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Professional Teacher Charter Schools: Proposal with Model Legislation

Byron Schlomach and Mike Davis*

What if teachers were given the opportunity to be masters of their own fate, to be the sort of true professional practitioners who enjoy the deference and respect that comes with independent practice? Because government finance so dominates K through 12 education, this can only be accomplished by opening the system to such opportunity. This can be done through a new concept: Professional Teacher Charters.² (See the draft of the model bill, Professional Teacher Act, below.)

The vast majority of education practitioners in the United States – teachers – do not enjoy the sort of independence, respect, and deference that practitioners in other professions enjoy or that teachers in other nations often enjoy.³ That's because the bulk of what could be an education market in the United States is dominated by government-constituted and funded monopolies – public schools. Many teachers complain of unresponsive and incompetent administration that fails to provide adequate support and even undermines discipline.⁴ Most professionals, whether a plumber, lawyer, or physician, would chafe under similar managerial circumstances. Usually, these professionals answer only to their customers, themselves, or their fellows – a new lawyer might report to a senior attorney, but he usually does

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not take orders from a paralegal. Teachers could be similarly empowered. This proposal offers an institutional structure to accomplish the goal of providing professional independence for teachers.

Rationale for Professional Teacher Charters

Practitioners of a skill in this country generally have the ability and freedom to start their own businesses. Attorneys, doctors, chiropractors, carpenters, auto mechanics, and people who care for lawns regularly start their own businesses. To the extent that they need administrative work done that they do not have the time or expertise to do themselves, practitioners hire help. Administrators in such businesses are there to serve the practitioners who, in turn, serve the customers. It is a system that even extends into corporate systems or other business models where practitioners are employees of non-practitioners. Employers recognize that the practitioner is ultimately the source of success, so practitioners are well rewarded and enjoy due deference.

Not only are public schools monopolies, since parents and students have little choice but to patronize them, but they are also monopsonies. That is a term economists use for when there is only one buyer (in contrast to a monopoly, where there is only one seller). If a person wants to teach, the public schools are far and away the biggest potential employer, thereby minimizing other potential opportunities to work as a teacher. Economists have long pointed out that monopsony employers take advantage of employees, hiring too few, overworking them, and underpaying them.

In the public schools, administrators do not serve the teacher practitioners, who then serve the student/parent customers. Instead, administrators are in charge, and unless an individual

Mike Davis is Research Fellow at the 1889 Institute.

Byron Schlomach is Director at 1889 Institute.

administrator has a powerful internal ethical code, their primary motive is weighted more in favor of having a copacetic day than running a quality school. If that means making life for teachers miserable and ultimately compromising the quality of educational services in the process, many administrators will do just that. After all, they face little in the way of classic market consequences for being poor managers. (The same sort of thing is happening in health care as it becomes increasingly socialized and monopsonistic.)

Just consider how things play out for a truly excellent teacher who cares both about her subject and that the children she teaches learn as much as possible for the sake of their own futures. This teacher will be demanding, not just of the children, but of herself. However, if this teacher is teaching in a high school, she may have over 100 students. Inevitably, several will prove unwilling to do the required work, and some of these will have parents who prefer to make noise and cause trouble over holding their children accountable. A principal motivated to have a copacetic day would rather have the teacher compromise standards than deal with complaints. Discipline problems simply get sent back to the classroom to continue to disrupt rather than being dealt with by the bad administrator. Ask a good teacher. Only a few fortunate ones will dispute having to deal with this sort of administrator at some point in their career, if not for the majority of it.

If the goal is to teach students and prepare them for the rigors of real life, how can we justify letting teachers be bullied into letting them skate? Some teachers cope by quitting the profession, having little choice to do otherwise. What if there were a choice? What if they could establish an independent educational practice without having to convince parents to give up the “free” part of public education?

