

**RESCUING CALIFORNIA'S TROUBLED SCHOOLS:  
Can Contracting Address The Problems Facing  
California's Failing Schools?**

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## Preface

This report was prepared as part of the Capstone Policy Seminar experience at the Pepperdine School of Public Policy. The Seminar, one of the integral parts of the preparation for students receiving the Master of Public Policy degree, provides students with the opportunity to explore a public policy program in depth and to prepare a set of specific recommendations to policy makers to solve the problem. These reports are prepared by a team of 6-8 students over the course of only twelve weeks, providing for an intensive and challenging experience.

The results of the team's analysis is then presented to a panel of experts in a public workshop setting where the student panelists are given the opportunity to interact directly with the policy professionals, not only presenting their findings but engaging in an exchange of ideas and views regarding the specifics of those recommendations. The policy expert panel for this report included RAND education expert Stephen J. Carroll, Liberty Fund Senior Fellow Steven D. Ealy, and education advocate and former Mayor of Los Angeles, Richard Riordan.

The School of Public Policy would like to thank our students for their hard work and commitment in preparing this policy analysis. We are proud of your achievement.

## Executive Summary

The nation's children and its future depend on the public education system. Unfortunately, school violence, high dropout rates, and low-test scores riddle many public schools. As such, the nation and its states are at a critical junction in the determination of the future of public education. California, the nation's largest state, is central to this issue. The state is host to 8,761 public schools, which educates 6,050,895 students annually. Yet of those 8,761 schools, 1,009 of them are considered failing by the Federal Government under the No Child Left Behind Act.

The reasons for California's failing schools are numerous; however, several major causes stand out. First, the diversity of California's population; second, overwhelming curriculum requirements; and third, lack of alternative schools for students and families who find themselves living in the attendance areas of these failing schools.

These wide-ranging problems account for the fact that failing schools are located in 48 of California's 58 counties. In fact, the locations of these schools span regional, economic, and density boundaries. However, several characteristics indicate a high probability for failure. These include but are not limited to, a high percent of English learners in the student body, a student body comprised of a historically minority majority, a student to teacher ratio of 20:1 or higher, a teaching staff comprised of less than 90 percent of fully-credentialed teachers, and a district with more than 50 schools.

Three key areas inhibit California from reversing such characteristics that are indicative of failing schools – the \$35 million budget shortfall, the strength of entrenched interests like public employee's unions, and the current rule-bound and fragmented governance structures. Despite such daunting obstacles, it is completely unacceptable for a state that invests the tremendous resources in K-12 education that California does for the state to write off 10 to 12 percent of its youngest citizens. What then can be done about California's failing schools?

There is a range of possible approaches for reversing failure. Each of these approaches has some significant potential for addressing the needs of the students trapped in these failing schools, but we believe that there is one direction that has the greatest potential for the most progress—contracting with non-district groups and firms. Contracting is simply a privatization technique in which a government entity contracts with a private organization, for-profit or nonprofit, to provide a service. Such contracting creates competition, which yields greater efficiency or more bang for the

buck. Contracting also establishes reliable and enforceable relationships between school managers and public officials --a significant deficit under the current system. Further, it is the only approach available that has not been tried on any sizable scale. Of course, contracting is not a panacea, and problems such as collective bargaining agreements and state educational codes make contracting difficult and will have to be overcome. Luckily, California can learn from others who have already attempted such contracting strategies.

Ultimately, in order to implement contracting in California, a two-pronged strategy must be undertaken. In the short-run, the charter model should be used because it not only allows schools to contract with for-profit organizations, but it also gives these schools a level of autonomy similar to that of private schools. In the long run, the use of charters should be supplemented with new legislation that will allow public schools to contract directly with for-profits. Such a measured approach promises to capture the advantages of contracting in order to reduce the number of schools that are currently failing our most precious resource-- the children of California.

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## Chapter 1. Failing Schools In California And Why Change Is Needed

What would you do if you were told that you had to spend eight hours a day for the next one hundred and eighty days in a building where over a hundred rats roamed freely, rooms were overcrowded, seating was a privilege not to be shared by all, and bathrooms were filthy and lacked toilet paper--when they were actually open? Add to that, a lack of air conditioning, heating, books, and an overarching fear of attack by a local gang. Sound like the latest installment of reality TV? Well, it is reality, but it is not entertainment, especially for the students that attend the weakest California schools.<sup>1</sup> The days when a night without homework was a student's dream come true have long passed, and they are now replaced with the sad certainty that homework will not be handed out due to a lack of books. For the children attending California's failing schools, learning is not the object, survival is.

The nation's children and its future depend on the public education system. Today, it is the most salient of all civic institutions and enrolls 90 percent of the school-aged children.<sup>2</sup> These schools should be producing good citizens and a productive workforce for the communities that support them—and in most instances, they succeed. Unfortunately, this is not always the case. Many public institutions have fallen through the cracks. The result – new stories about school violence, high dropout rates, low test scores and the overarching failure of the teachers and the government to secure the future. The nation and its states are at a critical junction in the determination of the future of public education.

### The Issue of Failing Schools

California, the nation's largest state, is central to this issue. The state is host to 8,761 public schools, which educates 6,050,895 students annually.<sup>3</sup> Yet of those 8,761 schools, 1,009 of them are considered failing by the Federal Government.<sup>4</sup> While 12% of the schools are failing, the other 88% are succeeding. What makes these schools different? In order to understand these schools and design a viable solution, it is necessary to look at what defines these schools, why they exist, and where they are.

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<sup>1</sup> U.S. Department of Education qtd. in Thomas, Karen and Anthony DeBarros. "Schools Excellence Thrown a Grading Curve," USA Today, 5 August 2002. <[http://www.usatoday.com/news/education/2002-08-04-schools-usat\\_x.htm](http://www.usatoday.com/news/education/2002-08-04-schools-usat_x.htm)>.

<sup>2</sup> National PTA. "Public Funds for Public Choice," <<http://www.pta.org/ptawashington/issues/public.asp>>, Accessed 9 March 2003.

<sup>3</sup> California Department of Education. "Fact Book 2002: Handbook of Education Information – Enrollment and Number of California Public Schools by Grade Span 2000-01," <<http://www.cde.ca.gov/resrc/factbook/enrollbygrade.htm>>. Accessed 9 March 2003.

<sup>4</sup> U.S. Department of Education qtd. in Thomas, Karen and Anthony DeBarros. "Schools Excellence Thrown a Grading Curve," USA Today, 5 August 2002. <[http://www.usatoday.com/news/education/2002-08-04-schools-usat\\_x.htm](http://www.usatoday.com/news/education/2002-08-04-schools-usat_x.htm)>.

### ***What is a “Failing School?”***

Under the No Child Left Behind Act, states are allowed to set their own standards as to what constitutes a failing school. In California, the Public Schools Accountability Act, or PSAA, measures failure and success by using achievement tests. Eventually the state will also phase in other indicators such as high school exit exams, attendance rates, and graduation rates to determine a school’s achievements. PSAA also calls for schools to improve their performance by 5 percent each year. The growth target for a school is set at 5 percent of the difference between its Academic Performance Index (API) using the annual standardized test scores and the statewide target of 800. For example, a school with an API of 340 would have a growth target of 23. A school with an API between 781 and 799 need gain only one point, while a school that is at or above 800 is simply expected to stay above that threshold. If a school does not meet or exceed the target growth rate school-wide for two consecutive years, it receives a failing designation by the government via the No Child Left Behind Act (NCLB). These growth targets are the same for the entire student population including English Language Learners.

This year, 1,009 schools in California made the NCLB “Failing” list. If the schools do not improve within the given time, they face penalties including government takeover. This means that nearly 1 out of 8 schools are not consistently improving. An academically disadvantaged school denies students an adequate chance to succeed in school and in life. Ultimately, these students are being deprived of sufficient opportunities to master the basic academic skills that they need to become productive citizens.<sup>5</sup>

### ***Why Do Failing Schools Exist?***

The reasons for failing schools are numerous; however, several major reasons stand out. First, the diversity of California’s population; second, curriculum requirements; third, lack of alternative schools for students and families who find themselves living in the attendance areas of these failing schools; and fourth, the district’s diffusion of government funding.

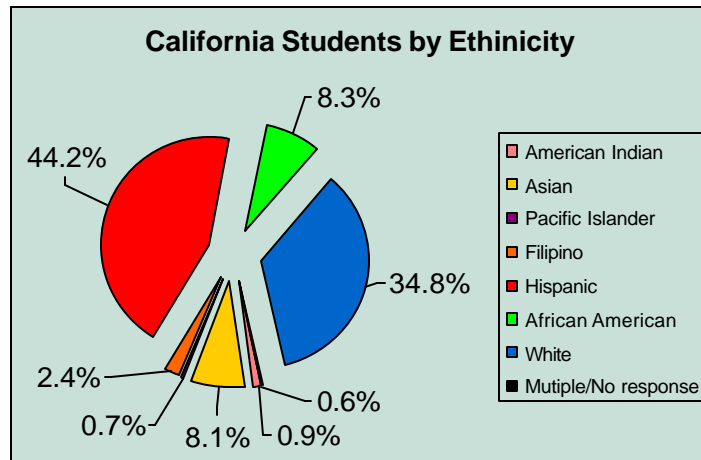
### **Diversity**

California is unique in that it has a majority of minorities. As is noted in the chart below, the distribution of California’s population over major ethnic groups creates an interesting dynamic that has not been faced recently anywhere else in the nation. In some districts, this demographic pattern is severe. For example, in the Glendale Unified School District, a district of only 30,762 students, 71.05 percent of them have a primary language other than English. Overall, there are 72 different languages spoken by the children of

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<sup>5</sup>California Department of Education. “California’s New Accountability System,” <[www.cde.ca.gov/psaa/pr/factsheet.htm](http://www.cde.ca.gov/psaa/pr/factsheet.htm)>, Accessed 3 April 2003.

Glendale schools.<sup>6</sup> The population diversity is notable across the state; however, concentrations such as those described in Glendale are especially prominent in Southern California and partially explain the problems faced by districts such as LAUSD. A considerable number of failing schools are located in counties and districts with high immigration rates or high density rates. This contributes to an exceedingly diverse school population with a high percentage of English language learners.



SOURCE: "Students by Ethnicity: State of California 2001-2002." Ed-Data. 2003. Taken from: Educational Demographics Office, CBEDS (sifae01 5/1/02). <<http://www.ed-data.k12.ca.us>>.

### Curriculum Requirements

Curriculum requirements also pose a hindrance to public education. Beginning in the 1950s and taking hold in the 1980s and 1990s, public schools have been used as an outlet for educating youth on subjects of societal concern rather than simply academic objectives. Melville Homfeld noted the change in focus in 1959 when he wrote:

The state of California requires its elementary schools to teach nineteen subjects. They include the nature of tobacco, the nature of alcohol, training for healthful living, morals, manners, safety, fire prevention, physical education, conservation of natural resources, art, music, history of California, civics, the commemoration of Bird Day, Arbor Day, Luther Burbank Day, and Susan B. Anthony Day. Most local boards of education also require elementary schools to teach craft courses, instrumental music, woodworking, sewing, cooking, and a variety of other subjects. Each schoolhouse and plant must also be maintained and operated as a community center for recreation and civic activities for both young and old. And then, of course, we have to teach reading, writing, arithmetic, spelling, geography, history, and language as well.

Most high schools are required either by law or by the pressure of the communities in which they operate to offer one hundred or more subjects, and most of these subjects must be offered on two or three levels of difficulty.<sup>7</sup>

<sup>6</sup> Chuck Sambar. "The Challenges of Teaching in Glendale," <[www.sambarpress.com/chuck/teachinglendale.htm](http://www.sambarpress.com/chuck/teachinglendale.htm)>.

<sup>7</sup> Melville Homfeld. "Schools for Everything," *The Atlantic Monthly*, March 1959, <<http://www.theatlantic.com/issues/95dec/chilearn/hom.htm>>. Accessed 9 March 2003.

Today, schools are required to teach even more subjects. Schools also provide federally subsidized meal programs and after school programs to care for the children of working parents and broken homes. The breakdown of societal values has fallen hard upon the public schools leaving them not only responsible for watching these children but also for teaching them the morals and values that were once taught by parents and even television.

### **Lack of Choices**

Finally, today's public education system lacks clear-cut options. Although the original idea of a public or "common" school was geared towards the common good and general welfare of the nation, a proverbial change has taken place in which an institution lacks value if it is not treated as an individual consumer good. Out of this desire has sprung such movements as school vouchers, tax credits, home schooling, contracting, and charter schools.

### **District Diffusion of Funding**

One of the largest problems with the current system is that failing schools based on their status and the needs of their students receive the largest allotments of state funds. However, when these funds are transferred to the district level, the district often gives them a significantly smaller dollar amount. This is due to the fact that failing schools have high percentages of uncredentialed and new teachers with lower salaries than good schools. In Los Angeles County for example, while Azusa Unified has 70 teachers with a Masters + 72 credits or a doctorate making an average of \$74,002 a year, Pomona Unified has 102 teachers at the lowest level of emergency credentials. In all, for the 2002 school year, while Pomona Unified had 333 teachers with emergency credentials, Azusa unified had 227 teachers with a Masters +72 credits or a Ph.D.<sup>8</sup> Furthermore, the district sees the funding to the good schools as a safe investment or reward for performance that they want to see continued. This is detrimental to failing schools because it limits the resources that they have to work with and almost forces them into a downward spiral. Few schools have been able to get out of such a situation and those that have, have done so because of the presence of a strong principle who has in effect taken back some of those funds.

### ***Where Are Failing Schools Located?***

Failing schools are located in 48 of California's 58 counties. The locations of these schools span regional, economic, and density boundaries. However, several characteristics indicate a high probability for failure. These include but are not limited to, a high percent of English learners in the student body, a student body comprised of a historically minority majority, a student to teacher ratio of 20:1 or higher, a

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<sup>8</sup> Rand California. "Teacher Salary Step Statistics: Los Angeles County, Year 2002." <<http://ca.rand.org/cgi-bin/teachsai/nonannual.cgi>>



## **A Brief History of Public Education**

In order to gain a proper understanding of the challenges faced by teachers and administrators, it is necessary to look back at the legislative acts that have shaped our present education system. It is essential to examine these changes to see if the present system is still capable of accommodating the needs of all of the students it is meant to serve. If not, a new strategy will have to be implemented.

