. OF ED., NCES 2012-313 (November, 2011)

⁵⁶ Stuit & Smith, *Supra* note 26 at 4.

⁵⁷ Molly Bloom, *Nationwide, Charter Schools Spend \$1,800 Less Per Student*, stateimpact.npr.org/ohio/2011/12/05/nationwide-charters-schools-spend-1800-less-per-student/ accessed Mar. 30, 2013 10:45 p.m.

⁵⁸ *Charter School USA Performance overview*, www.charterschoolsusa.com/about-performance/overview/ accessed Mar. 30, 2013 at 11:00 p.m.

about the same as traditional public schools for about three quarters of the money.⁵⁹ In Illinois, nine of the top ten average ACT scores came from charter schools, charter students averaged a half point higher on the ACT than traditional public school students, and charter school students were seven percent more likely to graduate from high school.⁶⁰

The flexibility that charter schools enjoy ensures that quality teachers are hired, poor quality teachers are fired, and that budgetary cuts can be made based on performance rather than tenure. For these reasons the charter school model is superior to the traditional public school model.

Charter school diversity

The increased racial diversity of charter school teachers has a positive impact on students.⁶¹ African American and Hispanic teachers in traditional public schools make up nine point seven percent of all traditional public school teachers.⁶² By contrast charter schools have sixteen point four percent minority teachers.⁶³ A New Zealand study found that racial diversity in the teaching staff of western schools positively impacts the self-esteem of minority students, the scholastic performance of minority students, and that all students benefit from a diverse teaching force.⁶⁴ A diverse teaching population is not just good for the students it also benefits the

⁵⁹ *Charters Deliver Results*, incshools.org/charters/why_charter_schools/charters_deliver_results/ accessed Mar. 30, 2013 10:45 p.m.

⁶⁰ Id.

⁶¹ *Number and enrollment of traditional public and public charter elementary and secondary schools and percentages of students, teachers, and schools, by selected characteristics: 2007-08*, Digest of Education Statistics, National Center for Education Statistics, nces.ed.gov/programs/digest/d11/tables/dt11_106.asp accessed Apr. 9, 2013 at 1:54 p.m.

⁶² Id.

⁶³ Id.

⁶⁴ Jocelyn Howard, *The Value of Ethnic Diversity in the Teaching Profession: a New Zealand Case Study*, INT'L J. EDUC. 1,2 (2010)

teachers of the dominant race.⁶⁵ A 2003 article found that minority teachers help their white colleagues reflect on issues and attitudes that effect their treatment of students.⁶⁶ A 1986 Carnegie task force study found that the effect of a racially diverse teaching force is very influential in the formation of children's opinions about society, school, academic achievement, and their own self-worth.⁶⁷

Charter schools are also more diverse in their curriculums. In exchange for more rigorous oversight on student achievement, charter schools are allowed to choose between the many different methods of teaching, and they do.⁶⁸ There are almost as many teaching methods as are charter schools. Some choose Montessori, some Reggio Emilia, and still others choose the Waldorf model.⁶⁹ Still others may focus one subject such as music or art.⁷⁰ The great diversity offered by charter school legislation offers teachers the opportunity to teach students based on their particular teaching style rather than one mandated by the state as in traditional public schools.⁷¹

This increased ethnic diversity better represents the population as a whole and the diversity in teaching method recognizes that not all students learn the same way and gives students the ability to thrive in an educational setting where they feel comfortable.⁷²

Accordingly, the increased diversity offered by the charter school teacher model should replace the traditional public school model.

⁶⁵ Howard, *Supra* note 64 at 3

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Charter School Teaching Requirements*, www.alleducationschools.com/education-careers/article/charter-school-teacher Apr. 4, 2013 6:25 p.m.

⁶⁹ Jacqueline Bodnar, *A look at Teaching Methodologies Used in Charter Schools*, www.charterschooltoday.com/teaching-methodologies.php accessed Apr. 4, 2013 at 6:30 p.m.

⁷⁰ *Id.*

⁷¹ *Charter School Teaching Requirements*, www.alleducationschools.com/education-careers/article/charter-school-teacher Apr. 4, 2013 6:25 p.m.

⁷² Howard, *Supra* note 64 at 4

Conclusion

In conclusion, the charter school teacher model is clearly the model that the United States should follow. The diversity of Charter school teachers, not only in ethnicity but also in curriculum, better meet the goals of educating children. The charter school model emphasizing teaching ability over tenure will help ensure that the dance of the lemons ends, that bad teachers are not left in front of classrooms for years following a fire-able offense, and teachers with pay that is representative of their ability rather than their experience. In tight financial times, being able to fire teachers based on performance rather than tenure will not only lead to fewer teachers being fired but also will not target inexperienced but talented educators. Finally, because of performance based pay, high-quality educators will be attracted to education and low quality educators will be dissuaded.