Cyber and HomeSchool Charter Schools: How States are Defining New Forms of Public Schooling*

Luis A. Huerta
Teachers College-Columbia University

María-FernandaGonzález
University of California,Berkeley

Introduction

Cyber and home school charters are quietly gaining momentumacross the country and are beginning to challenge traditional definitions ofpublic schooling by delivering instruction absent the traditional "brick andmortar" school house. Cyber and home school charters have emerged within awider charter school movement which in the last decade has quickly expanded toinclude 2,700 charter schools in 40 states and the District of Columbia, serving over 684,000students (Center of Education Reform,2003). The appeal of charter schools is apparent in the dynamic growth of themovement, yielding a 40% increase in enrollment in the last 5 years, from1999-2003. A contributing factor to the increasing enrollment statistics is theoutgrowth of nonclassroom-based charter schools. Over the last 5 years anestimated 60 cyber charters have come on-line in 15 states, which currentlyserve over 16,000 students and account for 2% of the national charter schoolstudent population (Center for Education Reform, 2003). Adding to the abovefigure the 52,000 students enrolled in home school charters in California and Alaska, and the totalenrollment of nonclassroom-based charters increases to 10% of the nationalcharter school student population.

Similar to traditional charter schools, cyber and homeschool charters are independent public schools created through formal agreementwith a state or local sponsoring agency, designed and operated by parents,community members, and entrepreneurs, and allowed to operate free from moststate and local regulations governing schools—including, staffing, curriculum,school calendar, resource allocation, governance, and school/classroom sizes(Finn, Manno & Vanoureck, 2000; RPP International, 2000; Center for EducationReform, 2000; Mullholland & Bierlein, 1995; Geske, Davis & Hingle,1997). What sets cyber and home school charters apart from traditionalschooling models is the non-classroom based instruction which students receiveoutside the confines of the traditional school house setting. Instruction isinstead delivered through alternative mediums, including: parents as primaryinstruction providers, computer-based instruction using pre-packaged softwareprograms, and teacher directed distance-learning or cyber learning

wherestudents receive either asynchronous or synchronous (real-time) instruction viathe internet from a teacher or other instructor. Cyber and home school chartersalso differ from traditional charter schools in the type of students they enroll,serving primarily students who were previously privately home schooled, anddrawing enrollment from wide catchment areas which cross district lines and mayspan an entire state.

This paper seeks to illuminate how these alternativecharter school models are developing within the wider public school communityand the charter school movement. Our primary focus will be on California and Pennsylvania, where recent public scrutinyof cyber and home school charters has prompted debate among policy makers, educators,and parents, who have begun to reconcile the objectives of an expanding schoolchoice movement with the demands of public accountability. Our analysis willfocus first on the salient policy issues that have surfaced in several stateswhere nonclassroom-based charter schools are operating. In the second section,we trace the emergence of nonclassroom-based charters with a specific focus onhow states are beginning to draw legal and regulatory definitions of both cyberand home school charters. Our discussion will also outline the importantdistinctions between the two nonclassroom-based schooling models. In the thirdsection we present a comprehensive legal and regulatory analysis of recentlegislative changes in Californiaand Pennsylvania.The important legislative responses which have resulted from public debates inthese states, have affected the daily operation of non-classroom based charterschools, and have challenged the viability of sustaining these alternativeschooling models under the context of increased state accountability demands.The Californiaand Pennsylvaniacontext provide important lessons from which other states can learn. Thesepolicy lessons will help frame the policy recommendations which we advance inthe final section of this paper.

The size and scope of cyber and home school charters inthese states is important. Currently, Californiaoperates the most home school charters, numbering 119 and serving nearly 50,000students—31% of operating charters and 30% of the total charter school studentpopulation (California Department of Education, 2003b). While Pennsylvania has the most cyber schools with8 schools in operation, serving nearly 4,700 students—8% of operating chartersand 13% of the total charter school student population (Pennsylvania Departmentof Education, 2003).

The public and legislative debates that have surfaced in California and Pennsylvania have beenprompted in part by widely publicized accounts in newspapers and other mediaoutlets, that have reported on the questionable practices of some cyber andhome school charters. The reports have detailed the mismanagement of publicfunds including profiteering and withholding of services to students;

thequestionable accountability practices that result in minimal oversight ofteaching and learning processes; and the borderless student enrollment zonesspanning entire states, that have resulted in both fiscal and accountabilitychallenges for districts from which students transfer, as well as the schoolswhere transferring students enroll.

In northern California,a recent report described how the operators of a home school charter chargedtheir school a management fee of 37.5%, which amounted to a profit of over$500,000 from the $1.4 million in state revenue received by the school (Asimov,2001a). In Pennsylvania,several reports have detailed how the state's largest cyber charter serving2,700 students, was accused by parents of withholding services and materials,including computers, Internet access and learning materials (the basic tools for a virtual schoolingmodel). The complaints prompted an investigation led by the Office of the StateSecretary of Education, that later resulted in the school closing when thelocal sponsoring district revoked its charter (Raffeale, 2002; Henrie, 2003). And finally, in Pennsylvania, news outlets reported on howschool districts across the state refused to forward tuition payments(per-pupil funding allotments) to cyber charters. The resident districts'claimed that they should not have to pay for students who enroll in schools outof their district and thus out of their direct charge. These actions on behalfof the resident district of students, lead to the near insolvency of severalcyber charters, and prompted the state to withhold aid from districts whorefused to send tuition payments to cyber charters. What resulted was astatewide debate about who is ultimately responsible for funding cyber charterstudents (Chute, 2001a; Chute & Elizabeth, 2001; Trotter, 2001).

Salient Policy Issues

While the autonomous nature of cyber and home schoolcharters may seem even more decentralized from the limited public authoritywhich governs traditional charter and schools, they are still aligned with thecommon conception which has advanced the charter school movement. Like allcharter schools, in exchange for their autonomy, cyber and home school chartersare expected to promote and create new educational innovations, including newteaching and learning methodologies, new organizational and administrativestructures, as well as new outcome-based and results oriented accountabilityprograms. Yet, as this renegade schooling model continues to emerge, its suddenprominence may be quelled by policy makers and educators who have begun askingwhether these new non-classroom based schooling models have gone too far indefining what is both innovative and permissible within a public school system.

To date, there has been little research that has focused onthe issues that non-classroom based charter

schools are raising.[1]But as these schooling models have expanded, charter advocacy centers, researchclearinghouses, and education associations have begun to weigh–in on the issueand have published their own policy briefs outlining some important issues (seeEducation Commission of the States, 2003; Center for Education Reform, 2002;American School Board Journal, 2002). Our analysis will draw upon thesereports, as well as original data that we collected from state-level officialsin several states. In addition, we also refer to informative public newsaccounts that have surfaced in major national newspapers and have investigatedhow nonclassroom-based schooling models have emerged. This recent work hasprompted swift and strong action from state legislatures which have begun toadopt policies that monitor the nonclassroom-based charter school models.Legislatures in California,Pennsylvania,Ohio and Wisconsin have recently addressed issues concerning thepublic oversight of nonclassroom-based instruction and have adopted state-levelpolicy changes aimed at increasing accountability within the emergingnonclassroom-based charter school model. These states, and others that are sureto follow, will continue to be challenged in their attempts to make moretransparent links between the hazy lines of public accountability which haveresulted from the devolution of public authority under the charter schoolmodel.

The following are the key issues which are emerging asstates begin to create policies that define nonclassroom-based schooling modelsand account for how the alternative cyber and home-based charter schools willbe held accountable under the public purview.

• *Determiningper-pupil funding for nonclassroom-based charter schools.*

State officials and educators are debating whetheroperating a cyber or home school charter merits per-pupil payments equal totraditional school students. While the facilities, staffing, and transportationcosts are considerably lower for a student in a nonclassroom-based setting, thecosts for technology and learning materials needed for online or home-basedinstruction are still significant. The challenge for states is in determiningthe costs linked to new teaching and learning methodologies, new organizationaland governance models, and the accountability mechanisms thatnonclassroom-based schooling models are employing.

•***Accountability of student performance and educational program quality.***

The decentralized charter status that grants charter schoolswide levels of autonomy from state and local regulations, in conjunction with anon-traditional nonclassroom-based charter school setting, makes monitoringstudent performance and educational program quality, both difficult and

costly.Reliance on parents as the primary instruction providers, as well as parent andstudent self-reporting of instructional progress, poses challenges inauthenticating students' work and in measuring program quality.

• ***Definingenrollment boundaries and funding responsibility.***

Cyber and home school students enroll in schools acrosswide geographic boundaries, crossing district enrollment zones and spanningacross an entire state. What results is an accountability challenge indetermining whether the host district which sponsors the charter, or thestudent's resident district from which per-pupil payments flow, is ultimatelyresponsible for overseeing a student's education.

• ***Theinflux of traditional home schoolers who are new to public education.***

Cyber and home school charters are predominantly servingstudents who were previously home schooled in a traditional private home schoolsetting with minimal public funding and limited regulatory oversight. The largeinflux of students new to the public school roles has resulted in an unexpectedneed for additional funding to meet the demands of the large enrollment growth.This funding issue is exacerbated when districts are hard pressed to sendper-pupil payments to host districts across enrollment boundaries, and arelimited in their ability to monitor whether the funds are used responsibly bycyber or home school charters.

The Emergence ofCyber and Home School Charters

The rapid expansion of nonclassroom-based charters hassurpassed the ability of states to address important policy issues linked tothe oversight, standards and accountability models which govern thesenon-traditional public schools. The process of defining how nonclassroom-basedschooling models fit within a wider public school context, depends largely onunderstanding how teaching and learning, organizational and governance modelsemployed by cyber and home school charters, have evolved within the context ofexisting legislative parameters

DefiningNonclassroom-based Schooling

Several states have engaged in the process of creatingstatutes that define nonclassroom-based charter schools. However,nonclassroom-based charters have surfaced in some states where both charter lawand general education statues, do not expressly permit the schools to operate.[2]For example, only 10 of the 15

states in which cyber charters are operatinghave explicitly deemed the cyber charter school model permissible in stateeducation statutes.[3] Interestingly, home-based or home school charters are prohibited in 4 of the 10states (Pennsylvania,Colorado, Minnesota, Nevada) where cybercharters are permissible. In addition, 27 of the 41 existing charter schoollaws, explicitly prohibit home school charters, and only two (California and Alaska) explicitly permit home schoolcharters.[4] Theseemerging trends begin to reveal that some states are drawing distinctions amongnonclassroom-based charters, and distinguishing between a home school and acyber school model.

As nonclassroom-based charters extend to other states, thenext step for policy makers is to identify the teaching and learning,organizational and governance models employed by nonclassroom-based charters,and address how they fit within the existing definitions of what is permissibleunder both charter legislation and general state education statutes. Statesthat draw generic or loose definitions of nonclassroom-based schooling models,will be limited by vague or unclear expectations for both accountability inteaching and learning, and the oversight of how public funds are utilized.Drawing clear distinctions which define nonclassroom-based charter schoolmodels is an important first step in drafting legislative changes which willhold these schools accountable. Below we provide a detailed description ofdistinctions between the two nonclassroom-based schooling models. In addition,Table 1 provides an overview of how the cyber and home school charter modelscompare with a traditional school model.