### ***A Federal Beginning***

Public Education, or “common” education as it was originally termed, became dominant in the United States around 1890. Then the system centered around teaching students fundamental skills to become better citizens. However, two major events sparked change and are largely responsible for the system that is in existence today. The first was *Brown v. The Board of Education* in 1954, and the second was the launch of the Soviet satellite, Sputnik, in 1957. From the former, came the Civil Rights Act that banned racial discrimination in all federally funded programs; and from the latter sprung an interest in science and math and the cultivation of young people for specific industries.

### ***The Elementary and Secondary Education Act of 1965***

In relation to both of the aforementioned events came Lyndon Johnson’s 1965 Elementary and Secondary Education Act (ESEA). This program, the first of its kind, aimed to narrow the gap between privileged and underprivileged kids. It set-up, under Title 1, numerous programs designed to aid children of poverty. By 1969, it had given \$4 billion in aid to disadvantaged students. Furthermore, this \$4 billion acted as an incentive and forced many southern schools towards integration.

### ***Bilingual Education Act***

President Johnson, continuing with his “War on Poverty,” introduced the Bilingual Education Act in 1968, which became ESEA Title VII. “In 1974, the federal government published teaching materials in nearly 70 languages, and allocated \$68 million for bilingual programs.”<sup>10</sup> Title VII was part of the ESEA until 2002, when it quietly expired. The ideas behind it were captured in President George W. Bush’s “No Child Left Behind Act.” In 1971, busing became a lawful remedy for segregation, and *Miliken vs. Bradely* laid the ground for busing children between the suburbs and inner cities. The Civil Rights Act further inspired ESEA Title IX, barring gender-based discrimination in education. The Civil Rights

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<sup>10</sup> Mondale, 158.

legislation of 1976 extended anti-discrimination laws to those with disabilities through both Title VII and Title IX.

### ***“A Nation at Risk”***

In 1983, Ronald Reagan commissioned the U.S. Department of Education to conduct a study of the public education system. The resulting document, “A Nation at Risk,” stated:

If an unfriendly power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves. We have even squandered the gains in achievement made in the wake of the Sputnik challenge. Moreover, we have dismantled essential support systems, which helped make those gains possible. We have, in effect, been committing an act of unthinking, unilateral educational disarmament.<sup>11</sup>

In response to the report, new initiatives and ideas came to the forefront. In 1989, the governors of all 50 states gathered to discuss the reasons for the problems in public education. The governors came up with six national goals for education, driven by three assumptions: schools like businesses need to compete to be effective; students perform better if given rigorous subjects; and standardized scores predict potential achievement. These three assumptions still exist today and are directly responsible for many of the initiatives that have sprung up since 1983. These initiatives include using business strategies to run schools – magnet schools, contracted schools, charter schools, and progressive schools.

### ***No Child Left Behind Act***

The Elementary and Secondary Education Act of 1965 has been renewed seven times since 1965. In 1994, President Clinton integrated Goals 2000 into the plan, which made it necessary for states to develop standards in order to bolster student achievement. In 2001, President Bush signed into law the No Child Left Behind Act, which is the largest reform of the ESEA to date. Like the original ESEA, it redefines the federal role in K-12 education and attempts to close the gap between advantaged and disadvantaged students. “It is based on four basic principles: stronger accountability for results, increased flexibility and local control, expanded options for parents, and an emphasis on teaching methods that have been proven to work.”<sup>12</sup>

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<sup>11</sup> U.S. Department of Education. “A Nation at Risk.” p. 5.

<sup>12</sup> U.S. Department of Education. “No Child Left Behind Act,” 2001.

## **Some Major Environmental Factors Shaping Our Choices**

Three key areas inhibit California from making successful statewide advances in their educational system – the budget crisis, the teacher’s union, and the current governance structures. These three issues will inevitably shape the choices available to education reformers.

### ***Budget Crisis***

In the 2002-03 budget year, numerous mid-year cuts have been proposed. These include a reduction in the Instructional Materials Block Grant by \$103 million, peer assistance and review programs cut by \$21.8 million, and the school libraries material program cut by \$11.6 million. In addition, the language limiting K-3 class size to 20 students with a cap of 22 has been removed from the bill. The likeliness of future cuts weighs heavily as one examines the budget shortfall for the coming year, currently estimated between \$26 and \$35 billion dollars out of a \$100 billion dollars. K-14 education, under Proposition 98, is guaranteed an allotment of \$44 billion. Yet, with the shortfall, budget cuts appear unavoidable.<sup>13</sup> Nevertheless, historically it has been during such budget crises that some of the most innovative program changes have been implemented. Now, education reformers have just such an opportunity to capitalize on these circumstances.

### ***Strength of the Unions***

Budget cuts are not the only issue affecting the education system. Teachers’ unions, designed to protect educators through collective bargaining and giving them a voice in changes made in their profession, are extremely influential. In California, these collective groups of teachers are represented by the California Federation of Teachers (CFT), a branch of the American Federation of Teachers (AFT), as well as the California Teachers’ Association (CTA), affiliated with the National Education Association (NEA). In fact, the CTA is considered the most robust and aggressive NEA branch in the nation.<sup>14</sup> These groups wield enormous power with the legislature and amongst school and community boards. As such, enlisting the cooperation of the teachers’ unions makes any sort of reform more likely to succeed.

### ***Governance Structures***

In efforts to help schools respond to their growing needs, reformers have made public education more rule-bound and fragmented. Decision-making has been removed from the schools and into district offices or state boards of education. Thus, schools have been weakened, and the ends of teaching have become hazy. In fact, education reformer Paul T. Hill claims that “the problems of public education are rooted in

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<sup>13</sup> California Federation of Teachers. “State Budget Brief: March 7, 2003,” <<http://www.cft.org/leg-n/spare1.shtm>>.

<sup>14</sup> Peter Brimelow. The Worm in the Apple (New York: HarperCollins), 2003.



the basic arrangements by which we as a society provide public education.”<sup>15</sup> As partial evidence, he cites school operators who claim that they are prevented from making critical changes by more distant entities such as school boards.<sup>16</sup> However, once these entities realize that changes in governance structures will not reduce their role in public education but will actually give them more of a true public policy-making function, they may be more open to reorganization.<sup>17</sup>

## **How We Will Address the Problem**

The paper will look at the options for addressing the problem of failing schools in California. In Chapter Two, the criteria will be determined, and the various options will be discussed. Chapter Three will address the nature of contracting, how it has been done, its problematic past, and the issues that must be addressed in order for it to succeed. Finally, Chapter Four will lay out the implementation of California school reform through a contract system.

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<sup>15</sup> Paul T. Hill. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 11.

<sup>16</sup> Paul T. Hill. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), ix.

<sup>17</sup> Organization and governance structures were one of the key areas targeted in the state’s recent development of its new California Master Plan for Education—Kindergarten through University. The governance provisions can be found in S.B. 6 of the 2003 Session. These provisions target the multiple roles of the various bureaucracies found within the state.

## **Chapter 2. What Can Be Done To Repair Our Failing Schools**

Many attempts at reform have been made, yet we have 1,009 failing schools in California. Perhaps that is a success—maybe all things considered there should be 2,000 failing schools. However, it is completely unacceptable for a state that invests the tremendous resources in K-12 education that California does for it to write off 10 to 12 percent of its youngest citizens. What then can be done about this serious problem?

There is a range of possible approaches, and we will discuss each of them in some detail in this chapter, including (1) incremental improvement through the status quo; (2) state takeover of troubled schools; (3) education vouchers; (4) charter schools; and (5) contracting with non-district groups and firms for the provision of educational services. Each of these approaches has some significant potential for addressing the needs of the students trapped in these failing schools, but there is one direction that has the greatest potential for the most progress—contracting with non-district groups and firms. To understand how this conclusion was reached, it is necessary to turn to the factors that define a successful approach to the problem.

### **How To Identify a Successful Approach**

In order to create a successful approach to reversing failing schools, the following criteria should be met. First, the approach should help students achieve academically. Second, the plan should be affordable. Third, the approach must unite natural allies of education reform. Finally, the method must impose some sort of accountability. If the plan meets all of these criteria, it stands an excellent chance of helping students currently trapped in California's failing schools.

### ***Help the Children***

Ultimately, a successful school is one that is organized around meeting the needs of children. Above all, any reform effort must be aimed at helping children achieve academically. Towards this end, schools must be more personalized and less bureaucratic in order to be responsive to the needs of parents and students. Schools should be places where parents and students feel comfortable attending, and teachers should be enthused about the mission of their respective schools. If reform approaches do not meet this criterion, regardless of their other virtues, they absolutely must be discarded for plans that encompass this standard.

### ***Economic Viability***

For all intents and purposes, economic viability is very important for determining the success of the plan, and the approach must be able to proceed in view of today's severe budget conditions. Therefore, there are a few financial questions that will need to be adequately addressed. First, can the plan be supported through currently available funds? Second, is the plan robust across all of the state's districts? Does its funding model work in the diversity of public finance situations found in the state's 1,000 school districts? Even the best reform plan will not succeed if it does not have a realistic fiscal framework.

### ***Political Viability***

Successful reform efforts will also have to have a realistic political framework that involves coalition building. Those who favor change "must come to know one another, unite around a specific agenda, develop leadership that will reach out to others who might want to become supporters . . ."18 Natural supporters of education reform include minority parents, leaders of child advocacy organizations, business and religious leaders, some politicians, educators currently running magnet or charter schools, and parents who have left the public school system but who would like to return.<sup>19</sup> The best reform plan will unite these supporters to press for needed changes.

### ***Accountability***

The final criterion is accountability. The state of California spends billions of dollars each year to educate students. Taxpayers deserve to know how whether their money is being spent effectively. Parents deserve to know whether their children are being educated. Ultimately, schools that do not achieve such aims must be held accountable—or they will never have any incentive to improve.

## **Approaches to Creating Opportunity in Failing Schools**

Five reform approaches will now be examined in the light of the criteria presented to identify those options with the greatest potential for providing real results for the students in failing schools.

### ***Incremental Improvement Through The Status Quo***

The first option is to retain the *status quo*. After all, a number of entities, such as the Achievement Council, are already involved in some of the state's worst schools, trying to improve student achievement

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<sup>18</sup> Paul T. Hill. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 191.

<sup>19</sup> Paul T. Hill. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 193.

and teacher instruction.<sup>20</sup> The Broad Foundation is also trying to work with the *status quo* and recently launched the Urban Superintendents Academy. The Academy is designed to encourage successful executives from other fields to move into education. Selected fellows participate in “a rigorous, ten-month executive management program designed to prepare the next generation of public school superintendents.”<sup>21</sup>

Not only does the *status quo* have a number of supporters, but it also associated with stability and feasibility because there are already mechanisms in place to help address the issue of failing schools. Further, advocates of working through the *status quo* point out that the vast majority of students will probably never have the opportunity to attend private schools, charter schools, or some other alternative educational program.

The problem associated with the *status quo* is that it does not adequately address the educational needs of the children attending failing schools. If the *status quo* was sufficient, there would be no need to write this report. Many of the faults of the *status quo* are largely the result of the regulations now in place. These inefficient rules and entities make change slow and tedious. Unfortunately, students trapped in these already failing classrooms do not have time to wait.

### ***State Takeover Of Troubled Schools***

Another approach to helping failing schools that has been tried in recent years is that of state-takeovers of low-performing schools. Current California law allows “Underperforming Schools” 24 months to meet their growth targets. If such schools do not show “significant growth,” the “Superintendent of Public Instruction shall assume all of the legal rights, duties, and powers of the governing board with respect to that school.”<sup>22</sup>

### **How State Takeovers Work**

Twenty-four states have passed legislation allowing government officials to exert authority over a district in the case of “academic bankruptcy” or woefully low-performing schools.<sup>23</sup> Takeovers for managerial or financial reasons can be relatively short-lived. Comprehensive takeovers especially those including financial, managerial, and academic components, last longer. State takeovers offer both promises and

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<sup>20</sup> The Achievement Council. “The Achievement Council Programs,” <[www.achievementcouncil.org](http://www.achievementcouncil.org)>. Accessed 2 April 2003.

<sup>21</sup> The Broad Center for Superintendents. “Identifying, Preparing, and Supporting the Next Generation of Public School Superintendents,” <[www.broadfoundation.org](http://www.broadfoundation.org)>. Accessed 5 April 2003.

<sup>22</sup> California Education Code, Section 52055.5.

<sup>23</sup> Educational Resources Information Center. “City and State Takeovers as a Reform Strategy,” July 2002, <<http://eric-web.tc.columbia.edu/digest/pdf/174.pdf>>. Accessed 2 April 2003.

limitations. When implemented, takeover reform looks different in each school district, but the overall focus is always on increasing the district's capacity to arrest institutional disintegration and on raising academic accountability.

### **Benefits of State Takeovers**

State takeovers can produce more efficient financial and administrative management. Bills and teachers are more likely to be paid on time. The most important benefit of state takeovers is that the heavy emphasis on academic accountability increases the potential to turn around low-performing schools and districts. Further, because districts often fail to provide the resources to the individual schools to make them successful, state takeovers have the potential to level the playing field. Also, state takeovers tend to engender media attention that focuses the public's concern and scrutiny on the failing school. Finally, if the district has already failed to revive a failing school, can the state do much worse?

### **Problems With State Takeovers**

Sadly, the answer to the previous question might be "yes." In 1993, the state of California took over the debt-ridden, low-achieving schools of Compton. Yet, five years after the state takeover, Compton's SAT scores had fallen, the dropout rate had doubled, and the district was still in debt. The Compton experiment demonstrated that substituting one level of government for another does not solve the problem of failing schools because the "same problems of bureaucracy, lack of incentives, and unresponsiveness to the consumer are present in any monopolistic government system."<sup>24</sup> Thus, it should come as no surprise that state takeovers do not engender accountability or responsiveness. Also, there is less local control in the schools and school districts with state takeovers. Because the control is at a state level, the community has less to say about how a school is run, and the school may not reflect the special needs of the community. Finally, the state may be less concerned about student achievement and more concerned about the finances of a school or district.

