

spotlight

No. 390 – May 20, 2010

CHARTER SCHOOL DIVERSITY

Too black, too white, or just right?

KEY FACTS: • A state law that mandates racial/ethnic balance for charter schools contradicts another law that requires charter schools to use an enrollment lottery when applicants outnumber available seats. It is impossible for charter schools to use random (lottery) and non-random (affirmative action) student selection mechanisms simultaneously.

• The NC Attorney General's Office opined that charter schools are not permitted to set aside seats to comply with the affirmative action policy.

• According to a May 2007 doctoral dissertation that surveyed African-American opinions of charter schools in North Carolina, 100 percent of African-American parents accepted the lack of diversity in their charter schools. Overall, 81 percent said it was insignificant as long as their children were successful academically.

• Most charter schools in North Carolina fall within or near the range of minority enrollment maintained by district schools in their jurisdiction.

• The NC General Assembly should discard the affirmative action policy immediately and opt for the fair and colorblind approach to student enrollment already present in the statute. Furthermore, the General Assembly should eliminate enrollment caps on charter schools, thereby giving minority applicants a greater chance of gaining admission via the lottery.

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According to Mark Dorosin and Benita N. Jones of the Center for Civil Rights at the University of North Carolina at Chapel Hill's School of Law, "Missing from the [Race to the Top] debate is the reality that North Carolina charter schools are a national leader in racial isolation and hyper-segregated learning."¹

Similarly, editors of *The News & Observer* of Raleigh have declared that "the state should follow another existing rule regarding charters, which mandates that charter enrollments reflect the racial and ethnic makeup of their communities. That law is apparently being widely ignored, which is outrageous."²

Are they right?

Charter School Law

The source of the problem is a contradiction between two sections of the same statute. According to NC General Statute, §115C 238.29F (g)(6), charter schools must use a lottery when applicants outnumber available seats:

During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.³

The lottery requirement contradicts NC General Statute, §115C 238.29F (g)(5), which requires charter schools to reflect the racial/ethnic composition of the county population or local school district(s):

Within one year after the charter school begins operation, the population of the school shall reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located.⁴

The State Board of Education also approved a modified version of the affirmative action mandate in 1998. Policy TCS-U-003 says,

All charter schools shall have open admission procedures and policies. Charter schools shall provide racial/ethnic balance in their student enrollments.

A charter school must have a student population that reflects the racial/ethnic composition of the school system in which it is located. The school must have percentages that fall within the range exhibited by the regular, non-magnet, non-special schools in the district. For charter schools that have a mission that targets a specific population, the range must reflect the percentage of the targeted population in the district.

If a school is outside the acceptable range, the Charter School Advisory Committee shall investigate the variance in order to determine whether or not the charter school made a good faith effort for diversity during enrollment. When such determination is made, the Committee shall recommend to the State Board of Education a course of action as appropriate.⁵

It is impossible for charter schools to use random (lottery) and non-random (affirmative action) student selection mechanisms simultaneously. The NC Attorney General's Office agreed and determined that charter schools are not permitted to set aside seats for minority students. Director of the NC Department of Public Instruction (DPI) Office of Charter Schools Jack Moyer explained, "The school's lottery cannot be established to favor particular groups just as the N.C. Education Lottery, to be open and fair, cannot be established to favor certain citizen groups."⁶

Charter School Diversity

While the affirmative action mandate was designed to protect minority families, research indicates that an overwhelming number of minority parents are not concerned about the supposed lack of diversity in charter schools attended by their children. According to a May 2007 doctoral dissertation titled *Why are African American Parents Choosing Charter Schools? New Evidence from North Carolina*,

100% of the [African American] parents were accepting of the lack of diversity in their charter schools; some viewed it as positive; 81% said it was insignificant as long as their children were successful academically.⁷

Indeed, parents of all races and ethnicities choose charter schools because they believe that charters are desirable alternatives to the failing district schools assigned to their children.