Distinctions

A principle distinction between cyber and home schoolcharters, is who delivers instruction, how it is delivered, and where it isdelivered. Home school charter students

Table 1: Defining Cyber and Home School Charter Schools [5]

	Home-school Charters	Cyber Charters	Tradi
Teaching and Learning	*Primary Source* · Parents *Supplemental Sources* · Resource centers · Third party curriculum · Paraprofessionals · Computer software · Support groups · Library · Tutors	*Primary Sources* · Computer software · Third party curriculum · External teacher (synchronously or asynchronously) *Supplemental Sources* · Parents · Teachers · Resource centers · Tutors · Library · Paraprofessionals	*Primary Sources* · Teachers · Directed c *Supplemental sou* · After-sch · Library · Tutors · Parents · Field trips · Extracurri
Organizational Model	· Parent-directed instruction · Home-based setting · Individualized curriculum · Varied pedagogy · Parental oversight · Peer Involvement (voluntary) · Varied educational setting	· Computer-based instruction · Home-based setting · Tailored mass curriculum · Information/dissemination based pedagogy · Parent/Teacher oversight · Peer Involvement (varied) · Minimal site-based learning · Varied educational setting	· Classroon · Mass curr · Group/co · Teacher a · Peer invol · Site-based · Defined e
Governance Model	*Immediate Authority* · Parents *Ultimate Authority* · Charter school board · Charter granting agency · State regulatory agency	*Immediate Authority* · Cyber School · Teachers · Third-party curriculum provider *Ultimate Authority* · Charter school board · Charter granting agency · State regulatory agency	*Immediate Author* · Teachers · Administr *Ultimate Authorit* · Superinte · Board of · State regu
Accountability Model	· Fiscal · Charter granting agency · Testing (if required) · Market driven parental choice	· Fiscal · Charter granting agency · Testing (if required) · Market driven parental choice	· Regulator · Fiscal · Student at · Student o · District o

depend ontheir parents as the primary instruction providers for the bulk of theiracademic program.. Lessons and instruction created by parents, or inconjunction with assistance from curriculum packages or consultation withcharter school teachers, is delivered directly to students by their parents.Under the home school charter model, parents are the educators, while teachersserve as education consultants or coordinators. However, home school charterstudents may also participate in teacher or paraprofessional directed lessonsat school resource centers. Formal lessons are common in science instruction,both because parents may lack expertise in the subject, and because it is noteconomically feasible to provide all families with expensive equipment. Formallessons are also common in extra-curricular courses such as music, art,physical education, carpentry, and other subject areas. Resource centers arealso used for computer laboratories, tutoring centers, parent-teacherconferences and primarily as stock rooms for the vast curriculum libraries andequipment collection that is provided to home school charter families.

In contrast, cyber charter school students rely primarilyon computer-based learning and receive their instruction either synchronouslyor asynchronously. Synchronous instruction is delivered through the internet ina real-time virtual classroom environment by a teacher or paraprofessional whoguides students through instructional units. In most cases, students cancommunicate directly with the teacher and other students during lessons,including the ability to ask questions and participate in interactivediscussions. However, synchronous instruction demands expensive technology andteacher resources, making it the least common model for delivering instruction(KPMG, 2001). Asynchronous instruction—the more widely used instructional deliverymodel—is usually in the form of pre-recorded lessons created by a third-partycurriculum provider, or pre-packaged curriculum delivered via softwarepackages, where students work at their own pace completing assigned tasks aswell as assessments.[6] In some cases, students also attend resource centers where they participate inteacher-led lessons and then complete tasks on a computer. Yet, the majority ofinstruction is accessed from students' home settings. Resource centers are alsoused for proctored testing, parent-teacher conferences, and as curriculum andequipment stock rooms.

In both cyber and home school charters, families arerequired to communicate via email, phone or in-person with school officials(depending on school or state regulations). Families must also provide progressreports on the student's academic work including work samples, as well as a logof instructional hours

which are used for attendance reporting. These limitedaccountability measures are a key issue that policy makers will encounter asthey delineate the legislative parameters which can embrace the unorthodoxschooling methodologies employed by cyber and home school charters.

The following section will take a closer look atnonclassroom-based charters in Californiaand Pennsylvania.Our analysis aims to provide a better understanding of how cyber and homeschool charters have emerged within the legislative context in each state, andhow schools are serving students in their nonclassroom-based settings. We willalso focus on the recent legislative changes aimed at advancing stricteraccountability of nonclassroom-based charters in California and Pennsylvania.

California's Home SchoolCharter Schools

In California,home school charters emerged within a year after the California Charter SchoolsAct became law in 1992. As home school charters became operational a debate wassparked among state officials who argued whether promoting home schooling wasan intended objective of the charter legislation (Little Hoover Commission, 1996).[7]Yet, within 5 years the home school charter model had expanded rapidly. In 1997as the number of charter schools in Californiareached 100, home school charter students comprised nearly 50% of the 37,000students enrolled in charter schools. The popularity of the home school chartermodel swept mostly rural areas of California,where many new schools with enrollments upwards of 1,000 students quicklybecame operational, serving an eager audience of formerly private home schoolfamilies.

ExpandingDefinitions of Public Schooling

Home school charters in California have adopted a variety ofinstructional, organizational, and governance models, most of them uncommon intraditional public schools. Some home school charters operate independent studyor correspondence programs where students work at their own pace completingassignments. The curriculum is provided by teachers who closely monitorstudents' progress through regular communication. Other home school chartersoperate a highly autonomous traditional home school model where parents as theprimary instruction providers design and deliver instructional lessons to theirchildren. Under the autonomous model, communication with teachers is limited toa monthly review of student learning records, comprised of parent createdlearning goals and student work samples that parents mail to teachers. Learningrecords are also used to log attendance hours supplied by parents for thepurposes of

collecting state per-pupil funding grants.

The use of paraprofessionals to assist home school familiesin a variety of core subject areas as well as extra-curricular activities, isalso a common offering to families. Paraprofessionals are used to assist inteaching subject areas which parents may find difficult to teach, or forextra-curricular activities that also serve as opportunities for home schoolstudents to interact and participate in group activities. Paraprofessionals arecontracted by the school, often at the request of families, to provideinstruction in science, art, physical education, computer education, music,dance, and many other areas. For example, Horizon Instructional Systems, one ofthe state's largest home school charters serving over 3,400 students, contractswith paraprofessionals who provide instruction in over 1,000 supplementaryclasses for students and families (Gaschler, 2000).

Traditional home school families flocked to the newpublicly funded form of home schooling primarily because of the richresources—computers, curriculum and materials, instructional support, fieldtrips and extra-curricular services—that were offered to newly enrolledfamilies.[8]The minimal accountability requirements common in the early years of California's highly decentralizedcharter school movement, was an additional selling point that attractedtraditional home schoolers who were weary of aligning with a state entity. Forexample, recognizing that traditional home school families consider themselvesto be the primary instruction providers for their children, home schoolcharters have consciously adopted a "hands-off" approach to the technicaldelivery of instruction and have instead created an organizational modeldesigned to support parents as the teachers of their children. From the onset,home school charters were unlike any other public school, in that the primaryrole of teachers is not to teach, but rather to act as education coordinatorsor consultants for the families who enroll. In earlier research which examinedhome school charters in California,one home school charter teacher emphasized how the role of teachers was toequip the parents to be better teachers of their children and "not act likewe're breathing down their neck or requiring production from them" (Huerta,2000, p.185). In essence, the private schooling choices of families are beingreinforced and expanded through the offerings of a public school system thatpromises minimal government intrusion (Huerta, 2000).

The minimal teaching demands on teachers, and the deferenceto parents as primary instruction providers, meant that home school charterscould service large amounts of students with minimal staffing ratios. Early inthe movement it was not uncommon to see teacher-student ratios as high as 1teacher for every 150 students (Huerta, 2000). While home school charters dooffer classes for students and their families to

attend together, the coursesare not intended as direct instruction for children, but rather as a supplementto instruction received at home. One teacher explains how "our classes areenrichment only…to support what parents are already doing. So they [theparents] are really doing all the hard work at home" (Huerta, 2000, p.184).

AccountabilityConcerns Surface

As the home school charter model has evolved, viable schoolmodels have adopted patterns that have proven successful in sustaining anonclassroom-based schooling model. Such programs provide families withadequate learning materials and services, counsel families who are challengedby the demands of home schooling, assess student needs with input from parents,maintain amicable and cooperative working relationships with their sponsoringdistrict, and foremost, recognize the balance between autonomy and oversightwhich home school families cherish. Yet even among viable programs, importantissues over accountability have surfaced, challenging the viability of apublicly supported home schooling model.

Over time, questions that have scrutinized theaccountability structures of home school charters, have specifically focused onhow public officials oversee the teaching and learning which occurs in privatehomes, as well as whether public funds are being used efficiently. Oversight ofinstruction in the home school charter model is challenging, considering thatmany families who enroll in home school charters can reside hundreds of milesfrom the school district in which a charter is sponsored, spanning widegeographic regions across both district and county lines. A common practice forhome school charters is to operate satellite centers or annexes in regionswhere enrollment densities for their school are higher. Satellite centers areused as both office space for educational coordinators (teachers) that servestudents in the respective region, and as stock depots for books and otherlearning materials. Yet, while satellites place both a physical building andschool staff closer to students, the level of oversight may not be affected asparents are still the primary instruction providers. Amidst public scrutiny,home school charters have responded by providing additional services andincreasing oversight. Their responses have included offering more classes tofamilies, requiring additional contact hours, and more regular review ofstudent work samples, and in some cases opening more satellite centers.

However, even as some of the above issues dealing withaccountability of teaching and learning models have been addressed, publicofficials continue to be skeptical over school organizational and governancemodels that may lend themselves to profiteering, by districts, as well asnon-profit and for-profit organizations who operate home school charters.Specifically, state officials have reasoned that the low

overhead costs foroperating a home school charter—inherent in the absence of brick and mortarfacilities and the limited number of teachers and other services essential totraditional school settings—has resulted in a margin that invites profiteeringby home school charter operators and their sponsoring districts. Sincedistricts receive state per-pupil funding levels equivalent to that fortraditional school students, officials have questioned how surplus revenues(money associated with the costs of operating a traditional school setting) areutilized.[9]Home school charters have responded by emphasizing that creating aninfrastructure to serve home-based students demands new costs that are uncommonto brick and mortar schools, including computers, software, Internet access,curriculum and learning materials, and extra services that are provided to homeschool students. In the next section, we will explain how recent legislativechanges prompted by concerns for stricter accountability and oversight ofnonclassroom-based charters in California, have progressively begun to addressspecific issues that have directly impacted the daily operation of home schoolcharter schools.

SB 399: Legislature Addresses Home SchoolCharters' Questionable Practices

Home school charters emerged shortly after the CaliforniaCharter Schools Act was enacted in 1992.[10]Within two years, 25% of the first 50 schools that were granted charter statuswere operating home school programs.[11]Only 6 months after the charter legislation was enacted, Senator Gary Hart, theauthor of the original charter school legislation, was made aware of reportsthat several home school charters were offering parents cash payments and othergifts for enrolling in their school, as well as enrolling students who residedin districts that were several hundred miles away from the home district whichsponsored the charter (Hart, 1995). These early reports and the actions takenby legislators, marked the beginning of a decade long debate that has focusedon how the state should hold home school charters accountable under the publicpurview. While promoting home schooling was not an intended objective of theCalifornia Charter Schools Act, the popularity of the schooling model thatserves a home schooling population where parents deliver the primaryinstruction, has challenged both law makers and educators in creating newstatutes aimed at governing these schools. This section will provide ananalysis of regulatory changes over the last decade, which have aimed to definenonclassroom-based instruction and create legislative boundaries that increaseaccountability and oversight of home school charters.