### ***Education Vouchers***

Another approach to helping failing schools is that of a voucher system, which entails governments or private entities giving parents, usually low-income parents, money that they can put toward the tuition of whatever public or private school they decide is appropriate for their child.<sup>25</sup> Usually, a voucher is a check from the government that is issued to pay tuition at a private school. The expectation is that the market will produce enough schools to take advantage of these publicly funded vouchers, much like the

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<sup>24</sup> Lance T. Izumi. "State Takeover of Schools," Pacific Research Institute, Vol. 3, No. 32: 1 September 1998. <[www.pacificresearch.org/pub/cap/1998/98-09-01.html](http://www.pacificresearch.org/pub/cap/1998/98-09-01.html)>. Accessed 23 March 2003.

<sup>25</sup> Andrew J. Coulson. *Market Education*, (New Brunswick: Transaction Publishers, 1999), 19.

G.I. Bill saw the dramatic growth of both public and private postsecondary institutions after World War II. Because schools would be competing for students, they would have to be innovative and focus on providing a better-quality alternative to the existing failing schools.

### **Benefits of Vouchers**

Voucher proponents have argued that choice would generate healthy competition for America's stagnant, monopolistic public schools.<sup>26</sup> Under a voucher system, schools would either be forced to improve, or they would risk losing clients—students and their parents. This system provides hope and opportunities to children trapped in terrible schools. Also, parents will be more involved in their child's education, as they have a say in where their child attends school. Finally, because these schools are privately managed, they have the opportunity to provide education in the best possible way in order to meet students' needs instead of being forced to bow to a bloated state and district bureaucracy that crafts rules to maintain the *status quo*.

### **Problems Associated With Vouchers**

Whatever virtues vouchers may offer, California voters have soundly rejected voucher initiatives—twice. In 1993, citizens of California rejected Proposition 174 by a margin of 70 percent to 30 percent.<sup>27</sup> Again in 2000, California voters defeated vouchers by 71 percent to 29 percent.<sup>28</sup> These initiatives were strenuously fought by well-funded opponents who feared that vouchers would drain money away from the public school system while providing subsidies to wealthy families.

### ***Charter Schools***

Charter schools apply a mixed supply and demand strategy. Although charter laws vary considerably from state to state, in a few states, charter schools are fully autonomous and must compete with public schools. The hope is that such competition for students will force changes in existing public schools, resulting in improvements across the entire educational system.<sup>29</sup>

### **How Charter Schools Work**

“The charter school reform concept is part of a larger policy effort to fundamentally alter the structure of the public education system in an effort to (1) enable change-oriented educators to establish and operate

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<sup>26</sup> Terry M. Moe. Schools, Vouchers, and the American Public, (Washington, D.C.: Brookings Institution P, 2001), 1, 18.

<sup>27</sup> Terry M. Moe. Schools, Vouchers, and the American Public, (Washington, D.C.: Brookings Institution, 2001), 359.

<sup>28</sup> *Ibid.*, p. 366.

<sup>29</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 114-15.

new, innovative schools and (2) provide increased competition within the public education sector.”<sup>30</sup>

Charter schools are a form of public school. In their attempt to alter the education system, these schools exchange increased autonomy for amplified accountability measures. Like a traditional public school, charter schools cannot charge tuition, cannot discriminate amongst students, and must comply with state standards and assessments.

California charter schools receive their charter through either the local school district or the county board of education, and they have the option of becoming part of the school district or remaining legally independent.

### **Benefits of Charter Schools**

Charter schools receive a number of benefits previously associated only with private schools. Their level of self-governance gives them an automatic waiver over most state education laws, regulations and policies. Moreover, the charter school may choose to negotiate with the sponsor school district over exemptions from school district policies, provided that they are specified in the charter.<sup>31</sup>

In terms of finances, charter schools have no restrictions set upon their budget. They choose whether to receive funding through the school district or directly from the state. One hundred percent of the operations funding is based on school district per pupil revenue. Teachers’ salaries are determined directly by the charter school, and teachers are not bound by the school district’s collective bargaining agreement. Moreover, California has established a charter schools revolving loan fund that allows charter schools to receive start-up loans of up to \$250,000 with a five-year repayment plan. Finally, districts in which a charter operates must permit the charter to use, at no charge, any facility which is currently not being used or rented. Lease aid funding is available for schools in low-income areas and provides \$750 per student. A total of \$5 million was appropriated for the 2002-2003 school year.<sup>32</sup>

These benefits have produced several California charter school success stories including that of the Fenton Avenue School in the Los Angeles Unified School District. At Fenton, moving to the charter model allowed the school to focus on its primary purpose – academics. In doing so, it made several curriculum changes, which resulted in a 16.1 percent increase in test scores by the schools second year.<sup>33</sup>

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<sup>30</sup> Charter Schools Development Center. “Frequently Asked Questions About Charter School Fundamentals,” 2003. <<http://www.cacharterschools.org/faqs.html>>.

<sup>31</sup> Education Commission of the States. “State Notes: Charter Schools: Charter School Basics,” March 2002. <<http://www.ecs.org/clearinghouse/24/12/2412.pdf>>.

<sup>32</sup> Education Commission of the States. “State Notes: Charter Schools: Charter School Finance,” March 2002, <<http://www.ecs.org/clearinghouse/24/13/2413.pdf>>.

<sup>33</sup> John Merrow. Choosing Excellence, (Lanham: The Scarecrow Press, 2001) 150.

## **Problems With the Charter Schools Approach**

Although charter schools appear to be a positive option, they have a negative image thanks to some early high-profile failures in California-based schools. Edutrain Charter School in Los Angeles closed its doors after its charter was revoked in December of 1994. “Among the school's problems: inexperienced management, poor record keeping, and the discovery by state auditors that the school's enrollment reports allegedly exceeded the number of students regularly attending classes.”<sup>34</sup> The *Los Angeles Times* went so far as to accuse the principal of using funds to lease a sports car and a bodyguard. When the school closed, the district faced severe student placement problems due to the lack of record keeping, the nature of the students, and the already overcrowded classrooms in other local schools.

California has increased the accountability mechanisms in place for charter schools in an attempt to protect the system from schools like Edutrain. At present, each charter school must annually prepare a school report card and undergo a financial audit. The state may terminate the charter of any school that is found committing a material violation of its charter, failing to meet the student standards specified in its charter, violating the law, or failing to meet basic accounting principles. Each school must renew its charter every five years. Most importantly, however, the state recently passed legislation requiring the legislative analyst to contract a neutral evaluator to assess the charter schools and report to the governor and the legislature on or before July 1, 2003.

## ***Contracting With Nonprofits and Private Firms***

Another approach to helping failing schools is contracting out the day-to-day management of schools to nonprofit and private entities. Like other reform measures, contracting has many advantages as well as possible drawbacks, which are discussed in the following section.

## **How Contracting Works**

Contracting is a privatization technique in which a government entity “contracts with a private organization, for-profit or nonprofit, to provide a service.”<sup>35</sup> This is not a new idea. As competition guru E. S. Savas has pointed out, “It was a private entrepreneur, under contract with the Spanish monarchs, who sailed to the New World in 1492.”<sup>36</sup> Today, it is not unusual for our governments to contract with private entities to accomplish such tasks as road construction or the generation of electricity.

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<sup>34</sup> Donna Harrington-Lueker. “When a Charter Fails.” The School Administrator Web Edition, American Association of School Administrators, August 1997.

<sup>35</sup> William D. Eggers and John O’Leary. *Revolution at the Roots*, (New York: Free Press, 1995), 98.

<sup>36</sup> David Osborne and Ted Gaebler. *Reinventing Government*, (New York: Plume, 1992), 334-335.



Such contracting creates competition, which yields greater efficiency or more bang for the buck. In fact, many studies have estimated that governments usually save between 20 and 40 percent when they contract out for goods and services.<sup>37</sup> Market theory also suggests that competition requires monopolies to respond to customers. Further, competition rewards innovation and boosts the morale of employees.<sup>38</sup> Years ago, school districts discovered the benefits of competition when they began contracting for non-educational services such as meals or transportation. More recently, some school districts have begun to capture the benefits of privatizing by contracting for educational services in individual schools and even entire districts.<sup>39</sup>

### **Benefits of Contracting**

Like charter schools, contracting works on both the supply side and demand side. However, unlike most current charter school laws, contracting establishes reliable and enforceable relationships between school managers and public officials. Further, in contrast to vouchers, if parents decide to send their children to inadequate schools, public authorities will be able to intercede. In spite of this, perhaps the most important advantage of contracting is that it changes the structures that govern the educational establishment.<sup>40</sup> School boards are no longer responsible for micro-managing schools but can take on a true policy-making role. In essence, school boards will be allowed to specify the educational ends but not the means to achieve them.<sup>41</sup>

Unlike the other approaches, contracting promises to promote accountability, responsiveness, and economic feasibility through market forces. Further, it is the only approach available that has not been tried on any sizable scale. It is time to implement this approach, as privatizing advocate, Paul T. Hill, claims that contracting promises “to do better than the current system and any other competing strategy

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<sup>37</sup> William D. Eggers and John O’Leary. Revolution at the Roots, (New York: Free Press, 1995), 99.

<sup>38</sup> David Osborne and Ted Gaebler. Reinventing Government, (New York: Plume, 1992), 82-84.

<sup>39</sup> Black Alliance for Educational Options. “Public School Contracts with Private Companies and Organizations,” <[www.baeo.org/options/contracts.htm](http://www.baeo.org/options/contracts.htm)>, 17 February 2003.

<sup>40</sup> There are other reforms, which also attempt to change educational governance structures. For example, site-based management, implemented largely in the late 1980s and early 1990s, maintained the hierarchical structure of the school system but attempted to create more decision-making independence at the school level. This freedom was expected to unleash the creativity and raise the morale of teachers, which in turn was expected to lead to improved academic achievement. At least that was the theory. In actuality, site-based management has brought about little real change, in part because it did not make profound changes in district management.

Another trendy reform strategy is that of systemic reform, which involves defining a set of educational goals and aligning the system to meet such goals. In other words, the centralized bureaucracy attempts to ensure high standards for inputs in order to achieve quality outputs at the lowest level—the school. [See Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 99,100,104-105, 108,110.]

<sup>41</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 139-40, 78.

on support for initiative-taking in schools, creation of strong pressures for high performance in schools, stabilizing the funding schools receive and the rules under which they must work, and protecting kids from failing schools.”<sup>42</sup>

### **Problems With the Contracting Approach**

Although contracting promises to provide many benefits to failing schools, like any other reform effort, contracting is not a panacea. Collective bargaining agreements and state educational codes make contracting difficult in some states, including California. Further, many for-profit educational contractors have experienced financial difficulties, and some contractors have been accused of discriminating against “difficult” children who may require costly special attention or who might bring down assessment scores. These and other problems must be, and can be, overcome in order to implement a successful contracting reform approach.

### **Our Recommended Approach: Contracting**

Because contracting procures so many unique benefits, it has the greatest potential to meet the needs of children trapped in problems in California’s failing schools. The next chapter will provide a bit of context and history about this important and promising innovation.

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<sup>42</sup> *Ibid.*, 124.

## **Chapter 3. What Is Contracting And How Does It Work?**

The current shape and size of California's education system does not make it conducive to change. Further, the influence that the unions wield over the political entities at the local and state level adds additional complications to the process. In order to implement contracting, a two-pronged strategy must be undertaken. In the short-run, the charter model will be used because it not only allows schools to contract with for-profit organizations, but it also gives these schools a level of autonomy similar to that of private schools. In the long run, the use of charters will be supplemented with new legislation that will allow public schools to contract directly with for-profits.

In order to implement a charter based contract program, one must first examine California's charter school movement in more detail. From there, the discussion will move towards the role contracting has played in California's educational system to date. Current criticisms and issues that require special attention will then be addressed, followed by an in-depth discussion on the short-term and long run contracting proposal, in order to show how the state's needs are addressed by this plan.

### **How has it been done?**

Contracting through charters has produced both successes and failures. Currently, California is home to eight Edison schools, the earliest of which opened in 1997. Two of the eight schools, Edison McNair Academy and Edison Brentwood, as well as the aforementioned Fenton Avenue, were named in *Eliezer Williams et al. vs. State of California*, a class action suit seeking declaratory and injunctive relief from bad schools. Although Fenton Avenue and the two Edison schools have made tremendous progress under the charter system, the difficulties in their respective situations have not yet allowed them to transcend their failures. Fenton Avenue's student test scores in 1999-2000, increased 20.8 percent, yet students only rank in the 30<sup>th</sup> percentile nationally.<sup>43</sup> These schools are in difficult neighborhoods and deal with students of diverse backgrounds. New measures can initiate change and make noticeable improvements over time. The reason for switching to a charter or contract system lies in their ability to make those changes sooner rather than later. Traditional public schools, on the other hand, often must wait several years to implement the same improvements due to regulations, guidelines, and outside influences – whether it is from unions, textbook manufacturers, or school boards.

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<sup>43</sup> John Merrow. "Choosing Excellence," (Lanham: The Scarecrow Press, 2001), 150.

Contracting in California has mainly been done through the use of charter schools. “Just like traditional schools, however, charters may contract with other organizations – including for-profits – for all or parts of their school operations.”<sup>44</sup> Another reason for the use of the charter school model is added flexibility and benefits. Charter schools “enjoy features heretofore associated primarily with private schools: self-governance, freedom from most regulations, the ability to hire whom they like (usually without a union contract), control of their own (secular) curriculum, and attendance only by youngsters whose parents elect them.”<sup>45</sup> Moreover, unlike government schools, cooperatives and for-profits have the necessary mechanisms in place to encourage principals to act in the best interest of the school at all times and to effectively monitor output and financing.

As of fall 2002, California was home to 427 charter schools, 23 less than the 450 legally allowed for the school year. Of those 427, at least 11 were charter schools that had contracted with an EMO.<sup>46</sup> In fact, charter schools are proving to be a big market for Education Management Organizations (EMOs). The National Center for Policy Analysis has estimated that about 10 percent of the nation’s charter schools are operated by EMOs.<sup>47</sup> (For a list of major contractors managing public schools, see Appendix C.)

## **Contracting through Public Schools**

Not only has the principle of contracting been applied to charter schools, but it has also been applied to traditional public schools. Although charter schools will likely prove to be increasingly important clients for private educational managers, public school “takeovers” seem to receive the bulk of attention from education reformers, academics, and media elites. EMOs can contract to operate specific programs within a school or among several schools. Some private managers concentrate in special needs instruction, bilingual education, or even arts programs.<sup>48</sup> Obviously, public officials can also contract with EMOs for the operation of an entire school, but they can also contract out the school district. Hartford, Connecticut did just that in 1994. However, the EMO, Education Alternatives, was given no authority over staff, which severely restricted their capacity to realize a restructuring plan. Recognizing this, when

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<sup>44</sup> John Schroeder. “Growth in contracting elevated importance of charter boards,” CFNN, <<http://www.charterfriends.org/boards.html>>.