Professional Teacher Charter Proposal

A key to improving student learning is recognizing that teachers are and ought to be treated as professionals, but the key to this goal is allowing teachers to be independent practitioners (i.e. go into private practice like other professionals). Any teacher with five years of experience and the ability to secure a bond to reimburse the state should her enterprise fail during a school year, ought to be able to start a professional charter school. The bond serves both as insurance and a gatekeeping function; only those with some business sense are likely to secure a bond. Such a school – micro or macro – should receive funding on the same basis as other charters. The ability to start and run their own schools would provide more opportunities for students to escape failing schools, create a laboratory of pedagogy, and give teachers greater professional opportunity and control.

Required Qualifications

Very simply, under this proposal, a teacher who has an established, clean record in the public schools, and who successfully posts a bond sufficient to indemnify the state and local districts against loss should the teacher’s project fail, can open a school that is funded in exactly the same way as any other charter school. The school could be the equivalent of a one-room school house where a single teacher serves children in all the different grades. Or, the teacher could hire other teachers who would specialize according to grade and/or subject matter much

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like teachers do in public and private schools. The school could be virtual (internet-based), or blended (virtual with in-person sessions) or entirely in-person. It would be up to the teacher who obtained the charter and her ability to attract students.

Bond Requirement

The bond requirement serves two purposes. First, if the teacher’s educational business model simply does not work and her students have to return to public schools in the middle of a school year, the bond would be paid to the public school districts that the children attend. Second, in order to obtain the bond at a reasonable cost in the first place, a bonding entity would demand a viable business plan. This would help to ensure that the teacher obtaining the charter has the wherewithal and planning to maximize the probability of success.

This type of business accountability, imposed by a private entity with a financial interest, would be the only bureaucratic blessing required for the teacher to go about opening a school under a Professional Teacher Charter where the children’s educations are publicly funded. Typically, those who propose charter schools must get their plans approved by committees made up of individuals who might never have run any sort of school, or any other real enterprise, in their entire lives, and who hold no financial stake whatsoever. (These people also tend to be hostile to competition for traditional district schools.) The system proposed in the Professional Teacher Charter proposal precludes appointed functionaries from substituting their judgment for that of those who face the superior incentives inherent with taking a financial risk.

Organization

It is also typical for charter laws to require that the chartered entity be organized as a nonprofit. This has been a great error on the part of policymakers. Combined with intentionally limited-life charters that expire in as few as five years, and ceilings on the numbers of charters, legislatures around the country have essentially hung out signs that say “Only Fly-By-Nighters Need Apply.” Quickness to make a slick sales pitch to a committee, rather than real ability and expertise, has been more highly valued in the competition for charter grants in the past. No person owns the property of a nonprofit. Nonprofit status encourages management to pay themselves well with relatively little attention paid to the long-term. Lines of true responsibility and bottom-line accountability are easier to follow and achieve with for-profit endeavors. Just as in other professions, teachers should be able to go into private practice and actually own their practices. Such structure would accrue to the long term benefit of both practitioners and their students.

Some say that education is too important to society for it to be subject to the profit motive. Actually, just the opposite is true: education is too important *not* to be subject to the profit motive – the motive that has lifted billions out of subsistence poverty within just the last 30 years.⁵ Imagine requiring grocery stores that accept Supplemental Nutrition Assistance payments to operate as nonprofits, or worse, be government-run monopolies. Poverty like that seen in the Soviet Union would be the result.⁶

Accountability

Evaluation of a school's performance is best judged by parents, and performance best measured through some type of objective assessment. Nationally norm-referenced achievement tests have served this purpose for many decades. While parents are not psychometricians, these well-established tests report results with aids for interpretation, so parents are more than capable of understanding how their student is progressing. To ensure accountability but avoid overregulation, Professional Teacher Charter schools would choose a preferred achievement test from a list of approved tests, but must see that the results are reported to the state and to parents. Transparency, not mandates, would be the guiding principle.