Senator Hart quickly responded to the early reports oflegally questionable practices by authoring SB

399, which bolstered existingindependent study regulations with the intent of providing stricter oversightof independent study programs in both traditional and charter schools. The newlaw addressed the two important policy concerns that had surfaced and imposedthe following: (a) limited funding for independent study programs to studentswho reside in the home county or a contiguously adjacent county from which afunding apportionment is claimed for a student, and (b) restricted schools thatoffered independent study or "home study" programs, from providing services,materials, or other "things of value" to independent study students and theirparents, that were not offered to all district students (see CaliforniaEducation Code, § 51743.3). The new regulations were "not subject to waiver"and were applicable to all schools, including charter schools.

The new law was explicit in broadening the definition ofindependent study as it pertained to providing "things of value," to includestudents "characterized as home study or otherwise" [see California EducationCode, § 51743.3 (a)]. Thus, the law directly limited the enticements that somehome school charters were offering newly enrolled families. However, the lawdid not explicitly include "home study" in the provisions which outlinedlimitations on enrollment boundaries. Nor did the law define nonclassroom-basedinstruction or the different teaching, learning and organizational models thatwere subject to new "independent study" regulations. What resulted was gray orvague language that provided a loophole that allowed charter operators tocontinue capturing large enrollments of home school students from widegeographic regions which spanned the state, beyond contiguous counties. Hadhome school charters complied with independent study regulation which limitedenrollment boundaries, their expansive enrollments would be jeopardized,resulting in the closure of many schools. Instead, home school chartersidentified their enrollment as "charter school average daily attendance" underthe guise of the more permissive regulation (the California Charter SchoolsAct) that allowed for unrestricted statewide enrollment boundaries, rather then"independent study average daily attendance"[12]that would have limited enrollment according to SB 399 regulations.

AB 544: A Derailed Attempt ToIncrease Accountability in Home School Charters

Issuesover how to hold home school charters accountable surfaced again in 1998 whenReed Hastings, a wealthy Silicon Valleyentrepreneur and a self-proclaimed charter school advocate, sponsored a

ballotinitiative (known as the Hastings Initiative) that sought to eliminate thepractices of home school charters in California.The initiative called for limiting ADAfunding only to charter schools where primary instruction was provided inperson by a certified teacher and employee of the school—a direct attackagainst home school charters where parents provide primary instruction.[13]The ballot initiative also aimed to lift the statutory cap of 100 charterschools set by the original legislation, impose stricter accountabilitymeasures by requiring all charter schools to exceed the academic achievement ofcomparable non-charter public school students, and lastly, require all charterschool teachers to be certified or show proof of progress toward certification.[14] Hastings was concernedthat the decentralized context of charter schools provided too many libertiesto charters at the expense of strict accountability measures. His greatestconcern was the loosely defined operations of home school charters. He wasaware that home school charters were drawing too much negative attention to themovement, and they threatened the very existence of all charters. Hastings was alsoconcerned that home school charters had veered too far from the spirit of theoriginal legislation, so he acted to preserve the legitimacy of other charterschools whose educational settings were more traditional—mainly schools thatwere serving students in classroom settings. He hoped that his initiative wouldincrease accountability for all charters, while still retaining the freedomsafforded to them by the original legislation.

In anunprecedented move influenced by the public attention garnered by the ballotinitiative, the Legislature moved the initiative directly to the floor fordebate. What resulted was AB 544, a law that yielded to political compromiseand spared home school charters, when legislators eliminated provisions thatwould have required primary instruction be given directly by certifiedemployees of a charter school. The state bill however, did succeed in liftingthe original imposed cap on charter schools from 100 to 250 for the 1998-99school year and allowing the creation of up to 100 more schools in yearsthereafter. The new regulations also required all charter schools to hirecertificated teachers as well as requiring students to participate in the statesponsored standardized testing program.[15]

SB 434: Revisiting SB 399 andClosing Loopholes

By late 1999, theCalifornia Legislature launched another strike (SB 434) against home schoolcharters. This time the attack came fromdemocratic state senators who learned of the loose attendance and instructionaltime accounting systems utilized by a growing number of home school chartersacross the state. In

spring of 1999, home school charters served an estimated22,000 students in 35 schools, which amounted to one-third of the state charterschool student population (Gunnison, 1999). Inthe new bill, Senators called for the closing of all charter schools employing"home-based" instructional models. Their attack, however, wasdiffused in legislative debates after agreeing to concessions that again sparedhome school charters from elimination.

What resulted were new regulationsthat more broadly extend independent study statutory requirements to charterschools offering “home study,” as well as other regulations aimed at increasingaccountability of all charters. Specifically, SB 434 required all charterschools to: (a) provide the same amount of instructional minutes required ofall public schools, (b) maintain contemporaneous attendance records and makethem available for audit, (c) certify that charter school students haveparticipated in the state testing program “in the same manner as other pupilsattending public schools,” and (d) comply with full independent studyregulations if a school offers independent study or home study instructionalprograms (see California Education Code, §47612.5). Legislators refocused their attention to independent study regulationsthat had already been applied to charter schools beginning with SB 399 in 1993.In attempts to eliminate the gray language that had been exploited as aloophole prior to SB 434, the new round of amendments now included explicitreference to “charter schools” in applicable subsections that referenced“things of value” and the limitation of enrollment to contiguous countiesprovisions. What appeared to be a duplication of an already existing statutewas supported by newly appointed Secretary of Education, Gary Hart. In a letteraddressed to the Senate he expressed how, “Unfortunately, a small number ofcharter schools (and school districts) had ignored these 1993 provisions oflaw. Simply put, SB 434 attempts to strengthen and clarify these provisions” (Hart,1999).

The requirementthat charter schools offering home study adopt full independent studyregulations also required that home school chartersmeet student-teacher ratios equal to that in traditional schools within theirhome county. Lastly, the new law also required stricter accounting of studentwork for the purposes of calculating “time value” of work, which is used indetermining ADA.[16]These and the other changes outlined above resonated among home school chartersand prompted the implementation of organizational changes in their home studyprograms. Colin Miller, a state official with the California Department ofEducation Charter Schools Office explains that in order to meet theteacher-pupil ratio requirements, home school charters began hiring additionalstaff. In addition, the limitations of enrollment boundaries prompted “largehome school charters that were operating multiple satellite centers to reactand apply for new charters according to their strategic need based on studentswho resided outside counties that shared contiguous borders with the

homedistrict of the original charter. In essence they converted their satellites toactual charter schools" (C. Miller, personal communication, January 1, 2003). Yet, whilethe law may have imposed more rule-based demands on home school charters, itstill did not address issues directly linked to the oversight and evaluation ofinstruction designed by parents who were the primary instruction providers.However, by advancing rule-based compliance measures aligned with traditionaldefinitions of effectiveness, the state moved closer to drawing a regulatoryblue print for the public home school model which was evolving within thecharter school movement.

SB 740: Defining Classroom-based andNonclassroom-based Schooling Models

After SB 434 was signed into law in July of 1999, there wasa heightened awareness of the presence of home school charters in California. Awarenessalso resulted from the multitude of popular press articles that began to appearsoon after in newspapers throughout the state. The news articles provided welldetailed accounts of home school charter operations, and served to betterinform both citizens and lawmakers (see for example, Haddock & Seligman,1999a, b; Blume, 2000; Asimov, 2001a, b, c). As awareness grew, so did thenumber of home school charters. By June of 2001, officials at the CaliforniaDepartment of Education estimated there were 93 operating home school chartersserving over 30,000 students, more then twice the number of schools that wereoperational only two years prior when SB434 was approved (Asimov, 2001a). Thus,the increased awareness seemed to fuel the home school charter movement,despite the limitations imposed by SB 434.

However, the exposure also led to greater scrutiny fromlawmakers, prompting yet another attempt to increase accountability andoversight of home school charters. The new campaign aimed to close a loopholethat allowed home school charter operators to keep portions of state aid thatis given to all schools for the purposes of funding teaching and learningrelated costs.[17] A vivid example was highlighted by the San Francisco Chronicle (Asimov, 2001a)in a news story that outlined the profiteering that was occurring atHomeSmartKids, a home school charter in the San Francisco Bay Area serving 300students. The story detailed how the school's operators, a non-profit entitynamed HomeSmartKids Inc., was charging the school a "management fee" of 37.5percent.[18]It was discovered that the husband and wife team who ran the non-profit companywere keeping over $500,000 of the $1.4 million of state per-pupil funds. Thestory resonated among lawmakers and other state officials in Sacramento, and precipitated the President ofthe

California State Board of Education to draft a proposal urging lawmakers totake action against "fiscal shenanigans" and increase accountability measuresand oversight of home school charters (Asimov, 2001b).

Lawmakers responded immediately and began drafting SB 740,which aimed to match funding for home school charters to proportional levels ofdirect spending on teaching and learning related costs.[19]They emphasized how home school charters receive the same amount of state moneyper-pupil, yet their low overhead costs associated with minimal facilities andteachers, leave a wide margin from which unscrupulous operators could profit.In attempts to eliminate the potential for profiting and reduce funding levelscommensurate with the reduced costs of providing a home-based educationalprogram, the bill called for a 30% reduction in funding that would be phased-inover 3 years, beginning with a mandatory 10% cut during the first year.However, as the bill made its way through legislative debate, compromises inthe language were adopted.

What resulted was new legislation that directly addressedvague language that had resulted from past amendments to the charter schoollaw. Specifically, SB740 provides explicit definitions of what constitutesclassroom-based and nonclassroom-based instruction, as well as the types ofnonclassroom-based instruction that must file for ADA apportionment in accordance withindependent study statutes. Classroom-based instruction requires students to beunder the direct supervision of a certificated school employee, offer at least80% of instruction at a school site, and require attendance of all pupils at aschool site. Nonclassroom-based instruction is defined as instruction that doesnot meet the minimum criteria of what constitutes classroom-based instruction,which "includes, but is not limited to, independent study, home study, workstudy, and distance learning and computer-based education" [see CaliforniaEducation Code, § 47612.5 (e)].

The new law granted the State Board of Education authorityto create new funding determinations for nonclassroom-based charter schools inaccordance with levels of spending on teaching and learning services. The lawoutlined funding reduction thresholds for home school charters, that reducedfunding to 90% of ADA revenue apportionments for the 2001-02 fiscal year,followed by a reduction to 80% and then to 70%, in the subsequent fiscal years.The law also ordered the State Board of Education to create criteria forfunding determinations, that would consider a charter school's expenditures oncertificated teacher salaries and benefits, as well as teacher-pupil ratios.Schools that did not meet the specified criteria would be subject to fundingreductions.