<sup>45</sup> Chester E Finn, Jr. and Rebecca L. Gau. “New Ways of Education,” *The Public Interest*, Winter 1998, <<http://www.edexcellence.net/library/islands.html>>.

<sup>46</sup> Todd Ziebarth, *The Progress of Education Reform 1999-2001*, vol. 3, no. 2, Education Commission of the States, November-December 2001.

<sup>47</sup> National Center for Policy Analysis. *For-Profit Schools Expanding*, <[www.ncpa.org/pi/edu/pdedu/pdedu148.html](http://www.ncpa.org/pi/edu/pdedu/pdedu148.html)>. Accessed 4 February 2003.

<sup>48</sup> Black Alliance for Educational Options. “Public School Contracts with Private Companies and Organizations,” <[www.baeo.org/options/contracts.htm](http://www.baeo.org/options/contracts.htm)>, 17 February 2003.

Wilksburg, Pennsylvania contracted out part of its school district, it allowed the EMO to staff schools with new personnel.<sup>49</sup>

Another option is to contract out the worst schools in a district to private managers. Recently, the financially strapped city of Philadelphia became the focus of national attention when it contracted out the operation of 45 of its worst schools to seven independent contractors. These outside contractors include Edison Schools, Victory Schools, Chancellor Beacon Academies, two nonprofit organizations, and two local universities.<sup>50</sup> Because this widespread system of contracting is fairly new to Philadelphia, it is too soon to know empirically the results of the venture. However, the approach continues to be the subject of intense scrutiny, and many reformers are hopeful that Philadelphia will become the model for other educationally challenged cities, like Los Angeles.

Of these contractors, it is the for-profit companies that are the focus of most peoples' attention. The aforementioned Edison Schools is particularly prolific because of its size (150 schools in 24 states and the District of Columbia) and its financial woes (NASDAQ has threatened to delist the company's stock.) The EMO also has a unique educational approach that involves grouping children by reading ability and allowing more time for teacher preparation and training.<sup>51</sup> Other for-profit EMOs have their own approaches that include segregating schools by gender, character education, and catering to different learning styles.

## **A Problematic Past**

Perhaps the most convincing argument against educational contracting is that it has a shoddy track record. Indeed, the early EMOs "were the guinea pigs who showed what wouldn't work."<sup>52</sup> Much can be gleaned from these early lessons in privatizing public schools.

The first lesson is that meshing the old system with the new cannot be rushed. It takes time for the traditional school to accept the new kid on the block as well as for the new administrators to learn the local terrain. Winning support of all of the players is a long-term effort.<sup>53</sup>

Second, the lack of clarity in contracts leads to failure. When Education Alternatives took over twelve Baltimore public schools, the contract did not specify how performance measures would be evaluated.

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<sup>49</sup> William D. Eggers and John O'Leary. *Revolution at the Roots*, (New York: Free Press, 1995), 314.

<sup>50</sup> Rebecca Winters. "The Philadelphia Experiment," *Time*, 21 October 2002, 64-5.

<sup>51</sup> Rebecca Winters. "The Philadelphia Experiment," *Time*, 21 October 2002, 65.

<sup>52</sup> William C. Symonds. "For-Profit Schools," *BusinessWeek*, 7 February 2000, <[www.businessweek.com/2000/00\\_06/b3667001.htm](http://www.businessweek.com/2000/00_06/b3667001.htm)>. Accessed 4 February 2003.

<sup>53</sup> Janice I. Solkov. "Privatizing Schools Just Shouldn't Be This Hard," *The Washington Post*, 2 February 2003, B04.

Opponents of contracting performed their own assessments, which were largely negative. Because Education Alternatives had no effective way to refute these claims, the company's contract was terminated. Ironically, a later independent evaluation showed that the Education Alternative's students had learned at a higher rate than students in comparable Baltimore schools had.<sup>54</sup> To prevent similar debacles, contracts must specify goals, responsibilities, evaluation criteria, and financial arrangements. Third, EMOs cannot fully implement their reform programs if school boards do not relinquish the micro-management of schools. In many of the early test cases, EMOs have been freed from the control of the central bureaucracy but have had limited authority in choosing staff. Many advocates claim that this lack of control is why early test results have been mixed. Proponent Terry Moe points out, "There is nothing magic about a private company if it's buried under rules and regulations."<sup>55</sup> Further, the marketplace cannot unleash creativity and innovation in a heavily regulated environment. Former Edison principal, Janice I. Solkov described the problems with "co-partnering" in a recent article in *The Washington Post*. She said:

In effect, I had two bosses —meaning a routine of two sets of meetings (often scheduled at the same time), two sets of e-mails, two sets of required reports, two sets of staff development plans, two disparate curricula, two different cultures (corporate and educational), and politically speaking, two sets of loyalties. By mid-November, I concluded that the conflict would make it impossible for me to do what I'd been hired to do: help this community of impoverished and historically under-served students to learn better.<sup>56</sup>

In sum, contracting is only effective if there are not too many cooks in the kitchen.

## **Issues that require special attention**

In order to arrest the effects of potentially problematic issues, contracting bodies must not only learn from the lessons of the past but must also pay particular attention to financial matters, legal issues, teacher turnover, student needs, and racial tensions. By forestalling any possible negative effects, contracting will be able to reap its maximum potential and help students in failing classrooms.

### ***Financial Concerns***

Skeptics of privatizing have financial concerns about a contracting reform strategy. As eluded to previously, indeed many EMOs have had difficulty turning a profit. However, in at least one instance, the EMO was forced to renegotiate its contract when the school district discovered that the management

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<sup>54</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 122.

<sup>55</sup> William D. Eggers and John O'Leary. Revolution at the Roots, (New York: Free Press, 1995), 314.

<sup>56</sup> Janice I. Solkov. "Privatizing Schools Just Shouldn't Be This Hard," The Washington Post, 2 February 2003, B04.

organization would receive \$20 million more than the actual cost of running its seven schools.<sup>57</sup> In other words, contracting opponents do not really want EMOs to turn a profit, as they fear that revenues will come at the expense of other public schools.

Skeptics are also concerned that EMOs will streamline by cutting staff and extracurricular activities in order to enhance their bottom line. Indeed, in San Francisco, Edison eliminated a bilingual program and replaced a free after-school program with one that costs \$200 per month.<sup>58</sup> Advocates of privatization claim that such frills are taking away from the resources needed to deliver the basics.<sup>59</sup>

### ***Legal Issues***

Legally, there is a question of whether a for-profit organization such as Edison can contract with public schools, as state courts have differed in their judgments on the issue. Some courts have held that “it is a routine choice of means of service delivery,” while others have interpreted contracting as “an impermissible delegation of contract authority.”<sup>60</sup>

Some schools have won litigation because their respective state constitutions guarantee “a thorough and efficient system of education.”<sup>61</sup> Under such a guarantee, schools have successfully claimed that the abysmal performance of students has justified contracting in order to meet the state’s “thorough and efficient” requirement.<sup>62</sup>

Collective bargaining agreements may also restrict contracting by precluding proposals that would allow individual schools to contract with teachers. This prohibition can impose limitations on contractors’

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<sup>57</sup> Barbara Miner. “For-Profits Target Education,” *Rethinking Schools*, Spring 2002, <[www.rethinkingschools.org/archive/16\\_03/Targ163.shtml](http://www.rethinkingschools.org/archive/16_03/Targ163.shtml)>. Accessed 17 February 2003.

<sup>58</sup> Colleen Valles. “Edison Schools put on probation,” *Associated Press*, 29 March 2001, <<http://edreform.com/news/2001/010329.htm>>, Accessed 17 February 2003.

<sup>59</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), 73.

<sup>60</sup> Paul T. Hill. “Contracting in Public Education,” in *New Schools for a New Century*, eds. Diane Ravitch and Joseph P. Viteritti, (New Haven: Yale U P, 1997), 68.

<sup>61</sup> California’s constitution uses slightly different language. Article 9, Section 1 states, “A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.” Further, California Education Code Section 51004 mandates, “The Legislature hereby recognizes that it is the policy of the people of the State of California to provide an educational opportunity to the end that every student leaving school shall have the opportunity to be prepared to enter the world of work; that every student who graduates from any state-supported educational institution should have sufficient marketable skills for legitimate remunerative employment; that every qualified and eligible adult citizen shall be afforded an educational opportunity to become suitably employed in some remunerative field of employment; and that such opportunities are a right to be enjoyed without regard to race, creed, color, national origin, sex, or economic status.”

<sup>62</sup> Frank R. Kemerer. “The Legal Status of Privatization and Vouchers in Education,” in *Privatizing Education*, ed. Henry M. Levin, (Cambridge, MA: Westview P, 2001), 42.

autonomy and direction of their schools, as EMOs would likely have to accept teachers based on their seniority as opposed to whether they fit with the contractor's educational approach.<sup>63</sup>

California's charter law does resolve some of these issues. The law at least specifies that charter schools can contract with for-profit EMOs.<sup>64</sup> However, ultimately, many of the legal underpinnings that will ensure that contracting provides a mechanism for freeing California's children from failing schools are not yet in place.

### ***Teacher Turnover***

Another concern of contracting opponents is that EMOs, particularly Edison, tend to have teacher turnover, which is higher than the national average.<sup>65</sup> However, what this argument overlooks is the fact that contracted teachers often work in the worst schools in the nation. Further, one of the ideas underlying contracting is that it will give teachers an enhanced professional role. Perhaps, contracted teachers are beginning to police their ranks as do other professionals, including doctors and accountants.<sup>66</sup>

### ***Student Needs***

Opponents of contracting also fear that EMOs will "cream" the best students from competing public schools. So far, it seems that this skimming effect has not occurred. Perhaps this is because many of the EMOs are employed in failing schools, whereas in the suburbs, "parents already pay a housing premium in areas with good schools."<sup>67</sup>

Closely related to the creaming issue, is whether students with special needs will have the same opportunities at contracted schools as other students. Edison schools only accept students with special needs if they can be taught in a regular classroom setting. At least one other EMO, Nobel Learning Communities, has a similar policy.<sup>68</sup> However, contracting advocate, Paul T. Hill points out that one of the advantages of a competitive system of education is that the public school system can offer the right combination of educational opportunities for the needs of particular communities. Because providing education to special needs students tends to be expensive, especially when there are no economies of

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<sup>63</sup> Paul T. Hill. "Contracting in Public Education," in New Schools for a New Century, eds. Diane Ravitch and Joseph P. Viteritti, (New Haven: Yale U P, 1997), 68.

<sup>64</sup> The Center for Education Reform. "Charter School Legislation: Profile of California's Charter School Law," <[http://edreform.com/charter\\_schools/laws/California.htm](http://edreform.com/charter_schools/laws/California.htm)>, Accessed 4 April 2003.

<sup>65</sup> Gerald W. Bracey. The War Against America's Public Schools, (Boston: Allyn and Bacon, 2002), 120, 119.

<sup>66</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 78-9.

<sup>67</sup> William C. Symonds. "For-Profit Schools," BusinessWeek, 7 February 2000, <[www.businessweek.com/2000/00\\_06/b3667001.htm](http://www.businessweek.com/2000/00_06/b3667001.htm)>. Accessed 4 February 2003.

<sup>68</sup> Gerald W. Bracey. The War Against America's Public Schools, (Boston: Ally and Bacon, 2002), 120, 131.



scale, state education departments and county offices experienced in such matters may wish to enter into subcontracts with EMOs.<sup>69</sup>

### ***Exacerbated Racial Tensions***

A final concern of skeptics is that contracting will exacerbate racial problems, at least due in part to the creaming effect. This issue recently came to a head when the school board in San Francisco alleged that Edison discriminated against black students. (Apparently, the percentage of black students has declined since Edison took over the school.)<sup>70</sup> The authors have no way to verify whether this drop in enrollment is due to discrimination or some other effect. However, it is important to remember two points when discussing racial segregation in the public schools. First, the current system is already highly segregated, and second, regulations can be designed to see that this segregation does not continue under a contract system.<sup>71</sup>

In light of these problems, the key to the use of contracting helping the situation of children in these troubled schools lies in the implementation of the approach. In the next chapter, we will examine the steps that would be necessary to institute a successful contracting approach in California.

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<sup>69</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 64, 153-54.

<sup>70</sup> Colleen Valles. "Edison Schools put on probation," Associated Press, 29 March 2001, <<http://edreform.com/news/2001/010329.htm>>, Accessed 17 February 2003.

<sup>71</sup> Terry M. Moe. Schools, Vouchers, and the American Public, (Washington, D.C.: Brookings Institution P, 2001), 30.

## **Chapter 4. Implementing Contract School Reform in California**

There are many issues that must be addressed before contracting can effectively improve the circumstances of children trapped in failed and underperforming schools in California. The process of undertaking this change will be complex and require a certain amount of focus. This section provides a series of recommended steps toward implementing a contract school system in California. It will answer the following five critical questions:

- How should the overall contract schools approach be structured?
- With whom should we contract?
- What schools should be involved and when?
- How are the districts involved?
- How do we know if it works or fails?

### **How Should the Contracting Be Structured?**

Making contracting happen on a large scale requires in-depth thought. Should the current legislation be revised to make the charter model more amenable to EMOs, or should it allow EMOs to contract directly with public schools? Further, in order to decide where control should be centered for accountability purposes, it is necessary to determine whether jurisdiction should be placed with the state or local level.

### ***Does Contracting Need To Be Kept Within The Charter Framework?***

Most districts that currently contract with private or nonprofit firms use the charter school framework to implement the contract. But is this necessary? Since the education code does not specify whether private for-profit companies can or cannot take over a public school, it may be possible for them to do so. This type of contracting would eliminate the need for the implementation of a charter school. Moreover, by allowing a private company to contract directly with the district for the public school, control can remain in the hands of the local school district. This should aid in the resolution of the problem of failing schools because individual districts have a distinct understanding of the problems and needs of the schools in their jurisdiction.