Regulation

A professional teacher charter school will be no more regulated than any other charter school. And in fact, a professional teacher charter school could take many forms. It could be entirely virtual, blended, or entirely on-site in a traditional classroom. Classrooms could be located anywhere that is appropriate. A professional teacher charter school could consist of a single teacher with a handful of students, or a chain of schools with dozens of teachers and hundreds of students conducted under the supervision of the charter holder. This would all be up to the teacher-entrepreneur, or consortium of teacher-entrepreneurs who hold the charter. The regulation would be the most effective type of regulation that there is – market-based regulation – provided by parents, who are in the best position to determine if their students are learning, and who can choose to have their students attend a different school if a professional teacher charter school is not working out.

Benefits for Teachers, Students, Families

Public school systems are intended to benefit all of society primarily by giving the youth of the nation the gift of a good

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education. This benefits families and the broader society by providing a constantly renewed, well-educated stock of informed and responsible citizens to provide labor, innovation, and responsible governance as well as generally good citizenship. However, the current one-size-fits-all system has shown that it does not work well for many students and families. It also does not work particularly well for teachers, who complain of overwork, unruly classrooms, lack of administrative/disciplinary support, innovation-stifling administrators, and inadequate resources.⁷

The inadequacy of resources is especially baffling given the increases in education spending, on top of inflation, that have happened over several decades.⁸ Teachers practicing as principle practitioners in their own schools would have ultimate control over resources, where administrative functions would efficiently serve the teachers and their effectiveness rather than the other way around. Teachers would determine policies subject to whether their policies would be compatible with enough students to make their school enterprises workable.

Parents and students would have more choices in terms of curriculum, discipline policies, and other issues in a world with Professional Teacher Charters. Some teachers who have recently left education might come back. Others who are currently frustrated within the system could start schools and students who particularly like them could follow along. Parents and students could make different choices based on anything from teaching philosophy to discipline to curriculum to subject matter strengths. In addition to allowing teachers to serve a true professionals, and thereby greatly enhancing the teaching profession, parents and students also benefit by having the opportunity to escape a bad school whether due to poor teaching, bullying, or other considerations.

Professional Teacher Charter Model

This Act shall be known as the "Professional Teacher Act."

Section 1. Purpose

- A. The purpose of the Professional Teacher Act is to provide new professional opportunities for teachers in order to:
 1. Improve student learning;
 2. Increase learning opportunities for students;
 3. Allow experienced public school teachers to establish themselves as independent education practitioners;
 4. Encourage the use of different and innovative teaching methods;
 5. Provide additional academic choices for parents and students;
 6. Increase parental knowledge and control of student curriculum;

7. Reduce administrative interference in classroom teaching; and
 8. Increase transparency of student performance outcomes.
- B. It is hereby declared to be the public policy of the State of ___ (State Name) ___ to facilitate the opening of new charter schools. All provisions of law in this Act shall be liberally construed to effectuate this public policy.

Section 2. Charter; Funding

- A. Any eligible teacher may apply for a Professional Teacher Charter (PTC) and become the Teacher-Sponsor.
- B. Upon receipt of an application, and certification that the conditions listed in sections 3 and 4 of this chapter have been satisfied, the State Department of Education shall issue a Professional Teacher Charter to the Teacher-Sponsor(s). The State Board of Education does not have discretion to reject a PTC applicant, except if the applicant fails to meet one or more of the conditions listed in sections 3 and 4 of this chapter.
- C. Once issued, the Professional Teacher Charter shall be funded in the same manner, and to the same extent, as schools established under the State Charter Schools Act.