The StateBoard of Education deliberated for more then 6 months on the development ofpermanent regulations

that would be used to evaluate both budgets andexpenditures of home school charters. In May 2002, the Board announced the newstatutes that reduced funding allotments in accordance to SB740 regulations.Funding reductions of up to 30% hinged on the percentage of a charter school's"total public revenue"[20]used for expenditures on "certificated staff salaries and benefits" and"instruction related services," and would become progressively more stringentover time (see California Administrative Code of Regulations, Title V, §11963.3).[21]Specifically, for the 2002-03 school year, eligibility for full fundingrequired home school charters to spend at least 50% of their total publicrevenue on certificated staff and salaries (see Table 2).

Table 2

2002-03 Recommended Funding Levels for "Non Classroom-Based Schools* (by school expenditure targets)

Recommended Funding Level	70 Percent	80 Percent	Full Funding
Percent of "total public revenues" expended on certified staff salaries and benefits	<35 Percent, or	35 to 50 Percent, and	>/= 50 Percent
Percent of "total revenues" expanded on instruction and related services	<55 Percent	>/= 55 Percent	

* Pursuant to California Administrative Code of Regulations, Title V, §11963.4
Source: Charter Schools Development Center (2002)

Eligibilityfor 80% of full funding required an expenditure of 35-50% of total public revenueon certificated staff and salaries, and also required expenditures of at least 55% of total public revenues oninstruction and related services. A total expenditure of less then 35% oncertificated staff salaries and benefits and less then 55% on instruction andrelated services, reduced funding to 70%, or less if additional circumstanceswarranted further reductions. For 2003-04, the spending thresholds become morestringent and demand increased expenditures at each level. For full fundingeligibility, a home school charter must spend at least 50% of total publicrevenues on certified staff and salaries, as well as a minimum of 80% of "totalrevenue"[22]on instruction and related services (see Table 3). In addition to the abovecriteria on expenditures, full funding also requires that

Table 3

2003-04 Recommended Funding Levels for Non Classroom-Based" Schools*
(by school expenditure targets)

Recommended Funding Level	No Funding	70 Percent	85 Percent	Full Funding
Percent of "total public revenues" expended on certified staff salaries and benefits	<40 Percent, or	40 to 50 Percent, and	>/= 50 Percent, and	>/= 50 Percent, and
Percent of "total revenues" expended on instruction and related services	<60 Percent	60 to 70 Percent	70 to 80 Percent	>80 Percent

* Pursuant to California Administrative Code of Regulations, Title V, § 11963.4
Source: Charter Schools Development Center (2002)

a school maintain: (a) a pupil-teacher ratiothat is no larger then that of the largest unified school district in thecounty in which the school operates, (b) a school-level conflict of interestpolicy, (c) and a listing of entities that receive $50,000 or more of a school'stotal expenditures in a single fiscal year. And lastly, for the first time, thestate now requires charter schools to submit their financial audits not only totheir sponsoring authority, but also to the state.

During the first round of funding determinations in the2001-02 fiscal year, 53 of a total of 118 home school charters in California experienced a5% reduction of their total funding.[23]In accordance with the criteria that determined the funding cuts, this figurerevealed that nearly 45% of home school charters did not spend at least 50% oftheir total public revenues on certificated staff salaries and benefits. Thefunding reductions translated into an estimated $8.2 million in savings(California Department of Education, 2003b). In the second round of fundingdeterminations for the 2002-03 fiscal year, the number of schools receivingfull funding increased to 91 out of a total 119 home school charters. Of theremaining 28 schools, 11 received funding determinations of 80% of totalfunding, 7 schools received 70% of total funding, and 10 schools receiveddrastic funding cuts, and received only 60% of their total funding. The latestfunding reductions amounted to an estimated $32 million in savings, a 400%increase over the first year reductions (California Department of Education,2003c).

The new round of funding cuts prompted two of the largesthome school charters, Options for Youth and Opportunities for Learning, tostrike back at the state with legal action. The schools serve a combined 8,200students, comprising one-fifth of the entire home school charter population.Their complaint challenges the SB 740 spending guidelines and calls for moreobjective criterion that account for individual spending patterns required ofsome school organizational models. Interestingly, the information from fundingdetermination requests made by the schools reveals that more then 55% of thecombined $37 million in state per-pupil funding given to both schools, was usedfor administrative costs, including nearly $250,000 in total salary for twoadministrators and over $4 million in profits for the private managementcompany that operates Opportunities for Youth (The Associated Press, 2003). Thecomplaint was thrown out of court after a preliminary hearing in late August2003.

The impact of the recent funding cuts for home schoolcharters is still not fully known. The drastic cuts for some schools is certainto have a profound impact that in some cases may lead to closure. Yet for thoseschools who have met the stringent regulations and have retained their fullfunding, it is unclear whether the new prescriptive expenditure guidelinesdemanding a higher proportion of spending on teachers and instruction, willlead to better teaching and learning, or increased accountability in the use offiscal resources. Regardless, the descriptive expenditure information requiredof home school charters for their funding determinations, provides a newschool-level perspective of spending and budget data that has never beenrequired or available for either charter or traditional schools. One stateofficial explains how “these new regulations are closing the data gap that hasexisted among charter and traditional schools, and will be helpful for us tobetter understand the charter school movement” (C. Miller, personalcommunication, January 1, 2003). This new data availability may serve to be useful forresearchers in learning more about how home school charters use their revenue,and for charter authorizers, who can use the information to understand howthese schools operate and how to better hold them accountable.

Pennsylvania’s Cyber Charter Schools

With the passing of Act 22 in 1997, the Commonwealth of Pennsylvania became the 27th stateto authorize charter school legislation. Only six charter schools were approvedfor operation during the law’s first year, but the number has grown steadilyand has increased to 102 operating charter schools in 2003-2004

(PennsylvaniaDepartment of Education, 2003). The Pennsylvanialaw is both permissive and restrictive. On the one hand, all but sectarian andfor-profit individuals and organizations can initiate or convert an existingpublic schools to a charter. On the other hand, only a local school district,or group of districts has the ability to grant charters. As in many states, Pennsylvania chartersare initially granted for a period of up to five years, at which point chartersare renewable at the discretion of the chartering agency on the basis of thestate's defined accountability criteria. According to the law, teachers,universities, parents, associations or any other charter applicant denied bylocal education agencies in the initial application or renewal process canappeal to the Commonwealth's Charter Appeal Board.

Unlike California, which has adecade long history of nonclassroom-based charter schools, the phenomenon isquite new to Pennsylvania.However, its short history has not kept local educators and parents from fullyexploiting the decentralized freedoms offered to them under provisions of Act22, and exploring innovative instructional delivery models that have challengedtraditional definitions of public schooling. Pennsylvania leads the cyber charter schoolmovement with the highest concentration of these cyber charters. Of the 102charter schools in Pennsylvania,8 operate as cyber schools and serve over 4,700 students (13% of total charterschool population). While the expansion of nonclassroom-based charters in Pennsylvania does notmatch the Californiaexperience—6 of the 8 cyber charters currently in operation did not beginuntil Fall of 2001 or after—the controversy that cyber charters have stirredhas been equally prominent.

Pioneering Cyber CharterSchools Stir Controversy

The first cyber charter to open in Pennsylvania was SusQ-Cyber Charter School, created by 5districts in Northumberland County, located innortheastern Pennsylvania.The school opened in 1998, shortly after Act 22 was enacted, with the intent ofserving "highly motivated, independent learners" by using technology to deliverpersonal educational programs for students (Pennsylvania Department of theAuditor General, 2001). The school did not set out to serve home schoolstudents or draw statewide enrollment.[24]Instead, SusQ Cyber Charter School provides priorityenrollment to students within 13 districts served by the Central SusquehannaIntermediate Unit, and has not expanded its technology-based learning programbeyond its self-imposed enrollment cap of 118 students.

SusQ Cyber Charter School remained the lone pioneer of cyber charters in Pennsylvania, until Fallof

2000, when Western Pennsylvania Cyber Charter Schoolopened its doors. The school's opening quickly garnered attention amongeducators and policy makers alike, as news that it was drawing enrollment fromacross the state and serving primarily traditional home school families, setthis school apart from any other public school that existed in Pennsylvania. During theschool's first 2 months of operation, enrollment increased from an initial 250students to over 500, surpassing the population of traditional school studentsin the Midland Borough District where the school operated (Reeves, 2001). Inaddition, over half of the students who enrolled, had been previously homeschooled or attended a private school, and only 12 students resided in theMidland Borough District (Reeves, 2001; KPMG, 2001).

Upon enrolling, students were issued a personal computer, aprinter, Internet access, pre-packaged curriculum in the form of computersoftware, and assigned a teacher (recognized as a facilitator) who is requiredto make weekly contact with students via phone (Reeves, 2001). The popularityof the cyber charter stemming from the services and materials that it offered,spread quickly around the state and within 9 months after its opening,enrollment had increased to over 1,100 students. While the organizationalmodel, instructional delivery methods, and spike in enrollment of the cybercharter were certainly unorthodox for a public school program, a more importantissue was the source of greatest controversy stirred by the Western Pennsylvania Cyber Charter School.

Only months after opening, the Western Pennsylvania Cyber Charter School faced a fundingcrisis, when over 70% of the nearly 105 school districts from which it drewstudent enrollment, refused to forward tuition payments to the school. In Pennsylvania, the homedistrict of a student (district of residence) is required to forward per-pupilfunding allotments to the student's new school of choice. In this case, the Western Pennsylvania Cyber Charter Schoolhad requested payments from 105 school districts for over 500 students whoresided in 22 different counties throughout the state (Chute, 2001a). Schooldistricts that lost student enrollment to Western Pennsylvania Cyber Charter School, were hard pressedto send their local per-pupil funding allotments to a cyber charter that wasoutside of their district.[25]What resulted was a budget shortfall of nearly $900,000, that left many billsunpaid at the school. The case of Western Pennsylvania Cyber Charter Schooltriggered a larger debate among educators and legislators. The debate pivots onidentifying who is ultimately accountable for both funding cyber charterstudents, as well as whether cyber charters which resemble a traditional homeschooling model, are permissible under the Pennsylvania education statutes.

Who IsAccountable for Cyber Charter Schools?

Pennsylvania's Act 22 specifically prohibited the use ofpublic funds for home schooling and made no specific mention of cyber schools,[26]nor included provisions or regulations specifically linked to the governance ofcyber schools [see Pennsylvania Public School Code §1717-A (a)]. Despite thisomission, two cyber charter schools, SusQ-Cyber Charter Schooland Western Pennsylvania Cyber Charter School,received charters from their local school districts to open their doors inSeptember of 1998 and 2000 respectively. The new schools were greeted with distrust,skepticism, and a reluctance on behalf of school districts across the state, topay cyber schools for students which they considered to be outside of theirdirect charge.

At the height of this tension in April of 2001, thePennsylvania School Boards Association (PSBA hereafter) together with 4 of thestate's school districts, filed a suit against the state. The suit challengedthe requirement that school districts pay to cyber charter schools the requiredlocal portion of per-pupil revenue, and challenged the state's interpretationthat cyber charters were legitimate entities under the 1997 charter school law.Prior to the lawsuit, over $850,000 in state aid had been withheld from over 60districts that had refused to pay the Western Pennsylvania Cyber Charter School (Trotter, 2001).The money was withheld in order to pay for the tuition owed to cyber charters,who had billed districts across the state.