However, direct contracting is not automatically the answer, as the structure of contracting between the district of a traditional public school and a for-profit company is less than advantageous for the private company due to the lack of flexibility in hiring and curriculum. These schools would also be responsible for following all state as well as district regulations and rules. In addition, this type of contracting is less desirable for the taxpayer and general public because it lacks significant accountability measures. Since

the school being taken over is public, parents are not given the option of choosing the school in the way they are in the case of a charter. Thus, a portion of the competitive nature associated with current contracting through charters would essentially be lost in this process, at least initially.

Expanding contracting through the charter model is possible and is currently being done on a very limited basis throughout the state of California. Intensifying this movement could potentially alter the fundamental structure of the education system by putting the control into the hands of the educators and taxpayers. In fact, Paul T. Hill estimates that “contracting could have a quick impact on even as large a city as Los Angeles if it were used as the way to redevelop the lowest-performing 5 percent of the city’s schools.”<sup>72</sup> In the charter model, the educators determine the structure of the schools, while the parents incite competition between schools for students and funds. The use of the charter model can also be used as an incentive to encourage private enterprise to enter the educational system because of the level of autonomy they are offered and the potential opportunity to provoke change.

Incidentally, because of the system-altering nature of the charter movement, accountability is a problem. The current system requires schools to submit an annual school report card and audit. Aside from that, schools are required to meet state standards and must reapply for their charter every five years. However, should a problem begin within a school, a revocation of the charter after five years may not be soon enough to forestall the detrimental effects of sub-par student achievement.

It will be necessary in the long term for legislation to be revised whether for-profit companies are allowed to contract directly with districts for public schools or whether contracting is expanded through the charter model. In the case of the former, legislation would need to be altered to state that for-profit companies can contract directly; this could probably be done through an expansion of California code §10401. (See Appendix A.) Moreover, this legislation would need to maintain the public nature of the school and input specific economic and accountability measures. In the case of the latter, revised legislation would be needed to increase accountability and give the district at least a minimal level of control over the schools within its boundaries.

Another possibility for expanding contracting in the long term is for the state to mandate that failing schools must automatically submit requests for proposals (RFP). Further, the state should eventually make explicit legislation that allows schools to contract directly with teachers.

However, at least in the short term, expanding the charter model is the best option, as it has the greatest potential to reform the educational system by stimulating competition between traditional district actors

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<sup>72</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P: 1997), 199.

and private organizations to find a system that solves today's educational issues. Further, by giving parents the option to choose these schools, competition is further increased and a minimal level of accountability is instituted. In addition, the charter model already has accountability measures in place and by expanding the number allowed per year, economies of scale might be captured. Finally, the recent passage of legislation to limit districts' abilities to contract with entities for cafeteria and janitorial services pose potential problems for the complete contracting of a school with an EMO. By using the charter model to remove a school from the district, it is possible to circumvent this law and begin helping the children in these districts now. Eventually, the law can be altered, as time demonstrates the need for such.

### ***Accountability: Local vs. State Control***

Charter schools have the option to either report directly to the district in which they are located or remain legally independent and report to the state. Similarly, they choose whether to receive funding through the school district or from the state. The question then becomes one of whether for-profit companies should be given these same choices. Keeping accountability at the local level has a number of positive points. First, the district in which the school is located should best understand the needs and problems the school faces. This in turn gives the district sufficient knowledge to decide whether or not the school should be exempt from district rules and regulations. Second, by keeping control within the district, the school becomes the responsibility of the district and the school's performance will reflect directly back on the district. This should increase the district's interest in the school, and the district will assure the school's success through regulatory checks. In essence, the district would increase accountability measures and allow for the punishment of schools through revocations of charters and budgetary funding. Finally, placing the accountability in the local level would give the parents and students a more definite role in the school because should a significant problem arise, they can go directly to their local district in order to obtain a solution.

Local control may not be the answer however, because in giving the power to the local districts, they could essentially choose to block the entry of non-traditional district players into the market. Moreover, local districts may tighten control or attempt to manipulate the system through budgetary controls, such as rewards based solely upon behavior or conformity to established district principles. This would detract from the purpose of starting a new school in order to alter the *status quo*. Furthermore, it may deter companies from entering into the marketplace because the competition, which will spark the necessary change of both the new system and the existing system, will be lost. In sum, because most schools are controlled locally, an argument can be made that suggests that it is the local school boards and their inaction that is fostering the *status quo*.

This brings up the possibility of moving more control of these schools into the hands of the state. In thrusting control upon the state, the school is given far greater autonomy and allowed to develop in the manner it chooses. This should spark interest from the non-traditional actors to move into the market because it allows them to experiment with new methods to find a viable solution to the problem at hand. However, in doing so, accountability is lost. The state has less of an interest than the district in these schools that make up less than 10 percent of the state's total education system. Moreover, the state has little understanding of the problems that each district faces and whether a school located there can succeed without conforming to local regulations. In addition, by moving control to the state, schools have a greater chance of mismanagement because assessment will only be reviewed through a paper report card and audit, rather than by an internal reviewer or the direct reports of local district parents. Thus, although state control would incite interest in market entrance by outside actors, the lack of accountability offered by this option makes it seem necessary to put regulatory control in the hands of the district and budgetary control in the hands of the state.

### **With Whom Should We Contract?**

There are at least three possible entities that schools can contract with, including the following: EMOs, teachers and teacher cooperatives, and administrators. Also, public schools can transition into charter schools in order to capture the advantages of contracting with these entities.

#### ***Contract with EMOs***

As mentioned previously, public officials can contract with EMOs to manage existing public schools or even entire school districts. This sort of contracting is advantageous because existing schools do not have to go through the hassle of converting to charter schools before they can privatize. Further, much of the literature about educational contracting deals with this type of reform and will not have to be adapted to fit the needs of other models. However, a possible downside of this option concerns legal obstacles. In most states, statutory changes would be a necessary precondition to enabling school districts to contract for the management of their schools.<sup>73</sup>

#### ***Contract with Individual Teachers or Teacher Cooperatives***

A third option is to contract with individual teachers, teacher cooperatives, or even teachers' unions. This would be expected to have the effect of professionalizing teachers because they would be directly responsible for educational outcomes. This sense of ownership could potentially provide other

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<sup>73</sup> Paul T. Hill, Lawrence C. Pierce, and James W. Guthrie. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 185-86.

advantages for teachers including improved career satisfaction and greater financial benefits for successful teachers. However, it bears considering whether teachers can effect any real change in the public school system if the current bureaucratic structures remain intact.

### ***Contract out the Administration***

This leads to the fourth option, which is to contract out the administration of public schools. In theory, this would lead to higher levels of accountability and efficiency, particularly fiscal efficiency. However, such a strategy would likely do little to dampen the all-too-rampant antagonism between administrators and teachers. Further, there would also be tremendous resistance to such a reform strategy. For example, in Philadelphia, Edison bid for a contract to take over the top management of the school district. However, public outcry forced the governor to reject the plan.<sup>74</sup>

### **What Schools Should Be Involved And When?**

Schools who are currently “failing” make ideal candidates for contracting. Further, a state or district contracting program should initially include a wide variety of schools: rural and urban schools, elementary and secondary schools, charter schools and public schools. This will allow reformers to assess where contracting reaps the most benefits. A wide dispersion of schools is also more likely to spur other low-performing, non-contract schools to adopt similar reform strategies.

An ideal initial deployment strategy might include an urban district, such as the Los Angeles Unified School District, as well as a rural district such as Cutler-Orosi Joint Unified School District in Tulare County or the Hanford Elementary School District in Kings County.<sup>75</sup> Within the districts, failing schools should be selected to participate in contracting. In LAUSD, schools that are in close proximity to each other should be given priority, as this will decrease transportation costs as well as foster the sharing of best practices. Over time, more schools and districts can be phased into the contracting reform strategy.

Although the widespread problem of failing schools makes it tempting to jump into contracting right away, past experience suggests that it takes at least a year to make the transition from a public school to a contract school.<sup>76</sup> Recently, a former principal of an Edison school in Philadelphia recently reiterated this point:

Edison and the school system that hires it must build in more preparation time. Time to sort out the implications of bringing the Edison culture into a school environment that is usually resistant

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<sup>74</sup> Paul Socolar. “Edison Takes Aim at Philly,” *Rethinking Education*, Winter 2001/2002, 12.

<sup>75</sup> These two districts were picked at random from the assortment of failing schools in California’s rural counties.

<sup>76</sup> Paul T. Hill. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), 143.

to change and in fact reluctant to see Edison succeed. Time for administrators to learn the local terrain. Time for them to get to know new teachers and principals so that their talents and skills can be put to the best use. Time to study the details of union contracts and weigh their implications for daily management at the school level. And, finally, time to craft a workable relationship between the school district and the company, such that day-to-day management of the schools is not so confused and divided.<sup>77</sup>

In short, preparation time will allow contractors and districts to avoid many of the pitfalls that have plagued innovation in the past.

## **How Are The Districts Involved?**

Under a contract system the school boards will ensure that public schools continue to belong to the public. They will make sure that contractors not only serve the needs of students but also of the larger surrounding community. One of the benefits of the contracting system is that it will allow school boards to take on a true policy-making role because they are no longer responsible for managing the day-to-day operations of schools. Essentially, school boards will specify the outcomes they want achieved but not the means by which they are obtained. This policy role will also include long-range strategic planning, and the establishment of a grievance process.<sup>78</sup>

### ***Obtaining Stakeholder Participation***

There are several ways in which district participation may be obtained. First, when a school district is faced with the choice between a state takeover and the state taking responsibility for a new reform strategy, districts will more likely opt for the face-saving strategy. Second, by giving the district autonomy over granting and revoking charters, they will have a greater stake in the process, as failure will reflect directly on them. This could be a problem, however, because districts may choose to be very strict with their guidelines for granting charters, and although this would keep out potential failures, it would also possibly deter small organizations from attempting to participate in the process. Third, there may be the potential to offer districts increased funding based on federal matching funds. At present the matching funds are broken down by county and distributed to districts.<sup>79</sup> There is the opportunity to offer districts even a 1 percent change in matching funds in response for their participation.

In order to obtain support from the teachers' unions, they could be offered an initial two to three year commitment to protect pay scales. Further, unions should be advised that they can still represent teachers

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<sup>77</sup> Janice I. Solkov. "Privatizing Schools Just Shouldn't Be This Hard," The Washington Post, B04.

<sup>78</sup> Paul T. Hill. Reinventing Public Education, (Chicago: U of Chicago P, 1997), 78, 139-40, 230.

<sup>79</sup> Healthy Child. "Matching Funds by County," UCLA, <<http://healthychild.ucla.edu/programs/readiness/materials/siteInfra/CountyMatchfunds.7-29.pdf>>. Accessed 2 April 2003.

in their dealings with contractors. They can also play a crucial role in providing such benefits as medical or liability insurance. Unions might even opt to bid on RFPs and operate schools themselves.<sup>80</sup>

The state can also stimulate the supply of contract providers by ensuring that contractors are directly given adequate dollars per pupil. This direct allocation from the state will prevent unequal resource allocations that have been discovered within school districts.<sup>81</sup> Further, states can offer contractors small subsidies for start-up costs. Some states even have small venture-capital funds that could be used to attract contractors.<sup>82</sup>

### ***How Do We Know If It Works Or Fails?***

Ultimately, the success or failure of contracting will be determined by whether contracted schools move off of the failing schools list. Although end-of-the-year academic assessments are now mandated by the government, school boards can arrange for third-party evaluators to assess whether contract schools are meeting other criteria such as graduation rates and safety standards. These information-reporting systems should be accurate, have quick turnaround times, and be conducive to conducting time comparisons. Further, the school district should distribute the results of such evaluations so that parents can make informed decisions about where they want to educate their children.<sup>83</sup> Although standardized testing is not the best measure of success, it is the one that California has chosen to use and thus, this plan conforms to that choice. Other measures will eventually be added but at the outset, a removal of 10% of the failing schools per year from the list, with a gradual increase over time, will be the goal.

### **Short-Term Recommendations**

In the shorter-term, several actions need to be taken to implement contracting in California's troubled districts. These actions will serve to begin the transition bring the benefits that a contracting approach can bring to these school sites. First, legislation must be amended to allow for broader contracting under the auspices of the charter school act. In conjunction with this process, the state should develop a priority list and strategy for the deployment of contracting across the state. Portions of this process will include both the recruiting of participation districts and resolution of some of the logistical issues that are bound to arise. Finally, the state must refine its slate of accountability tools to ensure that contracting schools meet broader state objectives.

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<sup>80</sup> Paul T. Hill. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), 242.

<sup>81</sup> Julian R. Betts, Kim S. Rueben, and Anne Danenberg. "Equal Resources, Equal Outcomes? The Distribution of School Resources and Student Achievement in California," Public Policy Institute of California, 2000.

<sup>82</sup> Paul T. Hill. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), 150.

<sup>83</sup> Paul T. Hill. *Reinventing Public Education*, (Chicago: U of Chicago P, 1997), 230.



### ***Amending Legislation***

In the short-run, it will be necessary to amend current legislation. Specifically, California code 47602, which specifies the maximum total number of charter schools, will need to be altered to include a provision for EMO-contracted charters. (See Appendix A.) This special provision would permit the creation of 100 EMO-contracted charters per year in addition to the current allowance for the authorization of 100 new charter schools per year. This new provision would start in the 2003-2004 school year with an allowance for 25 percent of the amount. This would continue to increase by 25 schools per year over the next four years, until the maximum of 100 schools per year is attained.

### ***Goals and Deployment Strategy***

Due to the creation of this provision, the goal for the 2003-2004 school year is to create 25 new EMO-contracted charter schools. Naturally, the schools that receive the special EMO-charter will come straight off the list of California's failing schools. Preference will be given to elementary schools due to the fact that they are less resistant to change. Susan Bodilly of RAND states, "This may be so because elementary schools tend to be smaller, have a looser departmental structure, and feel less need to emulate colleges."<sup>84</sup> In addition, it is important to begin with elementary schools because it allows the system to reach the children when they are still impressionable, and it gives the greatest opportunity for parent and community involvement.

Aside from elementary schools, preference should be given to failed schools in the following counties: Fresno, San Joaquin, Los Angeles, and Mendocino. Fresno and San Joaquin County were chosen because of their high percentage of failing schools, current charter schools located within the county, and noticeable disparities in per student district spending within these counties. Moreover, Fresno County is important because of its rapidly growing population, due to immigration and high birth rates, which makes it a district in which schools will continue to experience problems of increased enrollment and limited English proficiency. Los Angeles County was chosen because of its high visibility, already instituted charter schools, and high volume of available funding resources. Mendocino County was selected because of its rural nature, its number of failing schools, its existing charter schools, and its location in northern California. In addition to the aforementioned reasons for county preference, Los Angeles and Fresno County are both homes to EMO-contracted charter schools.