Table 1. District and Charter School Enrollment by Race

School District(s)	Public School Type	Public School Name	Minority Enrollment Total	White Enrollment Total	Minority Enrollment as Percentage of Total Enrollment
Alamance-Burlington	District	R Homer Andrews Elementary	516	29	95%
	Charter	River Mill Academy	144	446	24%
	Charter	Hawbridge School	10	71	12%
	Charter	Clover Garden	42	442	9%
	District	Edwin M Holt Elementary	55	611	8%
Avery County	District	Newland Elementary	70	171	29%
	Charter	Grandfather Academy	6	30	17%
	Charter	Crossnore Academy	10	57	15%
	District	Beech Mountain Elementary	0	15	0%
Beaufort County	District	Beaufort County Ed Tech Center	75	12	86%
	Charter	Washington Montessori	57	213	21%
	District	Bath Elementary	77	551	12%
Brunswick County	District	Lincoln Elementary	302	190	61%
	Charter	Charter Day School	169	663	20%
	District	South Brunswick Mid	123	642	16%
Asheville City & Buncombe County	District	Randolph Learning	74	10	88%
	District	Emma Elementary	337	184	65%
	Charter	F Delany New School	43	107	29%
	District	School Of Inquiry & Li	52	131	28%
	Charter	Evergreen Community Chart	52	353	13%
	Charter	Artspace Charter	31	320	9%
	District	Barnardsville Elementary	12	173	6%
Burke County	District	Hillcrest Elementary	139	52	73%
	Charter	The New Dimensions	18	73	20%
	District	Hildebrand Elementary	28	361	7%
Cabarrus County & Kannapolis City	District	Long School	12	0	100%
	District	Woodrow Wilson Elementary	259	163	61%
	District	Jackson Park Elementary	223	222	50%
	Charter	Carolina International	201	302	40%
	District	Mt. Pleasant Elementary	80	772	9%
Carteret County	District	Morehead City Primary	210	419	33%
	Charter	Cape Lookout High	37	92	29%
	Charter	Tiller School	22	141	13%
	District	Harkers Island Elementary	0	155	0%
Chatham County	District	Chatham Middle	357	50	88%
	Charter	Chatham Charter	107	208	34%
	Charter	Woods Charter	68	434	14%
	District	Bennett Elementary	29	206	12%
Cherokee County	District	Andrews Elementary	62	300	17%
	Charter	The Learning Center	13	145	8%
	District	Hiwassee Dam Elementary/Middle	1	160	1%
Columbus County & Whiteville City	District	Chadbourn Middle	155	28	85%
	District	N Whiteville Academy	18	6	75%
	District	Whiteville High	304	331	48%
	District	Williams Township	119	563	17%
	Charter	Columbus Charter	44	319	12%
Cumberland County	District	Ferguson-Easley Elementary	376	6	98%
	Charter	Alpha Academy	201	25	89%
	District	Stedman Primary	22	130	14%
Durham County	District	Fayetteville St. Elementary	262	0	100%
	Charter	Maureen Joy Charter	294	0	100%
	Charter	Carter Community	211	0	100%
	Charter	Healthy Start Academy	315	2	99%
	Charter	Research Triangle Charter	620	38	94%