The PSBA claimed that its objections to the cyber charterschools had nothing to do with an objection to distance education but insteadcentered around three basic premises (PSBA, 2001). The first objection wasbased on accountability and stemmed from provisions in Act 22, which indicatethat only local school districts or, in the case of a regional charter, acluster of school districts, have the authority to grant charters. As a result,in the case of a cyber school such as Western Pennsylvania Cyber Charter School, which wasattended in its first year by children from 105 districts yet was approved byonly one, school districts were being asked to pay for children's schooling ina program whose charter they had no voice in approving or monitoring. Thefinancial burden, claimed the PSBA, was borne primarily by local taxpayers inall reaches of the state, while the accountability of these schools was not tothese same taxpayers (PSBA, 2001).

The plaintiff districts' second objection focused on thedrain in resources from local school districts. As stated above, the issue was,in part, one of accountability. Cyber schools serving students from across thestate were not accountable to the student's home district, which was expectedto fund students who choose to exit their local district and enroll in a cybercharter. The districts additionally questioned the needs and expenditures ofcyber schools that could operate without facilities and with small numbers ofteachers, and which showed great variation in investments in curriculumdevelopment. Cyber schools, it was argued, could

educate students at lower coststhan traditional charter schools, yet were unjustly expected to be funded atthe same level. Given perceived discrepancies in revenues and expenditures,questions were raised about how much these schools would be allowed to profit,particularly in the face of the financial burden on traditional public schools.

The last of PSBA's fundamental objections focused on thelikeness that it perceived between cyber schools and home schooling. The twoexisting cyber schools provided instruction exclusively via the Internet whichstudents accessed from their homes, and therefore lacked the physicalclassrooms, hours of direct instruction and adequate supervision required forcompulsory attendance as referenced in Act 22. In addition, Act 22 explicitlyprohibited the allocation and disbursement of funds to directly support homeschooling [see Pennsylvania Public School Code, §1717-A (a)]. The PSBA arguedthat the cyber charter schools were in violation of both home schoolingprovisions in the Pennsylvania'sPublic School Code and the state's charter school law. Act 22 also stated,however, in the context of regulations for required instructional time, thatnothing in the clause should preclude the use of computer or satellite linkagesin the delivery of instruction [see Pennsylvania Public School Code, §1715-A(a)].

In spite of these and other concerns expressed through thefiling of law suits by 23 districts across the state, the injunction requestedby the PSBA was denied in late May of 2001 by Commonwealth Court Senior JudgeWarren Morgan. Immediately following the decision, local districts approvedanother 5 cyber charter schools slated to open in September of 2001. Thecontinuation of the PSBA lawsuit as well as other complaints that were filed,spurred a reaction from the Legislature which introduced several bills thatbegan debating how to hold cyber charters accountable as well as who should beresponsible for funding students in cyber charters. In addition, in August ofthe same year, the Pennsylvania Department of Education, at the behest of theState Legislature, contracted with KPMG Consulting to conduct an evaluation ofthe quality, accountability, governance, and funding of Pennsylvania's cybercharters.

KPMG'sEvaluation of Pennsylvania Cyber Schools

Mixed Reviews ofPartial Findings. The KPMG report,released in October of 2001, provided the first comprehensive evaluation of Pennsylvania's cybercharters. The study included the 7 schools that were operating as of September,2001. However, KPMG was unable to obtain full data from TEACH-Einstein Academy Charter School,the largest operating cyber charter serving over 2,700 students that accountedfor nearly 60% of the total cyber charter student population.[27]KPMG reported that Pennsylvania had "created a

climate of innovation to enablealternative forms of education to better serve its students," but it warnedthat "while innovation has the potential to lead to new and better ways ofeducating students, not all cyber schools have long-term viability" (KPMG, 2001,p.5). The findings received mixed reviews. The Pennsylvania Department ofEducation indicated that "the study shows what thousands of Pennsylvania parents already know: thatcyber schools provide innovative education for students" (Chute &Elizabeth, 2001). On the other hand, the PSBA who was spearheading thecontinuing law suits against the state, was more skeptical of the report'sfindings on the basis that students from TEACH-Einstein Academy Charter School—representingmore then half of the state's total population of cyber charter students—wereomitted from the evaluation. While the missing data may have weakened theoverall research efforts, the information collected and evaluated from the 6other charter schools was very comprehensive and provided a crisp picture ofhow these cyber charters operate.

OutsourcingCurriculum and Instruction. The KPMG studyalso found that all cyber charters contracted with third party curriculumproviders for the delivery of curriculum and instruction to students. Theauthors explained how instructional time for students ranged from spending notime on-line, to 100% of their time on-line, depending on the curriculumstudents utilized. For example, the Calvert curriculum which is popular amongtraditional home school families, consists of textbook driven lessons and isdependent on parents as the primary instructors. In contrast, the A+ curriculumwith its primarily focus on assessment, consists of software driven lessons andassignments, which are expected to be completed while on-line. The reportdetailed how the curriculum offerings of cyber charters provided "limitedsynchronous and authentic (e.g., project-based learning related to real lifeexperience) learning opportunities or those involving a high degree of onlineanimation or instruction" (KPMG, 2001, p.8).

The most popular third party curriculum used by nearlyone-third of all cyber students, is the K12 Inc. program (KPMG, 2001). The K12program is used by the Pennsylvania Virtual Charter School (PAVCS), which usesK12 materials exclusively. The K12 program was developed under the leadershipof former U.S. Secretary of Education, William J. Bennett, and teaches a'classic,' self-paced curriculum that is infused with 'traditional values.' K12Inc., a for-profit entity, currently serves thousands of private home schoolfamilies in almost every state and is used either exclusively or in part bypublic cyber charters in Alaska,California, Colorado, Pennsylvania and Texas. The programincludes activities for learning that occur, especially in the case of youngerstudents, off-line and away from the computer, with students in the primarygrades spending as much as 80% of their instructional time using books andhands-on activities. The K12 program requires that a

parent be available to thestudent while the student works either on- or off-line (KPMG, 2001).

PAVCS also outsourcers virtually all curricular,operational, and management services to K12, Inc. In addition to all curricularand instructional materials, the company provides PAVCS with clerical support,a Chief Administrative Officer, an Assistant Head of School, a Director ofSpecial Education, a Business Manager, a Director of Technology, and a Directorof Instruction. KPMG (2001) reports that PAVCS' budget estimates a $7,015 costper student,[28] which is slightly above the tuition contributed by each student's district andhigher than cost estimates of any other cyber charter school, but it remains unclearhow much profit is allowed K12 in this calculation.[29]

Educational andFiscal Accountability. KPMG (2001)acknowledges that their research effort approached Pennsylvania's cybercharters in their infancy—5 of the 7 schools had been in operation only a fewmonths—and the schools were still developing their organizational structuresand their accountability methods. They found that in 5 of the 7 cyber chartersthe entire teaching staff is certified. In addition, all schools "appear to":(a) require students to take the PSSA (the state adopted standardizedassessment), (b) be in compliance with the state's required instructionalminutes provisions, and (c) have created a method for "authenticating studentwork" (KPMG, 2001, p. 7). However, KPMG recommended that the PennsylvaniaDepartment of Education more closely monitor accountability systems, includingthe authentication of student work, more frequent communication between schoolstaff and students, proctoring of student exams by school staff, and closer reviewof attendance policies.

The study also reported on the controversial issue offunding and resource use in cyber charters. KPMG (2001) explained that cybercharters "may be a less costly form of education than traditional brick andmortar schools" because the schools rely more on parents for instructionaldelivery and guidance, and the schools also have fewer costs associated with"building maintenance, transportation and food service costs" (p.10). The studyfound that per-pupil costs ranged from $5000-$7000 ($6,200 average)[30],depending on whether the school provided a low or high service program.[31]In a direct reply to the ensuing controversy over how cyber charters charge astudent's district of residence tuition payments, KPMG (2001) recommended thatthe state should: (a) impose a fixed funding amount for cyber charter students,(b) improve guidelines for communication between cyber charters and thedistricts from which they receive students, (c) improve school-level accountingand reporting procedures, including contracts with third party curriculumproviders, and (d) prohibit the practice of engaging in "financial arrangementsin exchange for cyber charter approval"

(p.11).

New Data Informsthe Debate. The results of the studyprovided real data for educators, policy makers, and judges and prompted a moreinformed debate among all parties who had weighed-in on the issue of cybercharters. The report also prompted more legal action against cyber charters,including a complaint filed by the Pennsylvania Department of Education inFebruary of 2002, asking a state court to intervene in a conflict regarding thefunding of TEACH-Einstein Charter Academy,the largest cyber charter serving 2,700 students. The school, which was alreadybeing sued by over 100 school districts, was now the target of complaints fromparents who alleged the school had not delivered on their promise to providestudents with computers, Internet access and other learning materials(Rafaelle, 2002). Upon filing the complaint against the school, Secretary ofEducation Charles B. Zogby, stopped redirecting state aid from districts thathad refused to pay tuition payments to TEACH-Einstein Charter Academy.

As the debate around cyber charters reached a boilingpoint, a seven-judge panel in a state court finally ruled in the PSBA case,originally filed in April of 2001. The court's ruling provided a partialvictory for both parties by protecting the legality of cyber charters under Pennsylvania law, andalso ordering the Department of Education to stop taking funds from districtsthat had refused to make tuition payments to cyber charters. The courtexplained how the Department of Education should have provided districts withdue process and allowed them to challenge the validity of the tuition billsbefore redirecting payments to cyber charters (Spidaliere, 2002). Shortly afterthe court ruled, parties on both sides of the case announced their plan toappeal the decision. The PSBA would continue to challenge the legality of cybercharter schools, and the Department of Education would challenge the loss ofits discretion in withholding subsidies from districts that refused to sendtuition payments to cyber charters.

Act 88Defines Cyber Charter Schools

In June 2002, amidst appeals and additional law suits beingfiled against school districts and the state, the Pennsylvania Legislaturepassed Act 88, an amendment to the state's first charter school law. Thechanges in the law overwhelmingly aim to address concerns and omissionsregarding cyber charters and include the state's first definition of cybercharter schools. The new law defines a cyber charter school as "an independentpublic school established and operated under a charter from the Department ofEducation and in which the school uses technology in order to provide asignificant portion of its curriculum and to deliver a significant portion ofinstruction to its students through the Internet of other electronic means"(Act 88, §

1703-A).

Unlike traditional charter schools, which are grantedcharters by the state only in cases where petitioners appeal the decisions oflocal school districts, cyber charter schools may be granted charters only bythe Pennsylvania Department of Education. The seven cyber schools whosecharters precede the new state law will continue to serve students under thewatch of their chartering district, but will have charters renewed only by thePennsylvania Department of Education. No school district is authorized to granta cyber charter, nor is any district responsible for monitoring a program inwhich student enrollment spans the state. In order to overcome previouslyproblematic communication between cyber charters and districts, however, anydistrict whose students attend the charter must be granted access to the school'scharter application, annual reports, and list of students from that district inattendance at the school.