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<sup>84</sup> S. J. Bodilly. "Lessons from New American Schools Scale-Up Phase<sub>2</sub>." Santa Monica, CA: RAND, 1998. <<http://scalingup.smartlibrary.info/NewInterface/segment.cfm?segment=2101>>.



### ***Garnering Participation***

In order to attract EMOs to southern California's failing schools, it will be necessary to provide an initial incentive. Movement into California will naturally offer these companies business expansion into a market with strong growth potential. At the outset however, this growth potential may not be realized, and thus, market opportunities should be offered such as providing companies that become involved at the outset a 5 percent scoring bonus on contract RFPs in the coming years. Moreover, companies are allowed to keep any excess revenue that they earn.

Districts should further encourage community and parental participation in the contracting process. This can be done in several ways. First, preference should be given to schools located near each other so that resources may be shared. This will aid companies in their initial set-up, as they can coordinate classes, activities, and resources. Moreover, this coordination can aid in bringing various communities together for the benefit of the children. Second, community participation can be encouraged by an allowance for

buy-backs between the local district and the charter school. This could bring together both parties and encourage a working relationship by allowing local districts to gain back some of the federal dollars lost due to the breakaway of the contract schools from the local system. Further, it would allow the contract schools to obtain the necessary services at a price significantly lower than if they had to individually contract with an outside vendor.

Finally, community and parental participation will be encouraged through the use of the elementary schools as the target location for contract EMOs. Elementary schools require at least a minimal level of parental involvement, and EMOs tend to offer additional programs that encourage such additional participation. An incentive might be offered to encourage these new contract schools to offer English language classes to students' parents in the evening. This would serve several purposes – not only would it bring parents into the school, but also it would set an example of going to school for the students, while also encouraging parental involvement in homework assignments.

### ***Addressing The Issues***

By introducing legislation that allows for the creation of specially designated charters that will contract with EMOS, issues such as teacher turnover, racial problems, and student needs will be addressed. In terms of teacher turnover, for-profit groups such as Edison engage in their own recruiting campaigns and have implemented a strategy based on the following four points to aid retention: a collegial organization, a path for career development, a system that supports educators, and ongoing professional development.<sup>85</sup> Racial tensions will be minimized because EMOs such as Edison make a special effort to have the diversity of their teachers reflect the diversity of their students. In addition, students living within the district are given preference and parents are given the right to choose to send their child to the charter school. Moreover, the charters are not mandated to take every student. In terms of student needs, the charter model frees up curriculum allowing schools to teach what is necessary. Not only does student performance affect teacher advancement, but also parents are used in panels during the teacher selection process. Student needs are further met by the fact that contracting aids in the reduction of maintenance and supply costs because they are allowed to put them out to bid with private companies and to accept the lowest bid.

### ***Accountability***

Due to the additional freedoms that contracting allows schools, new measures of accountability must be instituted. Thus, a new administrative framework will need to be implemented. This administrative

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<sup>85</sup> Edison Schools Inc. "Strengthening California Teaching Workforce: Recruitment, Selection and Retention Of High Quality Teachers at Edison Schools," February 2001, <<http://www.bsa.ca.gov/lhcdir/teacher/RodriguezFeb01.pdf>>.

group will be located in the California Department of Education, under the Accountability Branch and will oversee the designated EMO-charters. It will also be directly responsible for budget oversight, accountability measures, dealing with deferred maintenance issues, and coordinating with local districts on relevant matters. The Charter Schools Development Center will be consulted to determine the exact language and job specifications of this group.

In terms of budget oversight, the new provision should include language that transfers the distribution of funding for EMO-charters to the state level. This would ensure that funds were specifically set aside for the students of these schools rather than getting transferred into other district areas. Further, by transferring budgetary control to the state, political problems with district bureaucrats would be reduced. Contract schools would aid in the avoidance of such catastrophes by designating contract schools as their own district, similar to how the charter school functions. Further, the removal of the system from the local level and the placing of it to the state level means that the funding will move with the child directly from the state to the school that they attend so that they can receive the education they rightly deserve and are entitled to.

Accountability would be increased through contracting due to the use of real world accounting systems. This new administrative group would require that the yearly audit and report card be turned in before the start of the subsequent school year. Moreover, any questionable accounting or failure to meet the measures specified in the charter/contract would be cause for review by a state-appointed analyst.

In terms of deferred maintenance, schools will be required to meet certain safety standards. If they own the building in which the charter school is located, they will be allowed to defer maintenance for a period of no more than 3 years. After the 3-year period, maintenance activities must be undertaken to ensure safety, maintain the external appearance of the school, and enhance the learning atmosphere.

## **Long-Term Steps to Implementation**

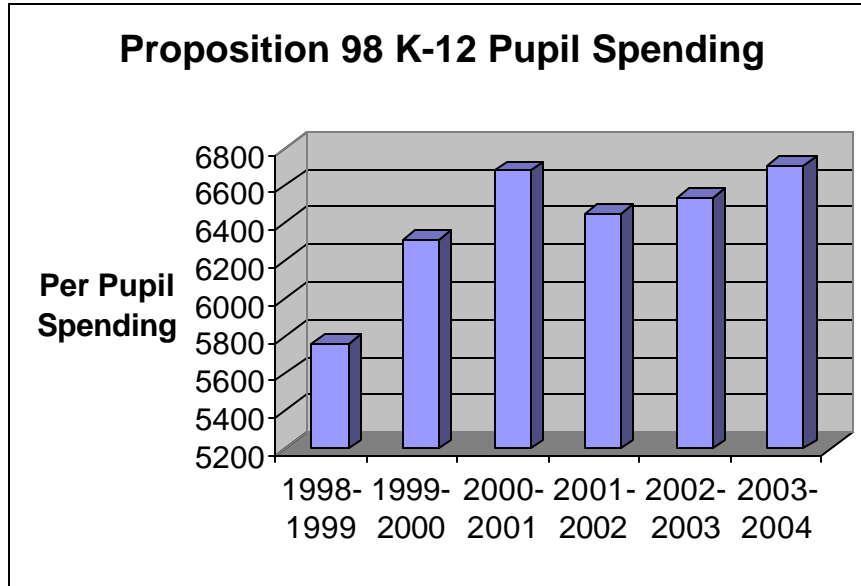
From the broader perspective, the steps outlined above will help us to step forward to the fuller implementation of contracting across the state's troubled schools. While there is much more time to address these concern, they are also complex and will require more time to achieve a publicly satisfactory solution. They include: continued legislative revision, formalizing the processes for takeover and deployment of the contract model, and addressing concerns related to overcrowding, accountability, and finance models. Because of their importance, we will turn to each of these in detail.

### ***Legislative Alterations***

In the long-term, legislation will be altered to allow public schools to directly contract with EMOs. This would be done through adjusting California code 10401, which allows districts to enter into cooperative or contractual agreements with business, industry, and community groups. (See Appendix A.) This change would aid in encompassing all of the 1,009 failing schools within a 10-year period. Further legislative changes will need to be made in order to give the state financial control, over the EMO contracted schools. The law pertaining to previously contracted charters would need to be altered to take district representatives off of the board of directors. Instead, districts would be given the rights to monitor schools and aid in the selection and retention of a strong administrator/principal, as schools such as Fenton Avenue have shown the difference that such an individual can have on a failing school. The schools under the direct contracting method would report strictly to their EMO, the state, and the parents of their school. Any district issues would go through the EMO, rather than through the school administration and faculty to limit the politics involved within these “new” schools. As with the short-run, funding for these contracting schools will come directly from the state rather than through the districts.

As the number of contract schools increases, there is the potential to open the system up to parental choice between public schools. In the short-run, parents may have the choice between an EMO-charter and the local public school, whereas in the long run, parents will have the choice between several types of contracted schools and more traditional public schools. These options will not only create interest among parents and communities in their schools, but it will also allow parents to choose the schools that best suit their child’s specific needs.

To implement this extended program, no additional funding will be necessary. Rather, the education budget under Proposition 98 will continue to be given priority, and ideally, spending will continue to increase as it has done over the last few years.

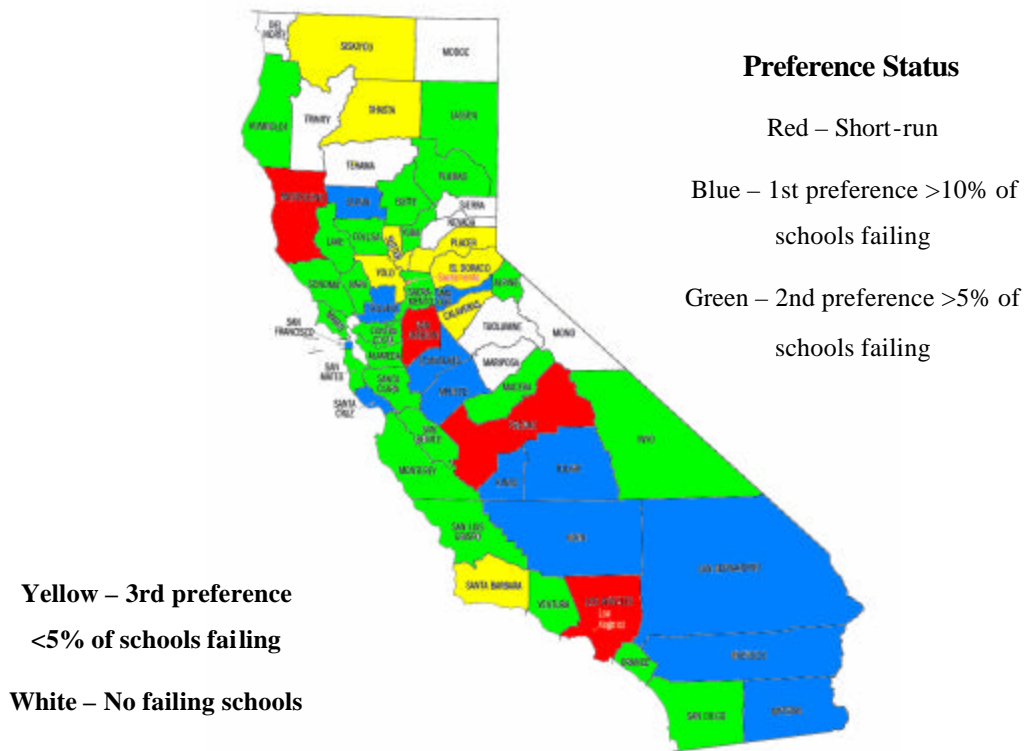


Source: California Department of Finance. *Governor's Budget* highlights, 2000-01, 2003-04.

### ***Deployment and Takeover***

In order to reach all of the 1,009 schools, the contracting reform effort will be expanded to include all districts which include at least one failing school. First, those schools located in counties where the percentage of failing schools is greater than 14 percent will be targeted. From there, all counties with a 7 percent or greater rate of failing schools will be incorporated into the new system. Finally, all schools in the remaining counties with a less than 6 percent failure rate shall be assessed and added to the program.

Since control of these new schools is being put into the hands of the California state government, legislation could be implemented to allow failed schools to be taken over directly by a contractor. The provision would be set up in such a manner so that should a school be found failing, a RFP would be issued to have an EMO take over the school starting at the beginning of the next school year. Preference for takeovers will be given to EMOs that are currently participating in the program and have schools in the local vicinity.



***Overcrowding***

As for EMOs, similar to the law on charters, it shall be stated that they must conform to the legal precedents requiring the separation of church and state. The state governing body will also need to set up a system designating choice for parents. This system will limit the number of students allowed in each particular school in order to prevent overcrowding that could hinder the progress of the school. Students attending failing schools shall be given preference, especially if they attended the specific school now being contracted; moreover, preference shall be given if students live within ten miles of the school or if their parents work within ten miles of the school. If there are a number of schools in the area, parents should be allowed to choose the school in order to incite competition and aid advancement. However, as stated above, schools will be limited and will be required to have a lottery of eligible students as well as a waiting list. Any student, once attending the school, receives an automatic place there in the following school year, and incoming students with siblings already attending the school receive preference over those without siblings.

### ***Accountability***

Finally, accountability must be addressed in the long term. All contract schools will be given a five year contract initially with the option for renewal should progress be made. Like a charter school, an EMO will need to develop a specific plan that they agree to follow, and they must specify goals that they intend to reach. Contractors will need to present both an audit and a school accountability report to the governing board overseeing EMOs before the start of the school year. All schools looking to renew contracts will be subject to a through inspection to ensure that standards are being met in each of the main areas: education, student performance and needs, community involvement, financial spending per pupil, and safety and maintenance.

In terms of education, schools must show an increase in student performance on standardized tests and other such measures. To fulfill student performance and needs, schools could engage in mentoring programs with local business and community groups. Moreover, in certain areas, EMOs may be encouraged to build 11-14 schools. An 11-14 school is in essence a tech-prep school that joins forces with a local community college. Students graduating from these schools receive an associates degree as well as their high school diploma. All schools will be required to have enough supplies for each student including but not limited to books, pencils, pens, and paper.

Community involvement should be encouraged through the creation of mentoring programs and the use of local resources such as YMCAs to encourage the development of the students and the school. As in the short-term model, schools will be encouraged to offer classes to parents of their students. The short-run plan calls only for English language classes, and in the long run, these schools can offer various opportunities to parents, including the option of earning their GED.

### ***Financial Concerns***

Financial spending per pupil is important. As state funding is based upon school attendance, school numbers will be strictly scrutinized. Student enrollment limits and funding limits will be issued for each school based on capacity. This capacity will be determined by school size, teacher ratio, and available resources. As previously stated, schools will receive their financing directly from the state and will be treated as a separate district. EMOs contracting with two or more schools in the same district may form their own district, however funding will need to be dispersed to the schools according to the state mandated allotment. Any mismanagement will be cause for termination of a contract. Similarly, teachers at EMOs may join together to form their own union, if they feel it is necessary.

The threat of bankruptcy is real. Should an EMO go bankrupt, the school will immediately be placed out for bid and preference will be given to EMOs already in the vicinity that have a strong track record. The



aim is to keep students in the school rather than to try and find them spots in potentially overcrowded schools. In addition, continuity in education is important, and thus, the new EMO should be encouraged to keep current teachers and practices at least until the end of the school year.