School District(s)	Public School Type	Public School Name	Minority Enrollment Total	White Enrollment Total	Minority Enrollment as Percentage of Total Enrollment
Durham County (cont.)	Charter	Kestrel Heights School	308	210	59%
	Charter	Central Park School	104	200	34%
	District	Mangum Elementary	158	347	31%
	Charter	Voyager Academy	103	396	21%
Forsyth County	District	Kimberley Park Elementary	218	0	100%
	Charter	Carter G Woodson School	420	1	100%
	Charter	Quality Education Academy	267	1	100%
	Charter	Downtown Middle	167	7	96%
	Charter	Forsyth Academy	505	155	77%
	Charter	Arts Based Elementary	113	194	37%
Franklin County	District	Louisburg Elementary	346	150	70%
	District	Royal Elementary	213	341	38%
	Charter	Crosscreek Charter	25	111	18%
Gaston County	Charter	Highland Charter	80	4	95%
	District	Pleasant Ridge Elementary	193	28	87%
	Charter	Piedmont Community Charter	261	656	28%
	District	Costner Elementary	66	571	10%
Guilford County	District	SCALE - Greensboro	8	0	100%
	Charter	Guilford Prep Academy	288	7	98%
	Charter	Triad Math & Science	233	126	65%
	Charter	Phoenix Academy Inc.	140	150	48%
	Charter	Greensboro Academy	117	604	16%
	District	Stokesdale Elementary	64	501	11%
Henderson County	District	Bruce Drysdale Elementary	254	151	63%
	District	West Henderson High	117	950	11%
	Charter	The Mountain Community School	12	157	7%
Iredell-Statesville & Mooresville City	Charter	Success Charter	79	8	91%
	District	East Iredell Elementary	500	149	77%
	District	South Elementary	210	364	37%
	District	Rocky River Elementary	85	451	16%
	Charter	American Renaissance	79	444	15%
	Charter	Pine Lake Prep	102	1338	7%
Jackson County	District	Woodland Heights Elementary	61	906	6%
	District	Smokey Mountain Elementary	239	169	59%
	Charter	Summit Charter	15	166	8%
Johnston County	District	Scotts Creek Elementary	58	462	11%
	Charter	South Campus Community	12	1	92%
	District	Neuse Charter	79	226	26%
Lenoir County	District	Johnston Middle College	19	95	17%
	District	Southeast Elementary	226	1	100%
	Charter	Children's Village	152	0	100%
	Charter	Kinston Charter Academy	358	1	100%
Lincoln County	District	Southwood Elementary	100	253	28%
	District	George Massey Elementary	130	112	54%
	Charter	Lincoln Charter	120	1054	10%
Mecklenburg County	District	North Lincoln Middle	60	662	8%
	District	Bruns Avenue Elementary	528	0	100%
	Charter	Sugar Creek Charter	606	2	100%
	Charter	Crossroads Charter	243	2	99%
	Charter	Kennedy Charter	351	4	99%
	Charter	KIPP: Charlotte	271	5	98%
	Charter	Community Charter School	97	66	60%
	Charter	Metrolina Regional Scholars Academy	128	140	48%
	Charter	Charlotte Secondary	91	138	40%
	Charter	Queen's Grant Community	243	902	21%
	District	Providence Spring Elementary	149	697	18%
	Charter	Lake Norman Charter	188	1085	15%
	Charter	Socrates Academy	48	303	14%
Charter	Community School Of Davidson	97	707	12%	

School District(s)	Public School Type	Public School Name	Minority Enrollment Total	White Enrollment Total	Minority Enrollment as Percentage of Total Enrollment
Moore County	District	Robbins Elementary	313	131	70%
	Charter	STARS Charter	119	155	43%
	Charter	Academy Of Moore County	76	107	42%
	District	Highfalls Elementary	16	268	6%
Nash-Rocky Mount	District	D S Johnson Elementary	460	3	99%
	Charter	Rocky Mount Prep	604	311	66%
	District	Coopers Elementary	203	471	30%
New Hanover County	District	A H Snipes Academy	464	26	95%
	Charter	Wilmington Prep	117	17	87%
	Charter	Cape Fear Center for Inquiry	60	311	16%
	District	Wrightsville Beach Elementary	27	293	8%
Northampton County	District	Gaston Elementary	360	23	94%
	Charter	Gaston College Prep	598	105	85%
	District	Willis Hare Elementary	237	113	68%
Orange County & Chapel Hill-Carrboro	District	Phoenix Academy	31	3	91%
	Charter	Pace Academy	72	40	64%
	District	Central Elementary	136	100	58%
	District	Grey Culbreth Middle	200	445	31%
	Charter	Orange Charter	38	143	21%
	District	Hillsborough Elementary	75	335	18%
Pamlico County	District	Pamlico Co Middle	114	192	37%
	District	Pamlico County High	155	389	28%
	Charter	Arapahoe Charter	72	258	22%
Person County	District	North Elementary	242	64	79%
	District	Woodland Elementary	49	166	23%
	Charter	Bethel Hill Charter	55	318	15%
	Charter	Roxboro Community	77	453	15%
Robeson County	District	W H Knuckles	273	2	99%
	Charter	CIS Academy	106	3	97%
	District	Tanglewood Elementary	217	282	43%
Rockingham County	District	Moss Street Elementary	188	33	85%
	Charter	Bethany Community Middle	41	165	20%
	District	New Vision School Math/Science	31	256	11%
Rutherford County	District	Forest City-Dunbar	263	183	59%
	Charter	Thomas Jefferson Academy	135	893	13%
	District	Sunshine Elementary	8	240	3%
Stanly County	District	Central Elementary	186	122	60%
	Charter	Gray Stone Day	25	265	9%
	District	Ridgecrest Elementary	8	275	3%
Surry County & Mount Airy City & Elkin City	District	Dobson Elementary	315	379	45%
	District	B Tharrington Elementary	130	220	37%
	District	Mount Airy High	141	376	27%
	District	Elkin Middle	46	132	26%
	District	Elkin High	71	300	19%
	Charter	Millennium Academy	46	403	10%
	District	Shoals Elementary	41	406	9%
Swain County	District	Swain Co East Elementary	163	211	44%
	Charter	Mountain Discovery	38	124	23%
	District	Swain Co West Elementary	57	362	14%
Transylvania County	District	Brevard Elementary	145	374	28%
	Charter	Brevard Academy	22	118	16%
	District	Rosman High	7	354	2%
Union County	District	East Elementary	409	17	96%
	Charter	Union Academy	161	916	15%
	District	New Salem Elementary	17	314	5%