In order to further clarify the relationship between cybercharters and districts, Act 88 also details the responsibilities of schooldistricts. Districts are required to make student records available uponrequest to the cyber charter in which a student enrolls. Districts are alsorequired to provide cyber schools with reasonable access to the district'sfacilities, as well as with assistance in the provision of special educationservices as needed. As if to speak directly to PSBA and the district lawsuits,the law also explicitly states that it is the responsibility of the student'sresident school district to make payments to the cyber charter school. In thecase that a school and a district disagree, for example, about a student'sdistrict of residence, the district must make the payment before the resolutionof the dispute and then be reimbursed by the cyber charter should the disputebe resolved in the district's favor [Act 88, §1748-A (a) (2) (vi)]. Inaddition, Act 88 also includes a provision that orders the state to reimburse30% of total funding for the 2001-02 school year to districts whose residentstudents are enrolled in cyber schools —approximately $1,900 based on anaverage payment of $6,300 per student. While the language in Act 88 is explicitin limiting the reimbursement to a one time payment, many districts are hopefulthat it will be on-going.

It was previously mentioned that Pennsylvania's charter school law showsunusual flexibility in the rights of parties to apply for a charter. The lawpreviously included teachers, parents, non-profit organizations, anduniversities, and excluded only sectarian and for-profit charter applicants.Act 88 adds corporations, associations, and partnerships as possible applicants[Act 88, §1745-A (a)], but continues to stipulate that no cyber charter may befunded or operated by a sectarian entity and that a charter may not be grantedto a for-profit entity (Act 88, §1703-A). The latter may prove to be acontentious point given the comprehensive outsourcing nature of the state'scyber schools.

The new law seeks to address accountability concernsthrough criterion that outline important elements required for the charterapplication. In addition to new demands for traditional charter schools, Act 88includes other criterion specific for cyber charters. The following areincluded among the 16 detailed requirements: (a) a description of the manner inwhich instruction will be delivered and a requirement that progress be assessedby teachers, (b) an explanation of the types of technological and othermaterials to be provided, (c) a description of the methods in which a student'son- and off-line time will be monitored, and (d) an explanation of the methodsto be used to ensure authenticity of student work.

The remainder of the Act focuses on evaluative criteria forcyber charters and closely resembles Act 22, replacing old language withlanguage that refers to cyber charter schools explicitly. The law states that acyber school will be held accountable for its ability to: demonstrate sustainedcommunity support; provide students with comprehensive learning experiences;develop students capable of meeting state standards as stipulated in Act 22;meet the goals outlined in its charter; and serve as a model for other publicschools [see Pennsylvania Public School Code, §1745-A (f) (1)].

While authority and oversight of cyber charters hasradically shifted to the state, it is not clear whether such action will resultin quelling the contentious debate over the governance, accountability andfunding of cyber charters in Pennsylvania.However, recent developments may provide a hint of how legislative changes mayinfluence the decisions made by policy makers. Since the enactment of Act 88,one of PSBA's residual cases dissolved in October of 2002, when the Morrisville School District voted to revoke thecharter of the TEACH-Einstein Charter Academy.[32]In addition, the state had an opportunity to exercise its new authority overgranting cyber charters, when it recently rejected 5 petitions for new schools(Hendrie, 2003).

Conclusion and Recommendations

The experiences of California and Pennsylvania providevaluable precedent from which other states can draw important lessons. Therecent legislative amendments in these two states has resulted in explicitdefinitions of cyber and home school charters, as well as expectations foraccountability, standards and resource use. The recent precedent also indicatesthat as charter operators stretch the definitions of what is permissible underexisting laws, nonclassroom-based schooling models will be tried in courts orreviewed by Legislatures to determine whether existing charter and generaleducation statutes can embrace these alternative schooling models.

The responses fromLegislatures and courts are beginning to formulate a regulatory blue print,which

outlines the conditions for operation and the oversight mechanisms thatnonclassroom-based charter schools will be expected to follow. In light of newdemands, the continuing challenge for states will be in reconciling thefreedoms guaranteed to all charters, with the responsibility of holding allpublic schools accountable.

The followingrecommendations are based on the experiences of California and Pennsylvania, as well as other states, intheir attempts to define nonclassroom-based charter school models.

Per-pupilfunding levels must reflect real costs of a quality nonclassroom-basedschooling model.

Muchof the debate around funding for nonclassroom-based charter schools has focusedon the lower overhead costs associated with savings on, teacher salaries andbenefits, facilities and maintenance, transportation, food service and otherservices. Simply accounting for two funding categories—teacher salaries andbenefits, and facilities and maintenance—begins to illustrate the vastdifferences in needs when comparing a nonclassroom-based to a traditionalclassroom-based model. For example, the costliest budget item in a traditionalschool model is teacher salaries and benefits, amounting to an average 56% oftotal expenditures (National Center for EducationStatistics, 2003). Facilities and maintenance, in most cases the second highestcost, can amount to nearly 11% of a school's budget (National Center forEducation Statistics, 1989). The limited provision of each of these resourcecategories in nonclassroom-based charters amounts to wide differences infunding needs.[33]

Earlyreports from Pennsylvaniasuggest that cyber charters indeed may not demand the same per-pupilexpenditures as traditional schools. For example, Ronald Young, the director ofthe Western Pennsylvania Cyber Charter School,offered resident districts that were sending tuition payments, a reduction inthe per-pupil payment from an average of $6,000 to $5,000 during the first yearof operation. The offer also included further reductions, dropping to $4,500for the second year, and then $4,000 thereafter. He explained that "fundingshould actually reflect the cost of doing business…no district should becharged more then it costs us" (Reeves, 2001). KPMG (2001) also reported thatat least 2 Pennsylvania cyber charters provide refunds of unspent tuitionpayments to students' resident districts, when the payments received from somedistricts is larger then the budgeted per-pupil costs of the school.

Inherentin the discussion of differential funding levels for nonclassroom-basedcharters—as

evidenced in Californiaand Alaska[34]—is theassumption that current funding levels for traditional school students areadequate; thus funding for nonclassroom-based students should beproportionately less. Yet, determining the exact costs of nonclassroom-basedschooling models entails a closer analysis that could account for additionalcosts over time. However, states have not engaged in the important process ofcosting-out a non classroom-based instructional program.

Indetermining an adequate level of funding, state officials should consider howthe educational needs of individual students will be met throughnon-traditional teaching and learning methods. States should also consider hownonclassroom-based charters have adopted resource use patterns that requirealternative financial reporting and expenditure levels, including: accounting(e.g. maintenance of student records, attendance logs and transcripts);accountability (e.g. determining what accounts for instructional time and howit is logged and evaluated, as well as evaluating the quality ofnonclassroom-based instruction); and reporting of how per-pupil payments arelinked to services provided (e.g. technology, learning materials,paraprofessional services, and third party curriculum and management serviceproviders). After identifying benchmarks for a quality nonclassroom-basedinstructional program that meets both local and state level accountabilitydemands, as well as accounting for costs of teachers and facilities, then afunding formula linked to these benchmarks can begin to more accuratelyidentify the level of resources that is necessary.

Definingstate and local-level accountability mechanisms for student performance andeducational program quality must be consistent with expectations for allschools.

Accountingfor enrollment, instructional hours, quality of instruction (delivered byparents, computer software, or distance learning), quality of student work,assessments, and level of contact hours between teachers and students, are allpart of the accountability formula which begins to define a nonclassroom-basedschooling model. A first step in creating a new accountability model that isaligned with nonclassroom-based schooling, is addressing the unique organizationalmodels, as well as the different teaching and learning methodologies thatnonclassroom-based charters employ.

Forexample, in California,student funding apportionment for home school charters is based on “time value”of student work rather then average daily attendance (ADA). Time value accounts for student workthat is evaluated by a certificated teacher who makes a professional judgmentof the work’s quality, and then calculates a time value equivalent of thecompleted work. These factors create

a new benchmark with which to calculatefunding apportionment credit that shifts from "seat time attendance," to asystem that is dependent on the amount and quality of work that a studentproduces. Thus, what results in an accountability structure that is betteraligned with the teaching and learning methods employed by a nonclassroom-basedschooling model.

Requiring"fact-to-face" or other form of communication between students and acertificated teacher is another important process in assuring greateraccountability of program quality. Teacher-student contact can assure thatteachers will direct instructional objectives, provide the curriculum necessaryto complete learning objectives, and monitor student progress more closely.This type of student-centered and individualized educational program demandsaccountability mediums that may not be aligned with existing traditional schoolstructures that rely on rule-based compliance such as "seat time" andinstructional minute requirements, to account for and monitor the quality of aninstructional program.

Delineatingenrollment boundaries as well as a mechanism for outlining fundingresponsibility, are essential elements of an accountability model that defineswho is ultimately accountable for nonclassroom-based charter students.

Anaccountability mechanism that determines who is ultimately accountable forstudents in nonclassroom-based charters and includes provisions that require anappropriate level of monitoring, will insure greater transparency in the publicoversight of nonclassroom-based charters. As students cross district and countylines, students' resident districts are challenged in monitoring whethernonclassroom-based charters are providing a quality educational program forthose students that resident districts are funding. Audited enrollment andattendance records of nonclassroom-based charters are necessary to ensure thatlocal and state portions of per-pupil payments are forwarded by students'resident districts to the nonclassroom-based charter that students choose. Inaddition, a policy that delineates geographical boundaries with manageableenrollment zones, can simplify oversight challenges which are exacerbated byborderless enrollment zones. This issue may prompt policymakers to consider astate-level approval and sponsorship of nonclassroom-based charters, as well asa funding system where the state portion of student per-pupil revenue comprisesthe larger share of funding.

Therecent enactment of Act 88 in Pennsylvaniatakes important first steps in shifting both authority to grant cyber chartersand monitoring these schools, from local districts to the state level.

Inaddition, Act 88 also aims to open communication between cyber charters andstudents' resident districts, by requiring unfettered access to a school'scharter application, annual reports, and attendance roles. While theseimportant provisions address important concerns linked to the accountabilitychallenges that resident districts have raised, the principle funding responsibilityremains that of the districts.[35]

InCalifornia and Alaska, the funding dilemma is not as urgent because both statesoperate a more state-centered school funding system where the state and federalportion of per-pupil funding is greater then the local responsibility—71% and76% respectively (National Center for Education Statistics, 2001). Thus, thesestates already provide a greater share of state per-pupil funding directly toschools. However, in Pennsylvania the funding issue is more salient becauselocal revenues makes up nearly 60% of per-pupil funding, and districts are hardpressed to send their share of local revenues to cyber charters. Shifting to astate-centered funding system for nonclassroom-based charters, where states areresponsible for funding a larger portion of per-pupil revenue, will result inimportant fiscal relief for local districts. In addition, a state-centeredfunding system would provide a more stable source of revenue for nonclassroomschools and relieve schools from having to solicit the larger share of theirper-pupil payments from students' resident districts.

Statelevel funding must assist local school districts in meeting the funding demandsposed by traditional home schoolers who are new to public education.

The large influx of students who are enrolling innonclassroom-based charters has resulted in an unexpected need for additionalstate and local funding to meet the demands of a significant enrollment growth.Many districts are challenged in reallocating budgets to fund students who werenot previously on the public school rolls—the majority of which were privatelyhome schooled. For example, 2 county superintendents representing 22 districtsin Pennsylvania,reported that they were billed $1.8 million by cyber schools throughout thestate, for 303 students which reside in their districts (Rafaelle, 2001).Considering that nearly 60% of cyber charter students in Pennsylvania were previously home schooled,these districts were met with a potential budget shortfall of approximately$1.08 million required for funding the demand of new students who enrolled incyber charters.