Section 3. Eligibility

- A. Any individual or consortium, each of whom is duly certified to teach in the State, and who has at least five years teaching experience, may be the Teacher-Sponsor(s) of a Professional Teacher Charter School (PTC), pursuant to the requirements below.
- B. The Teacher-Sponsor(s) shall post a surety bond or irrevocable letter of credit of \$2,000 per student, with the total bond value to be not less than \$25,000.
- C. In the event a school permanently ceases operations before the end of the scheduled school year, the bond shall be paid to the 'PTC Student Fund' to be administered by the State Board of Education as established by rule. The funds shall be distributed, immediately upon enrollment, on a pro-rata basis to the school districts where the students from the closed PTC finish the school year. The State Board of Education shall have power to make rules to carry out this subsection.
- D. Any school formed under the State Charter School Act, which meets every requirement of this Act, may convert to a PTC.

Section 4. Application

- A. An applicant seeking to establish a Professional Teacher Charter school shall submit a written application to the state Board of Education. The application shall include:
 1. The name of the applicant or applicants, accompanied by proof of State teaching credentials and five years teaching experience for each applicant;
 2. Proof that a surety bond or irrevocable letter of credit has been posted, as prescribed in subsection 3 (B);
 3. A designated point of contact between the PTC and the State Board of Education.
- B. If an applicant meets the requirements of this Section and the State Board of Education fails to issue a charter within thirty (30) days of receipt of the application, the applicant shall have a cause of action in district court. Prevailing applicants shall be awarded by the district court their reasonable litigation costs and attorneys' fees.
- C. The State Board of Education shall make the application electronically available and shall accept applications electronically.
- D. The State Board shall not charge a fee for application or issuance of charter.

Section 5. Organizational Structure

- A. Professional Teacher Charters may be a sole proprietorship or any form of business entity authorized under ___ (Name of State) ___ law to operate as a professional services organization.
- B. The PTC shall be governed by the Teacher-Sponsor(s).
- C. Teacher-Sponsors shall have exclusive control over curriculum selection, development, and delivery.
- D. A PTC may have a non-teacher advisory board, but the Teacher-Sponsor(s) must have final accountability and control over all matters affecting student learning.
- E. A PTC may enter into contracts, sue, and be sued.

Section 6. Restrictions, Requirements, and Transparency

- A. A PTC shall ensure that each student takes a nationally norm-referenced test once per school year.
- B. Any of the following tests shall be accepted: California Achievement Test, Iowa Test of Basic Skills, Stanford Achievement Test, TerraNova, or any other nationally norm-referenced test the state board of education allows by rule.
- C. Individual test results shall be delivered to parents, including a percentile score for their child, and aggregated school scores.
- D. The aggregate data shall be remitted to the State Department of Education and published on the PTC's website.
- E. The PTC shall publish on its website a statement describing the extent to which the school's curriculum complies with, or departs from, the State's minimum curriculum requirements.
- F. The PTC shall publish on its website information regarding curriculum and supplemental materials to be used.
- G. The governing body of a PTC may not levy taxes or issue public bonds.

Section 7. Bylaws

- A. The PTC may provide a comprehensive program of instruction for any grade that is publicly funded by the State. Instruction may be provided to all persons eligible to attend State public schools.
- B. A PTC shall adopt bylaws which will ensure compliance with the following:
 - 1. A PTC shall comply with all federal regulations and state and local rules and statutes relating to health, safety, civil rights and insurance;
 - 2. A PTC shall be as equally free and open to all students as traditional public schools.

Section 8. Continuity of Charter

- A. If the Teacher-Sponsor of a PTC is no longer willing or able to operate the school, any certified teacher with five years of experience, or consortium of qualified teachers, may take over the sponsorship.
- B. When a Professional Teacher Charter that has organized as a nonprofit, and has taken public funding for facilities, permanently ceases operations, any real and personal property owned by the charter shall be turned over to the state board of education for dispersal to other schools in the district. Priority shall be given to other charter schools operating in the same district.