Safety and maintenance are of the utmost importance. Again, in terms of deferred maintenance, as in the short-run, schools will be indemnified for three years. This will be based upon fulfillment of all the other provisions in their contract. Any EMO that does undertake capital maintenance projects within the early years, may negotiate their contract length, and although it may be extended, they will be required to meet all other standards in order to continue running the school. After the 3-year period, EMOs will be expected to make necessary capital improvements on a regularly scheduled basis. Here, it is again important for the state to have control over these schools because liability will ultimately lie with state, and the EMO will not be able to be sued directly.

## **Conclusion**

In conclusion, we must remember the children. Although by definition, there will always be a bottom ten percent, every child in California deserves a solid education and a bright future. Currently many children are being shortchanged and denied the educational opportunities they deserve. They need to have this dire problem remedied; they deserve a future and a chance to contribute to society. As such, the California education system is in need of reform. While contracting is not a panacea, it does promise to re-instill accountability, responsiveness, and efficiency into our public education system. In short, contracting offers hope of a brighter tomorrow for California's youngest citizens.

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## Appendix A. Related Statutory Provisions

### Charter Schools: Legal Status and Liability

**§47604.** (a) Charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1) of the Corporations Code).

(b) The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(c) It is the intent of the Legislature that an authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation shall not be liable for the debts or obligations of the charter school.

**Note:** Some attorneys have opined that school district governing board members and employees of school districts should not sit on the governing board of a charter school if their district has granted the charter because doing so may present a serious conflict of interest. Instead, it may be more appropriate for a community member who is not a board member or employee of the district to fill this role. The law does not clarify who or how a district representative is selected. The Author recommends clarifying these matters in the governance section of each school's charter.

**§47632.5.** A charter school that is established through the conversion of an existing public school where the charter is granted by a district other than the district in which the school is located may not generate or receive revenue limit funding in excess of the revenue limit of the school district in which the school was located prior to the conversion to charter status. This limitation shall apply whether the charter converts to charter status a single existing public school or multiple existing public schools.

§47605 Petition; public hearing; charter granted or denied; statement and conditions; performance standards and conduct; admission; restrictions; review panel

(a) A petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. After the petition has been signed by not less than 10 percent of the teachers currently employed by the school district, or by not less than 50 percent of the teachers currently employed at one school of the district, it may be submitted to the governing board of the school district for review.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the board shall consider the level of employee and parental support for the petition. Following review of the petition and the public hearing, the governing board shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. A school district governing board may grant a charter for the operation of a school under this part if it determines that the petition contains the number of signatures required by subdivision (a), a statement of each of the conditions described in subdivision (d), and descriptions of all of the following:

Required charter elements

- (1) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
- (2) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.
- (3) The method by which pupil progress in meeting those pupil outcomes is to be measured.
- (4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.
- (5) The qualifications to be met by individuals to be employed by the school.
- (6) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.
- (7) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.
- (8) Admission requirements, if applicable.
- (9) The manner in which an annual audit of the financial and programmatic operations of the school is to be conducted.
- (10) The procedures by which pupils can be suspended or expelled.
- (11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
- (12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.
- (13) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
- (14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

#### State performance standards and assessments

- (c) Charter schools shall meet the statewide performance standards and conduct the pupil assessments required pursuant to Section 60605.

#### Public operating principles

- (d) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.

#### Open enrollment and admissions

Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

#### Student and staff choice

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

#### Effect on sponsor district

(g) The governing board may require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects upon the school and upon the school district.

#### Preference for serving low-achieving students

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

#### Limited state role

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.

#### Appeal process if charter petition is denied

(j) (1) If the governing board of the school district denies a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review the action of the governing board. The review panel shall consist of three governing board members from other school districts in the county and three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.

(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie.

(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) and, accordingly, may grant a charter.

A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part.

#### §47606 School district converting all schools to charter schools; conditions; approval by joint action of Superintendent of Public Instruction and State Board of Education

A school district may convert all of its schools to charter schools under this part only if it meets all of the following conditions:

Fifty percent of the teachers within the school district sign the charter petition

The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who choose not to attend charter schools.

Notwithstanding subdivision (b) of Section 47605, the district wide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education

#### §47602 Limits on number of charter schools; conversion of private schools to charter schools prohibited

The total number of charter schools operating in this state in any school district year shall not exceed 100, with not more than 10 charter schools in any single school district. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter notice it receives pursuant to subdivision (g) of Section 47605, based on chronological order when the notice is received.

No charter shall be granted under this part that authorizes the conversion of any private school to a charter school.

Note: The original Charter Act provided for a cap of 100 charter schools. This cap was eliminated in the 1998 amendments to the Act in favor of the cap of 250 schools, with 100 additional schools added each year. As of July 1, 2000, the cap is 450 schools and will rise to 550 schools on July 1, 2001. Title V of the California Administrative Code, Section 11969 provides that each charter petition will be assigned one number, presumably without regard to the number of individual sites, campuses, or branches operated under that charter.

#### State study of charter schools

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

#### §11968 Maximum number of charters

If a charter school ceases to operate through voluntary surrender, revocation, or non-renewal of its charter, the charter school's number will lapse and not be reassigned.

On July 1, 1999, and on each succeeding July 1, the limit on the number of charter schools

#### §47612. Charter school funding

(a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2(commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.

(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.



(3) Funds for the programs described in clause (i) of subparagraph(B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

(b) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of subdivisions (a) and (b).

(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

#### §41360. Charter school revolving loan fund

Loans may be made from moneys in the Public School District Organization Revolving Fund to newly organized elementary, high school, or unified school districts upon application of the governing board of any such district, certified by the county superintendent of schools and approved by the Superintendent of Public Instruction for use by the district during the period from the date the action to form the district was completed and the date the district becomes effective for all purposes. Money loaned to a district pursuant to this section shall be used only to meet (a) the expenses of office rental, office supplies, postage, telephone, and telegraphing; (b) the expenses of necessary elections required by law or authorized by Section 4062; and (c) the expenses of employing, the salary of, and necessary travel expenses of officers and necessary clerical help for the governing board.

During each of the two successive fiscal years commencing with the first fiscal year of the existence of the school district for all purposes, the State Controller shall deduct from apportionments made to such school district an amount equal to one-half of the amount loaned to such school district under this section and pay the same amount into the Public School District organization Revolving Fund in the State Treasury.

§41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the State Department of Education for charter schools and any other funds appropriated or transferred to the fund. The amount in the Charter School Revolving Loan Fund is continuously appropriated for the purposes of the fund.

From the federal Public Charter Schools Program grant funds awarded to the Department of Education for 1996-97 and appropriated in Item 6110-112-0890 of Section 2.00 of Chapter 162 of the Statutes of 1996, one hundred fourteen thousand dollars (\$114,000) shall be deposited by the Superintendent of Public Instruction in the Charter School Revolving Loan Fund. Additional federal Public Charter Schools Program grant funds appropriated in Item 6110-112-0890 of Section 2.00 of Chapter 162 of the Statutes of 1996 may be transferred by the Superintendent of Public Instruction to the Charter School Revolving Loan Fund subject to approval by the Department of Finance.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to school districts for charter schools that are not a conversion of an existing school upon application of a school district and approval by the Superintendent of Public Instruction. A loan is for use by the charter school during the period from the date the charter is granted pursuant to Section 47605 and the end of the fiscal year in which the charter school first enrolls pupils.

Money loaned to a school district for charter school pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a school district for a charter

school pursuant to this subdivision shall not exceed fifty thousand dollars (\$50,000). This subdivision does not apply to a renewal of a charter pursuant to Section 47607.

(c) During each of the two successive fiscal years commencing with the first fiscal year following the fiscal year the charter school first enrolls pupils, the Controller shall deduct from apportionments made to the school district an amount equal to one-half of the amount loaned to the school district for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury.

Rent-free use of district facilities, district provision of facilities

Note: The following code section was amended by Proposition 39 on the November 2000 ballot. The amendments struck previous provisions requiring school districts to allow charter schools to occupy unused district space "rent free." In their place, the changes will require districts to provide charter schools with facilities comparable with those provided to other district schools. The effective date of these new requirements is three years from the date it passed, or November 2003. On an individual district basis, it may take effect earlier if the district passes a local facilities bond measure. What remains unclear is whether the pre-existing requirements stricken by the proposition are deleted immediately, or only when the new requirements take effect.

Some non-Charter school education laws codes that may be pertinent or useful

§10401 Cooperative or contractual agreements

School districts, community college districts, or schools or colleges within districts, may enter into cooperative or contractual arrangements with business, industry, or elements within the community for improvement of the local education program. Such arrangements may include evaluation, planning, cooperation in the operation of educational programs, and use of noncertified personnel, including the elderly, youth, college students, and other nonprofessionals.

§ 47605 (d) (1)

In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.<sup>86</sup>

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<sup>86</sup> California CAL. EDUCATION CODE (West 1999 supp.)

## Appendix B. School Performance By County

<u>County</u>	<u>#Failing Schools</u>	<u>%Failing Schools</u>	<u>#students</u>	<u>%ELL*</u>	<u>Main ethnicity</u>	<u>%</u>	<u># Charter Schools</u>	<u># enroll<sup>+</sup></u>
Alameda	33	9.94	218,437	21.9	White	30	12	1595
Alpine	0	0.00	150	N/A	White	56	N/A	N/A
Amador	2	14.29	4840	1	White	78	N/A	N/A
Butte	5	5.75	34433	12.1	White	72	8	1369
Calaveras	1	3.70	6967	1.1	White	87	N/A	N/A
Colusa	1	5.00	4275	41.3	Hispanic	60	N/A	N/A
Contra Costa	20	8.37	159714	13.6	White	51	5	723
Del Norte	0	0.00	4834	6.5	White	66	1	216
El Dorado	1	1.61	28795	5.1	White	82	3	585
Fresno	56	19.24	181110	27.8	Hispanic	52	23	7899
Glenn	4	13.33	6167	15.3	White	53	N/A	N/A
Humboldt	5	5.95	21195	4	White	74	4	650
Imperial	7	11.48	32216	49	Hispanic	84	N/A	N/A
Inyo	2	8.70	3404	8.7	White	66	N/A	N/A
Kern	27	11.25	147988	21	Hispanic	48	4	922
Kings	9	16.98	25364	18.1	Hispanic	60	5	1491
Lake	3	8.82	10163	5.9	White	74	N/A	N/A
Lassen	2	6.67	5335	2.1	White	80	1	196
Los Angeles	208	11.65	1680736	33.4	Hispanic	60	59	38383
Madera	4	6.90	24780	28.5	Hispanic	57	1	181
Marin	5	6.76	28703	10.5	White	71	3	277
Mariposa	0	0.00	2579	0.6	White	83	N/A	N/A
Mendocino	6	8.70	15358	15.8	White	65	8	480
Merced	17	19.54	51595	32.8	Hispanic	54	1	633
Modoc	0	0.00	2555	10.8	White	71	1	411
Mono	0	0.00	2140	12.7	White	65	2	396
Monterey	7	5.93	72529	39.4	Hispanic	63	4	1267
Napa	4	8.33	19341	27	White	55	4	2161
Nevada	0	0.00	14272	0.4	White	87	17	2905
Orange	39	6.88	494178	31.1	Hispanic	43	6	3135
Placer	3	3.09	55531	4.5	White	78	7	6650
Plumas	1	5.56	3406	2.8	White	81	1	132
Riverside	37	10.14	319483	22.3	Hispanic	48	9	2060
Sacramento	22	6.40	221969	19.5	White	46	10	6968
San Benito	2	8.70	11501	19.1	Hispanic	56	N/A	N/A
San Bernardino	49	10.75	380399	18.8	Hispanic	48	12	6462
San Diego	53	8.66	488,377	23.2	White	41	38	21554
San Francisco	21	17.65	61,766	27.9	Asian	42	5	1436

\* English Language Learners

<sup>+</sup> Number of students enrolled in charter schools

San Joaquin	25	14.04	121,036	20.5	White	36	9	3320
San Luis Obispo	7	8.75	36,950	9.9	White	70	2	285
San Mateo	14	8.09	91,205	23.6	White	38	12	3655
Santa Barbara	5	4.55	66,012	29.6	Hispanic	52	5	1086
Santa Clara	19	5.03	254,004	23.9	Hispanic	34	7	1024
Santa Cruz	9	12.33	40,418	27.4	Hispanic	47	9	2171
Shasta	4	4.30	30,440	2.7	White	81	9	1008
Sierra	0	0.00	1,621	1	White	88	N/A	N/A
Siskiyou	2	3.28	7,423	2.9	White	76	2	173
Solano	11	11.11	73,061	11.4	White	42	2	1205
Sonoma	9	5.52	73,689	16.9	White	66	13	2501
Stanislaus	17	11.89	97,297	21.9	White	47	11	2637
Sutter	1	2.70	16,091	18.9	White	53	1	335
Tehama	0	0.00	10,786	10.6	White	71	1	39
Trinity	0	0.00	2,204	0.2	White	84	N/A	N/A
Tulare	22	13.75	85,664	28.1	Hispanic	62	5	389
Tuolumne	0	0.00	7,947	0.7	White	86	N/A	N/A
Ventura	10	5.10	139,808	21.5	White	46	1	132
Yolo	5	9.09	28,646	21.6	White	51	N/A	N/A
Yuba	3	8.33	13,547	16.1	White	54	6	1810

<http://www.eddata.k12.ca.us/Navigation/fsTwoPanel.asp?bottom=%2Fprofile%2Easp%3Flevel%3D05%26reportNumber%3D16>

## Appendix C. Major Contractors That Manage Public Schools

The following list is taken, with some revisions and updating, from “Education Management Organizations: Growing a For-profit Education Industry with Choice, Competition, and Innovation” by Guilbert C. Hentschke, Scot Oschman, and Lisa Snell of the Reason Public Policy Institute.

**Advantage Schools** (bought by Mosaica in 2001) serves about 9,000 children in nine charter schools in five states and the District of Columbia. Schools typically open as elementary schools and grow by a grade per year through grade 12.

*Telephone: (617) 523-2220 or (888) 292-2344*

*Web: [www.advantage-schools.com](http://www.advantage-schools.com)*

**Aspire Public Schools** (formerly University Public Schools) serves three schools in California, with an enrollment of 970 pupils, and plans to open three new California schools for the 2001–2002 school year and one in 2002–2003.