As statedin the previous recommendation, a state-centered funding system fornonclassroom-based charter students will relieve local districts of budgetshortfalls caused by enrollment spikes of nonclassroom-based students. Statesshould consider taking full responsibility for funding, or providing partialsubsidies to alleviate this funding challenge. In Pennsylvania, Act 88 has begun providingpartial subsidies amounting to 30% of local per-pupil payments to the residentdistricts of cyber charter students. However, the one-time payment limited tothe 2001-02 school year, does not provide sufficient funding to account forenrollment growth that is likely in the future.

Anothersolution that can assist districts, is limiting the number of operatingnonclassroom-based charters and restricting enrollment to students alreadyenrolled in public schools. For example, the State Legislature of Arizona recentlyinstituted a pilot program that allows for the creation of 14 cyber schools—7traditional public schools and 7 charter schools. In a proactive attempt toavoid the budget challenges that local districts have encountered in meetingfunding requirements for nonclassroom-based students, the law explicitly limitsstudent enrollment to students who "enrolled in and attended a public school inthe previous school year" [see Arizona Public School Code, §15.808 (11)(b)]. In essence, the enrollment restriction will allow districts that fundcyber school students to draw per-pupil funding from existing budgets andprovide a buffer for enrollment growth over time. In addition, limiting thenumber of Arizonacyber schools to 14, will allow for slow growth of cyber schools. The pilotprogram also includes provisions that outline a state sponsored evaluation ofall the cyber schools that will analyze student achievement, effectiveness ofinstructional programs, resource use patterns and cost-effectiveness.

Furtherresearch that examines nonclassroom-based charter schools is necessary in orderto determine their effectiveness and long term viability.

This paper provides importantinsights into how nonclassroom-based charter schools are evolving within thecharter school movement, as well as the wider public school community. Ourdescription and definition of nonclassroom-based schooling, coupled with ourin-depth regulatory analysis which traces how California and Pennsylvania aredefining cyber and home school charters, provides a comprehensive perspectiveinto the issues that the new schooling models are raising. However, morein-depth research and analysis are necessary to fully account for the overalleffectiveness of cyber and home school charters.

As we mentioned earlier,existing research that examines nonclassroom-based schooling is limited. Newresearch efforts will need to focus on school-level analysis that can assessthe

effectiveness of instructional programs, organizational and governancestructures, resource use, and the accountability mechanisms thatnonclassroom-based schools employ. Ultimately, new research will assist us indeciphering the viability of sustaining thesealternative schooling models under the context of increased state and federal accountabilitydemands.

References

AmericanSchool Board Journal. (2002, September). *Learningwithout walls: Virtual Schools and the online learning revolution*. NationalSchool Boards Association, Retrieved June 25, 2003, from http://www.asbj.cmo/specialreports/0902.html

Asimov, N.(2001a, June 10). Charter school could be first to reap big profits: Advisorfired after questioning Contra Costa program's finances. *San Francisco Chronicle*, p. A13.

Asimov, N.(2001b, June 15). Homeschool loophole spurs call for reform: Some charteroperators seen as abusing system. *SanFrancisco Chronicle*, p. A1.

Asimov, N.(2001c, June 26). Crackdown on Californiahome schools is proposed: Candidate for schools chief adds amendment to budget.*San Francisco Chronicle*, p. A3.

Blume, H. (2000, November 10). No classrooms, no teachers,no playgrounds, no standards: California'sbizarre charter-school experiment [Electronic version]. *Los Angeles* Weekly.

Bureau ofPerformance Accountability and Reporting. (2003). *Pennsylvania* charter schools 2003-2004: Grouped bycounty. Harrisburg, PA: Pennsylvania Department of Education.

California Department of Education. (2003a, June 18). 2002-03 SBE funding determinations. Sacramento, CA,Retrieved on July 1, from http://www.cde.ca.gov/charter/sbefunddeter0503.htm

California Department of Education. (2003b, July). Charter school summary data-July, 2003[Data File]. Sacramento, CA.

California Department of Education. (2003c, December). Charter school summary data-December, 2003[Data File]. Sacramento, CA.

Center for Education Reform. (n.d.). *Answers to frequently asked questions about charter schools*.Retrieved October 5, 1997,from http://www.edreform.com/school_reform_faq/charter_schools.htm

Center forEducation Reform. (2000). *Charter schoollaws across the states 2000: Ranking score card and legislative profile*. Washington, DC:Center for Education Reform.

Center forEducation Reform. (2003). Charter school highlights and statistics. Retrieved July 15, 2003, from http://www.edreform.com/chglance.htm#Charter%20Schools%20inn%20Opeation,%20Fall%202002
Charter Schools Development Center. (2002, Fall). Charter currents. Sacramento, CA:Author.

Chute, E.(2001a, April 12). New cyber schools face growing backlash [Electronicversion]. *Pittsburgh Post-Gazette*,p.A1.

Chute, E.(2001b, August 22). Bennett boosts cyber school plan [Electronic version]. *Pittsburgh* Post-Gazette, p. 6.

Chute, E. & Elizabeth, J. (2001, October 31). Cyberschools report has holes: Key information missing or not verified by consultant[Electronic version]. *PittsburghPost-Gazette*, p.B7.

EducationCommission of the States. (2003, May). *CyberCharterschools*, Denver, CO. Retrieved June 23, 2003, from http://www.ecs.org/clearinghoue/44/13/4413.htm

EducationWeek. (2002, May 9). E-defining education: How virtual schools and onlineinstruction are transforming teaching and learning. *Education Wee*k, Vol. XXI, (25).

Finn, C. E.,Jr., Manno, B. V. & Vanourek, G. (2000). *Charter schools in action: Renewing public education*. Princeton, New Jersey: Princeton University Press.

Fuller, B.(Ed.) (2000). *Inside charter schools: Theparadox of radical decentralization*. Cambridge:Harvard University Press.

Gaschler, R.(2000, December 14). Charter schools [Letter to the editor]. Los Angeles Weekly, Retrieved January 14, 2003, fromhttp://www.laweekly.com/ink/01/04/letters.php

Geske, T. G.,Davis, D. R. & Hingle, P. L. (1997). Charter schools: A viable publicschool choice option? *Economics ofEducation Review* 16(1), 153-169.

Gunnison, R. B. (1999, June 29). Assembly oks bill torestrict charter schools: Legislation attempts to curb 'distance learners'. San Francisco Chronicle, p. A13.

Haddock, V. & Seligman, K. (1999a, October 17). In thevirtual classroom: $150 million going to charter schools with little oversightfrom California.*San Francisco Examiner*, p. A1.

Haddock, V. & Seligman, K. (1999b, October 18). Classstruggle: Poorer districts discover relationships with charter school operatorscan turn rocky. *San Francisco* Examiner, p. A1.

Hart, G. K. (1995, May 1). Letter to the Honorable DelaineEastin, Retrieved August 4, 2002, from http://zope.hiscs.org/hiscs/docs/archive/garyhart

Hart, G. K. (1999, July 7). Letter to the Honorable PatrickJohnston. Proceedings of CaliforniaNetwork of Educational Charters Meeting to Discuss Implications of SB434, (September24, 1999).

Hendrie, C. (2002, October 30). Pa. district revokes online school'scharter. *Education Week.* Retrieved November 13, 2002, from http://www.edweek.org/ew/ewstory.cfm?

Hendrie, C. (2003, February 5). No to 'cyber charters'. Education Week. Retrieved October 19, 2003, fromhttp://www.edweek.org/ew/ew_printstory.cfm?slug=21stjour.h22

Huerta, L.(2000). The loss of public accountability? A home schooling charter school inrural California.In B. Fuller (Ed.), *Inside charterschools: The paradox of radical decentralization*. (pp. 177-202), Cambridge, MA: Harvard UniversityPress.

KPMGConsulting. (2001, October). *Pennsylvania* department of education cyber charterschools review. Harrisburg, PA: Author.

LegislativeAnalyst's Office (2003). *Legislative Analyst's Office Analysis of the 2003-04 BudgetBill*. Sacramento, CA:Author.

Little Hoover Commission.(1996). *The charter movement: Educationreform school by school* (138): State of California.

McCluskey, N.(2002, January). Beyond brick and mortar: Cyber charters revolutionizingeducation. *The Center for EducationReform.* Retrieved November 12, 2002, from http://edreform.com/pubs/cyber.htm

Miron, G.,& Nelson, C. (2000, October). *Autonomyin exchange for accountability: An initial study of Pennsylvania charter schools*. Kalamazoo, MI:The Evaluation Center, Western Michigan University.

Miron, G.& Nelson, C. & Risley, J. (2002, October). *Strengthening Pennsylvania'scharter school reform: Findings from the statewide evaluation and discussion ofrelevant policy issues*. Kalamazoo, MI: The Evaluation Center,Western Michigan University.

Mullholland,L. A. & Bierlein, L. A. (1995). Understanding charter schools. Phi Delta Kappan. 75, 102-3.

NationalAssociation of State Boards of Education. (2001). *Policy update: Cyber charter schools*. Retrieved February 14, 2003, from http://www.nasbe.org/Educational_Issues/New_Information?Policy_Updates/10_05.html

National Center for Education Statistics. (1989).*Digest of Educational Statistics, 1989*.Washington, D.C.; NCES, 1989, p.151.

National Center for Education Statistics. (2001).*Public school finance programs of the United Statesand Canada,1998-99*. Washington D.C.: NCES.

National Center for Education Statistics. (2003).*Statistics in brief, Revenues andexpenditures for public elementary and secondary education: School year 2000-01*.Washington D.C.: NCES, May 2003.

Pennsylvania Department of Education. (2003). PA charter schools - Operating 2003-2004.Retrieved on October 10, 2003, fromhttp://www.pde.state.pa.us/charter_schools/lib/charter_schools/OperatingCharterSchools10_07_03.p

Pennsylvania Department of the Auditor General. (2001,September 20). *SusQ-cyber charter school:Northerland County, Pennsylvania, Audit report*. Retrieved onJuly 10, 2003,from http://www.auditorgen.state.pa.us/Department/Info/School/225faupx.html

Pennsylvania School Boards Association. (2001, October). White paper on cyber schools. Retrieved November 9, 2002, fromhttp://www.psba.org/IssuesResearch/Issues/

Rafaelle, M. (2001, September 1) Cyber charter schools growdespite lack of funding from districts [Electronic version]. TheAssociated Press.

Rafaelle, M. (2002, February 7). State seeksinvestigation of struggling cyber charter school [Electronic version]. TheAssociated Press.

Reeves, K.(2001, October). Cyber schools: Friend or foe? *The School Administrator Web Edition.* Retrieved November 13, 2002, fromhttp://www.aasa.org/publications/sa/ RetrievedNovember 16, 2001,fromhttp://www.laweekly.com/printme.php3?eid=19749slug=09briefs.h22&keywords=cyber%20sc

RPPInternational. (2000). *The state ofcharter schools: Fourth year report*. Washington, DC: U.S. Department of Education,Office of Educational Research and Improvement.