Section 9. Exemptions

- A. A Professional Teacher Charter shall not be required to participate in the state's testing or accountability systems, but may do so voluntarily.
- B. A PTC is not subject to public school certification hiring, or minimum salary requirements.
- C. A PTC shall have independent control over curriculum and personnel decisions.
- D. A PTC shall be exempt from all statutes and rules relating to schools, boards of education, and school districts.
- E. The PTC shall not be subject to any requirement of the State Charter Schools Act, except as provided in this Act.
- F. The PTC shall not be required to comply with the collective bargaining provisions of this title.
- G. The PTC shall not be required to comply with state minimum number of days or hours for student attendance.

Section 10. Reprisals

A board of education of a school district or an employee of the district who has control over personnel actions shall not take unlawful reprisal action against an employee of the school district for the reason that the employee is directly or indirectly involved in an application to establish a PTC. As used in this section, "unlawful reprisal" means an adverse action taken by a board of education or a school district employee as a direct result of a lawful application to establish a Professional Teacher Charter School.

Section 11. Charter Schools Incentive Fund

Professional Teacher Charters operating as nonprofit enterprises shall have access to the Charter Schools Incentive Fund on the same basis, and under the same requirements, as schools formed under the State Charter Schools Act.

Section 12. Student Eligibility

- A. Professional Teacher Charters are not limited by the geographic location of their students. Any school-aged child living in any State school district may apply to any Professional Teacher Charter.
- B. PTCs may, but are not required to, provide student transportation.
- C. The State Board of Education shall not restrict the number of students a PTC may enroll. The capacity of the PTC shall be determined annually by the Teacher-Sponsor(s).
- D. Discrimination according to race, sex, or religion is prohibited.
- E. A PTC may determine admission criteria in line with objective academic standards and educational emphasis.

Section 13. Severability

Any portion of this act which may be declared illegal or unconstitutional, shall be severable. The remainder of the act shall continue to have the full force of law. If any group or subgroup, of teacher-sponsors, parents, or students, is deemed ineligible to participate in a PTC, such ruling shall not prevent or encumber participation by any other group or subgroup.

End Notes



- 1 For a detailed discussion on the origin of this idea, see: Kent Grusendorf, *Saving Public Education: Setting Teachers Free to Teach* (Austin, TX: Texans for Real Efficiency and Equity in Education, 2020), <https://kentgrusendorf.com/>.
- 2 Kent Grusendorf, *America's War for Effective Education Reform*, 1889 Institute Policy Discussion, April 2020, <https://1889institute.org/americas-war-for-effective-education-reform/>.
- 3 Valerie Strauss, "Where in the World Are Teachers Most Respected? Not in the U.S., a New Survey Shows," *The Washington Post*, November 15, 2018, <https://www.washingtonpost.com/education/2018/11/15/where-world-are-teachers-most-respected-not-us-new-survey-shows/>.
- 4 Educator Barnes, "Teachers Quit Principals, Not Schools," *Indy K12 Blog*, March 13, 2017, <https://indy.education/2017/03/13/2017-3-13-teachers-quit-principals-not-schools/>.
- 5 Robert P. Murphy, "Extreme Poverty Rates Plummet Under Capitalism," *Foundation for Economic Education* article, May 30, 2018, <https://fee.org/articles/extreme-poverty-rates-plummet-under-capitalism/>.
- 6 New York Times News Service, "Poverty Exists for Millions of Soviets, USSR Admits," *Chicago Tribune*, January 30, 1989, <https://www.chicagotribune.com/news/ct-xpm-1989-01-30-8903010453-story.html>.
- 7 Byron Schlomach, Ben Lepak, and Mike Davis, *Why Are OKCPS Teachers Begging the Public for Basics?* 1889 Institute Policy Analysis, October 2019, <https://1889institute.org/why-are-okcps-teachers-begging-the-public-for-basics/>.
- 8 Byron Schlomach, *Public Education Spending in a Historical Context*, 1889 Institute Policy Analysis, May 2017, <https://1889institute.org/public-education-spending-in-a-historical-context/>.