*Telephone: (650) 637-2060*

*Web: [www.aspirepublicschools.org](http://www.aspirepublicschools.org)*

**Chancellor-Beacon Academies** serves more than 19,000 students on 46 campuses in eight states, with five new schools scheduled to open in fall 2001. The company stresses core subjects, character education, and outreach to parents. Teacher training focuses on addressing different learning styles.

*Telephone: (305) 648-5950*

*Web: [www.chancellorbeacon.com](http://www.chancellorbeacon.com)*

**Charter School Administrative Services** operates eight charter schools in Michigan, enrolling about 4,800 students, and several schools in Texas, Missouri, and Florida.

*Telephone: (248) 569-7787 or (248) 334-2814 or (800) 425-1415*

*Web: None*

**Charter Schools USA** currently has 8,500 students in 16 schools in Florida and Texas. An April 2001 "strategic alliance" of Charter Schools USA and Haskell Education Services calls for Haskell to provide design-build, finance, and auxiliary services to schools managed by Charter Schools USA.

*Telephone: (954) 202-3500 or (954) 791-9910*

*Web: [www.charterschooolsusa.com](http://www.charterschooolsusa.com)*

**Community Education Partners**, responding to the Texas Juvenile Justice Alternative Education Program to remove disturbing youths from the classrooms, educates about 1,000 students in Houston and 300 in Dallas.

*Telephone: (713) 394-3500*

*Web: [www.houstonisd.org/events/cep/](http://www.houstonisd.org/events/cep/)*

**Designs for Learning** serves six charter schools in Minnesota, with 100 to 300 students in each school.

*Telephone: (651) 645-0200*

*Web: [www.designlearn.com](http://www.designlearn.com)*

**Edison Schools** serves more than 75,000 students in 22 states and 136 schools.

*Telephone: (212) 419-1600*

*Web: [www.edisonschools.com](http://www.edisonschools.com)*

**Excel Education Centers** serves six schools in Arizona that enroll about 900 students in grades 6–12, as well as a seventh campus for grades 9–12. The schools mostly serve Arizona's at-risk Native American population.

*Telephone: (800) 417-9036 or (520) 778-5764*

*Web: [www.excel.apsc.k12.az.us](http://www.excel.apsc.k12.az.us)*

**Honor Schools**, established in September 2000, is a national provider of community-based education for students in grades K–12.

*Telephone: (888) 314-4339 or (214) 800-4100*

*Web: [www.honorschools.com](http://www.honorschools.com)*

**Innovative Education Management** is described as a "virtual" school district for the Horizon Instructional Systems charter schools, which specialize in "independent study charters" that support home-schooled and "off-site" students. Some of the Horizon sites offer a comprehensive curriculum. One school is a reentry point for students who dropped out because of drug use or incarceration, and another offers a college preparatory regimen.

*Telephone: (800) 979-4436 (number not available from all areas)*

*Web: [www.ieminc.org](http://www.ieminc.org)*

**K12.com** is a national provider of online courses for home-schooling families and schools, as well as a manager of online charter schools. Norristown Area School District was the first to sign on with K12, to manage and provide courses for the Pennsylvania Virtual Charter School. Enrollment in the school, scheduled to open in September 2001 for grades K–2, is capped at 1,500. The school will grow by three grades each year, to serve K–12 by 2004.

*Telephone: (703) 748-4005 or (866) YOUR-K12*

*Web: [www.K12.com](http://www.K12.com)*

**Learn Now** (bought by Edison Schools in 2001) serves about 5,000 students in seven schools.

*Telephone: (212) 209-1200*

*Web: [www.LNschoools.com](http://www.LNschoools.com)*

**The Leona Group** manages 33 school sites—21 in Michigan and 12 in Arizona and Ohio. The schools enroll approximately 11,500 students.

*Telephone: (517) 333-9030*

*Web: [www.leonagroup.com](http://www.leonagroup.com)*

**Mosaica Education** serves more than 5,000 students in 22 schools in eleven states.

*Telephone: (415) 491-1305*

*Web: [www.mosaicaeducation.com](http://www.mosaicaeducation.com)*

**National Heritage Academies** (formerly Educational Development Corporation) operates 28 academies with nearly 11,400 students. The academies typically open with grades K–5 and add a grade each year through eighth grade. The company emphasizes moral values and character education.

*Telephone: (616) 575-6800 or (800) 699-9235*

*Web: [www.heritageacademies.com](http://www.heritageacademies.com)*

**Nobel Learning Communities** operates 208 schools in 15 states, serving 27,000 students. Most of the schools are private and include preschools, elementary and middle schools, schools for the learning challenged, corporate-sponsored schools, and specialty high schools. Seven are public charter schools.

*Telephone: (610) 891-8200*

*Web: [www.nobellearning.com](http://www.nobellearning.com)*

**Ombudsman Educational Services** is a private provider of alternative education for public-school students who have trouble functioning in conventional schools and are at risk of dropping out or being expelled. It has contracts to operate more than 70 alternative schools in 11 states, serving from 5,000 to 7,000 students. It opened its first charter school in 1996 and now operates four charter schools in Arizona, serving 385 students who need an alternative school setting, with a fifth charter school scheduled to open in fall 2001.

*Telephone: (847) 367-6383 or (800) 833-9235*

*Web: Being Developed*

**SABIS Educational Systems** manages a network consisting of 24 financially and administratively independent public and private schools in 10 countries, including five public charter schools in the United States. About 20,000 students attend these schools, with 4,600 in the United States and 3,700 in public charter schools.

*Telephone: (952) 918-1850*

*Web: [www.sabis.net](http://www.sabis.net)*

**Victory Schools**, based in New York City, offers a very structured curriculum. In some schools, students are separated by gender.

*Telephone: (212) 720-0310*

*Web: [www.victoryschools.com](http://www.victoryschools.com)*

**White Hat Management** operates seven "community" elementary schools (charter schools are called community schools in Ohio) and five "Life Skills" high schools in Ohio, with an enrollment of about 4,000 students.

*Telephone: (330) 996-0202*

*Web: [www.whitehatmgmt.com](http://www.whitehatmgmt.com)*



## Appendix D. Failing Schools in LAUSD

### ELEMENTARY (57)

School	Schoolwide *	P.I. Start <sup>+</sup>	N.C.L.B.**
Angeles Mesa Elementary	No	1996-97	Year 2
Arroyo Seco	No	1996-97	Year 2
Audubon Middle	No	1996-97	Year 2
Avalon Gardens Elementary	Yes	1996-97	Year 3
Bridge Street Elementary	No	1996-97	Year 2
Carthay Center Elementary	Yes	1996-97	Year 2
Cimarron Avenue Elementary	Yes	1996-97	Year 2
Coliseum Street Elementary	Yes	1996-97	Year 2
Compton Avenue Elementary	No	1996-97	Year 2
Dyer Street Elementary	Yes	1996-97	Year 2
Eastman Avenue Elementary	No	1996-97	Year 2
Elysian Heights Elementary	Yes	1996-97	Year 2

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\* The growth target that must be met consecutively is the same for all groups in a school, so failure might not be school wide, but only in specific groups such as the English Language Learners (ELL).

+ P.I. Start refers to the year the school entered Title 1 Program Improvement. This is triggered when a school, or groups within a school, does not meet set growth targets for two consecutive years.

\*\* N.C.L.B refers to the year in which the school was targeted for state corrective action under the No Child Left Behind Act.

Evergreen Avenue Elementary	Yes	1996-97	Year 2
Fifty-Ninth Street Elementary	No	1996-97	Year 2
Ford Boulevard Elementary	No	1996-97	Year 2
Forty-Ninth Street Elementary	Yes	1996-97	Year 2
Gardner Street Elementary	Yes	2000-01	Year 1
Grape Street Elementary	Yes	1996-97	Year 2
Gratts (Evelyn Thurman) Elem	Yes	1996-97	Year 2
Herrick Avenue Elementary	Yes	1996-97	Year 2
Hillcrest Drive Elementary	No	1996-97	Year 2
Hillside Elementary	Yes	1996-97	Year 2
Holmes Avenue Elementary	Yes	1996-97	Year 2
Hoover Street Elementary	No	1996-97	Year 2
Huntington Drive Elementary	No	1996-97	Year 2
Laurel Elementary	No	1996-97	Year 2
Loreto Street Elementary	Yes	1996-97	Year 2
Los Angeles Elementary	Yes	1996-97	Year 2
Magnolia Avenue Elementary	Yes	1996-97	Year 2
Main Street Elementary	Yes	1996-97	Year 2
Manchester Avenue Elementary	Yes	1996-97	Year 2

McKinley Avenue Elementary	No	1996-97	Year 2
Melvin Avenue Elementary	Yes	1997-98	Year 2
Murchison Street Elementary	Yes	1996-97	Year 2
Ninety-Ninth Street Elementary	No	1996-97	Year 2
Ninety-Second Street Elementar	Yes	1996-97	Year 2
Noble Avenue Elementary	Yes	1996-97	Year 2
Normandie Avenue Elementary	Yes	1996-97	Year 2
One Hundred Ninth Street Elementary	No	1996-97	Year 2
One Hundred Twelfth Street Elementary	No	1996-97	Year 2
Park Avenue Elementary	Yes	1996-97	Year 2
Pio Pico Elementary	Yes	1996-97	Year 2
Politi (Leo) Elementary	No	1996-97	Year 2
Raymond Avenue Elementary	No	1996-97	Year 2
Richland Avenue Elementary	Yes	1996-97	Year 2
Seventy-Fifth Street Elementary	Yes	1996-97	Year 2
Sharp Avenue Elementary	Yes	1996-97	Year 2
Sixth Avenue Elementary	Yes	1996-97	Year 2

Sixty-Sixth Street Elementary	Yes	1996-97	Year 2
Stanford Avenue Elementary	Yes	1996-97	Year 2
Sterry (Nora) Elementary	Yes	1996-97	Year 2
Towne Avenue Elementary	No	1996-97	Year 2
Utah Street Elementary	No	1996-97	Year 2
Vernon City Elementary	Yes	1997-98	Year 2
Weigand Avenue Elementary	Yes	1996-97	Year 2
Western Avenue Elementary	Yes	1996-97	Year 2

### MIDDLE SCHOOLS (38)

School	Schoolwide	P.I. Start	N.C.L.B.
Adams (John) Middle	Yes	1996-97	Year 2
Arroyo Seco Alternative (K-8)	No	1996-97	Year 2
Audubon Middle	No	1996-97	Year 2
Bancroft (Hubert Howe) Middle	No	1996-97	Year 2
Berendo Middle	Yes	1996-97	Year 2
Bethune (Mary McLeod) Middle	Yes	1996-97	Year 2
Carnegie (Andrew) Middle	Yes	1996-97	Year 2

Carver (George Washington) Middle	Yes	1996-97	Year 2
Columbus (Christopher) Middle	No	1996-97	Year 2
Drew (Charles) Middle	Yes	1996-97	Year 2
El Sereno Middle	Yes	1996-97	Year 2
Fulton (Robert) Middle	Yes	1996-97	Year 2
Gage (Henry T.) Middle	No	1996-97	Year 2
Gompers (Samuel) Middle	Yes	1996-97	Year 3
Harte (Bret) Prep Intermediate	Yes	1996-97	Year 2
Hollenbeck Middle	No	1996-97	Year 2
Irving (Washington) Middle	Yes	1996-97	Year 2
King (Thomas Starr) Middle	Yes	1996-97	Year 2
Maclay (Charles) Middle	Yes	1996-97	Year 2
Madison (James) Middle	No	1996-97	Year 2
Mann (Horace) Junior High	No	1996-97	Year 3
Mark Twain Middle	Yes	1996-97	Year 2
Markham (Edwin) Middle	Yes	1996-97	Year 2
Mt. Gleason Middle	Yes	1996-97	Year 2
Mt. Vernon Middle	Yes	1996-97	Year 3
Muir (John) Middle	No	1996-97	Year 2

Mulholland (William) Middle	Yes	1996-97	Year 2
Northridge Middle	No	1996-97	Year 2
Olive Vista Middle	Yes	1996-97	Year 2
Sepulveda (Francisco) Middle	Yes	1996-97	Year 2
Sun Valley Middle	Yes	1996-97	Year 3
Sutter (John A.) Middle	Yes	1996-97	Year 2
Van Nuys Middle	No	1996-97	Year 2
Virgil Middle	Yes	1996-97	Year 2
Webster (Daniel) Middle	Yes	1996-97	Year 2
White (Stephen M.) Middle	Yes	1996-97	Year 2
Wilmington Middle	No	1996-97	Year 2

### HIGH SCHOOLS (27)

School	Schoolwide	P.I. Start	N.C.L.B.
Banning (Phineas) Senior High	Yes	1997-98	Year 2
Bell Senior High	Yes	1996-97	Year 2
Belmont Senior High	No	1996-97	Year 2
Cleveland (Grover) High	Yes	2000-01	Year 1
Crenshaw Senior High	Yes	1997-98	Year 2

Dorsey (Susan Miller) Senior H	No	1997-98	Year 2
Downtown Business High	Yes	1996-97	Year 2
Francis (John H.) Polytechnic	Yes	2000-01	Year 1
Franklin (Benjamin) Senior High	Yes	1996-97	Year 2
Fremont (John C.) Senior High	Yes	1996-97	Year 3
Garfield (James A.) Senior High	Yes	1996-97	Year 2
Hollywood Senior High	Yes	1996-97	Year 2
Huntington Park Senior High	Yes	1996-97	Year 2
Jefferson (Thomas) Senior High	Yes	1996-97	Year 3
Jordan (David Starr) Senior Hi	Yes	1996-97	Year 2
Lincoln (Abraham) Senior High	Yes	1996-97	Year 2
Locke (Alain Leroy) Senior High	Yes	1996-97	Year 3
Los Angeles Senior High	No	1997-98	Year 2
Manual Arts Senior High	Yes	1996-97	Year 2
Marshall (John) Senior High	Yes	1997-98	Year 2
Monroe (James) High	Yes	2000-01	Year 1
North Hollywood Senior High	No	2000-01	Year 1
Roosevelt (Theodore) Senior High	Yes	1996-97	Year 3
San Fernando Senior High	Yes	1996-97	Year 2

Sylmar Senior High	Yes	1996-97	Year 2
Washington Preparatory High	No	1997-98	Year 2
Wilson (Woodrow) Senior High	Yes	1996-97	Year 3