Spidaliere,J. M. (2002, May 3). Pa. Court deals schools win in cyber-fund flap; Judges saystate can't automatically slash districts' subsidies in fight over money forInternet education [Electronic version]. *Lancaster* News Era, p. A1.

TheAssociated Press. (2003, July 24). Two charter schools sue state over funds[Electronic version]. *Los Angeles* Times. B6.

Trotter, A. (2001, October 24). Cyber schools carving out charterniche. *Education Week.* Retrieved November 13, 2002, fromhttp://www.edweek.org/ew_printstory.cfm?slug=

UCLA Charter School Study. (1998). Beyond the rhetoric of charter schoolreform: A study of ten California school districts. Los Angeles, University of California,Los Angeles.

Endnotes

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[1] For a descriptive case study of a home school charter in California see Huerta (2000). For a recentcomprehensive evaluation of cyber schools in Pennsylvania see (KPMG, 2001). Additionalstudies have briefly examined the operations of cyber or home school charters(Miron, Nelson & Risley, 2002; Miron & Nelson, 2000; UCLA, 1999)however, to date, there is no comprehensive research study that has examined awide sample of cyber or home school charters.

[2] The vague or non-explicit language pertaining to the operation ofnonclassroom-based charters in both charter and general education statutes, hasbeen interpreted by some charter operators to mean that nonclassroom-basedcharters are permissible until statutes say otherwise.

[3] The 10 states which have explicitly deemed cyber charter schools permissibleare: Alaska, Arizona (pilot program),California, Colorado, Idaho, Nevada, Minnesota, Pennsylvania, Ohio, and Texas (pilot program). Cyber charters alsooperate in Kansas,Hawaii, Florida, New Mexico and Wisconsin (EducationWeek, 2002).

[4] The remaining 14 states are vague in terms of explicitly prohibiting orpermitting the operation of home-based charter schools. This data was derivedfrom careful review of the 41 charter school laws, and in some cases a reviewof general education statutes as well.

[5] The initial conceptualization of Table 1 was the responsibility of Chadd'Entremont. His insightful review of the main themes in this paper along with fruitfuldebate, were vital in making the distinctions that are presented in the Table1.

[6] Intheir comprehensive study of cyber charters in Pennsylvania, KPMG (2001) found that "thevast majority of online instruction is asynchronous, that is, students workindependently at their own pace" (p.4).

[7] Early debates on nonclassroom-based charters were centered on reports of abusesby home school charters, including the direct disbursement of public funds andother "things of value" to parents, the promotion of religious instruction,profiteering by districts who sponsored home school charters, and enrollment ofstudents from wide geographic regions spanning the entire state.

[8] Early in the movement, several schools were disciplined by the State Departmentof Education for offering gifts or "freebies"—including VCRs, microwaves, cashpayments and other material goods—to families who enrolled with home schoolcharters. These illegal practices were addressed early in the movement in 1993by SB 399, a bill which expressly prohibited such practices on behalf ofschools serving independent study students (Little Hoover Commission, 1996).

[9] For example, early in the movement, it was common forsponsoring districts to charge oversight fees to home school charters. It wasreported that some fees were as high as 20% of per-pupil funding grants. Thisposed an important conflict of interest issue, where the entity which wasresponsible for holding the charter school accountable was ultimately profitingfrom the school it sponsored (see Huerta, 2000).

[10] The California Charter Schools Act was enacted in 1992, and became effective January 1, 1993.

[11] Whilea variety of modalities of instructional delivery were identified among earlynonclassroom-based charter schools in California—including independent study,distance learning, correspondence—the vast majority of these schools wererecruiting directly from the private home school ranks and advertising theirinstructional programs as home study or home schooling (Little HooverCommission, 1996).

[12] Schools in Californiareceive most of their state funding based on student Average Daily Attendance(ADA). ADA isequivalent to days of actual student attendance divided by the number ofinstruction days in a school year. A school district's basic per-pupil revenuelimit (basic state aid excluding funds from supplemental categorical programs)is calculated according to student ADA.The original California Charter Schools Act did not stipulate a definition for"pupil in attendance," nor did the law require students to receive direct orin-person instruction by a certificated teacher. In addition, enrollmentboundaries were interpreted as unrestricted by specific language which read:"admission to a charter school shall not be determined according to the placeof residence of the pupil, or his or her parent or guardian, within the state"[California Education Code § 47605 (d)]. These ambiguities would allow charterschool operators to offer nonclassroom-based instruction without defining theirinstructional model as "independent study," and without complying to enrollmentboundary limitations set by independent study regulations.

[13] For a more complete description of the Hastings Initiative and AB 544 seeHuerta (2000).

[14] See Charter Public Schools Act of 1998, § 10 and § 47605 (1) (1) of the California EducationCode.

[15] Prior to AB 544, the California Charter Schools Act of 1992 required allcharter schools to "meet the performance standards and conduct the pupilassessments" required of all schools in the state. However, when the CaliforniaLearning Assessment System (CLAS) was eliminated in 1994, all public schoolswere left without an assessment program until late 1997 when the state adoptedthe Standardized Testing and Reporting (STAR) program. Because the originallegislation had explicitly referred to CLAS as the official state assessment,AB 544 amended the original language and added new general language which wouldrequire charter schools to meet "any other statewide standards authorized instatue or pupil assessments applicable to pupils in non charter public schools"[see California Education Code § 47605 (c) (1)]. The new language was promptedby the fact that very few charter schools participated in the interim voluntaryassessment program after 1994.

[16] SB 434 changed apportionment credit from the traditional "seat time attendance"to apportionment based on "time value" of student work. Time value calculationsare based on 3 factors: (a) weighing the objectives of an assignment given by acredentialed teacher, (b) the work submitted by students by specified due date,(c) and the judgment of a teacher who evaluates and calculates the time valueof completed work. Together, these factors make-up an apportionment credit thatis based on student work, rather then physical attendance.

[17] In 2001-02, the average expenditure per pupil in California was $6,683, which translates intoan estimated $200.5 million in total funding for the estimated 30,000 studentsenrolled in home school charters (Legislative Analyst's Office, 2003).

[18] Recall that in 1999, SB434 limited a school board's ability to charge oversightfees of charter schools which they sponsored. In this case, the non-profitcompany which managed the HomeSmartKids was charging the school oversight fees,a practice which was not addressed in the 1999 legislation.

[19] Senator Jack O'Connell, the state senator who sponsored SB 740, was explicit inexplaining that the bill was prompted by earlier reports of alleged fraud by homeschool charters, but "the capper was the June 10 article in The Chronicle"which reported on the HomeSmartKids Charter School (Asimov, 2001c).

[20] The state defines "total public revenue" as "all federal revenue, less anyPublic Charter School Grant Program start-up, implementation, and disseminationgrant funds; state revenue; and local revenue from in-lieu property taxes [seeCalifornia Administrative Code of Regulations, Title V, § 11963.3 (c) (1) (C)].In 2002-03, the average "total public revenue" for all schools in California was $6,684per pupil (Legislative Analyst's Office, 2003).

[21] Prior to the full approval of permanent regulations for SB 740, the State Boardof Education released emergency regulations in order to implement the lawduring the 2001-02 fiscal year. During the first year, cuts were limited toonly 5% of total public revenue, and were based on whether a home schoolcharter had expenditures of at least 50% on certificated staff salaries andbenefits.

[22] The state defines "total revenue" as all revenue included in the definition of"total public revenue," in addition to all federal Public Charter School GrantProgram start-up, implementation, and dissemination grant funds, and otherresources [see California Administrative Code of Regulations, Title V, §11963.3 (c) (2)]. In 2002-03, the average "total revenue" for all schools in California was $9,216per pupil (Legislative Analyst's Office, 2003).

[23] For the first time since the California Charter Schools Act first passed in1992, the information required in the funding determination request would allowstate officials to accurately account for the number of charter schools thatwere operating a nonclassroom-based instructional program, as well as thenumber of students they served. In the 2001-02 fiscal year there were 118 homeschool charter serving 42,684 students, and in the 2002-03 fiscal the numbersincreased to119 home school charters serving 49,580 students (CaliforniaDepartment of Education, 2003a). Prior to SB 740, there was no officialaccounting of this type of information.

[24] In Fall or 2001, SusQ Cyber Charter School served 76 studentsin grades 9-12. Of the 76 students enrolled, only 2 had been previously homeschooled, 1 had attended a private school, and 73 had attended a traditionalpublic school (KPMG, 2001).

[25] In Pennsylvania,charter schools are funded by a process identified as "selected expenditures"which requires a school district to "determine its estimated total spending inthe preceding school year and subtract from that figure its outlays for itemssuch as nonpublic school programs, transportation services, facilitiesacquisition and other non-instructional costs. The resulting figure, divided bythe school district's number of pupils, is known as the selected expenditure"(PSBA, 2001). This formula results in a payment of approximately 80% of totalper-pupil expenditure. PSBA (2001) estimated the average per-pupil cost chargedto districts was $6,300 for a student in a regular education program, and an additional$10,800 for a special education student.

[26] Whilenot referring explicitly to cyber schools, Act 22 §1715-A(a) states that"nothing in this clause shall preclude the use of computer and satellitelinkages for delivering instruction to students."

[27] As of Fall 2001, Pennsylvaniacyber charters enrolled 4,732 students. The two largest schools, TEACH-Einstein Academy Charter School and Western Pennsylvania Cyber Charter School,enrolled nearly 80% of the total cyber charter student population. KPMG (2001)also reported that 56% of cyber charter students were previously home schooled,while only 33% had attended a traditional public school. In addition, 12% ofcyber charter students were enrolled in special education.

[28] Information provided to KPMG was not independently audited. KPMG relied onschool officials to provide information that was solicited for the purposes ofwriting the report.

[29] The budgeted costs per student appear unusually high considering the lowoverhead costs associated with operating a cyber charter school. KPMG (2001)reported an average cost per student of $6,480 for the 5 cyber charters whichreported budget data.

[30] This figure is based on data for only 5 cyber charters that submitted budgetinformation to KPMG.

[31] Ahigh service program is identified as providing access to a variety of thirdparty curriculum providers, higher staffing levels, additional learningmaterials, in addition to other services and materials. A low service programis identified as having limited access to third party curriculum providers, alimited offering of supplementary materials, and fewer student services.

[32] The school will remain open until it is granted an appeal hearing by thePennsylvania Department of Education.

[33] Recall that in California,SB 434 required that home school charters meetstudent-teacher ratios equal to that in traditional schools within their homecounty. Thus, in the Californiacontext, the vast cost difference for supplying teachers to traditional schoolscompared to home school charters, is nullified.

[34] Similar to California,Alaska alsolimits funding levels for home school charters. The state reduces its portionof total per-pupil funding by 20% (total per-pupil funding includes approximately70% state and 30% local revenues) for students enrolled in correspondence orhome school charters. A correspondence study program is defined as a programwhere a student receives “less then three hours per week of scheduledface-to-face interaction” with a certified teacher in a classroom setting foreach secondary course; and less then 15 hours per week in an elementary schoolsetting (see Alaska Administrative Code Title 4 § 33.490).

[35] House Bill 1733, an earlier version of ACT 88 that was debated in theLegislature but failed to pass, called for full state control and oversight ofcyber charters. The bill also would have relieved local districts from payingfor cyber charter students, and require the state to take full responsibilityof per-pupil payments.