School District(s)	Public School Type	Public School Name	Minority Enrollment Total	White Enrollment Total	Minority Enrollment as Percentage of Total Enrollment
Vance County	District	Clark Street Elementary	146	4	97%
	District	Zeb Vance Elementary	270	216	56%
	Charter	Vance Charter School	74	432	15%
Wake County	Charter	Torchlight Academy	417	0	100%
	Charter	Hope Elementary	116	1	99%
	Charter	Preeminent Charter	560	11	98%
	District	Phillips High	160	6	96%
	Charter	Casa Esperanza	165	193	46%
	Charter	Sterling Montessori	234	310	43%
	Charter	Southern Wake Academy	32	74	30%
	Charter	Raleigh Charter High	130	409	24%
	District	Pleasant Union Elementary	137	530	21%
	Charter	East Wake Academy	164	869	16%
	Charter	Franklin Academy	148	1098	12%
	Charter	Magellan Charter	47	353	12%
	Charter	Quest Academy	15	119	11%
	Charter	Exploris	21	172	11%
Charter	Endeavor	26	406	6%	
Warren County	Charter	Haliwa-Saponi Tribal	140	6	96%
	District	Mariam Boyd Elementary	303	38	89%
	District	Warren New Tech High	124	46	73%
Watauga County	District	Hardin Park Elementary	181	573	24%
	Charter	Two Rivers Community	9	140	6%
	District	Bethel Elementary	4	141	3%
Wayne County	District	Dillard Middle	578	7	99%
	Charter	Dillard Academy	148	6	96%
	District	Rosewood High	115	391	23%
Wilkes County	District	N Wilkesboro Elementary	152	95	62%
	Charter	Bridges Charter School	14	133	10%
	District	Career & Tech Ed Magnet	1	49	2%
Wilson County	District	Vick Elementary	292	2	99%
	Charter	Sallie B Howard School	781	12	98%
	District	New Hope Elementary	192	349	35%

Note: Table includes all charter schools and district schools with the highest and lowest minority enrollment (as a percentage of total enrollment) in the district.

Most charter schools in North Carolina fall within or near the range of minority enrollment maintained by district schools in their jurisdiction (see Table 1). Districtwide averages obscure important variations in minority enrollment within districts. Moreover, district averages perpetuate the belief that school districts do not have schools dominated by minority or white students. According to NC DPI statistics for the 2009-2010 school year, 57 schools in North Carolina have minority enrollment of 90 percent or higher.⁸

Conclusion and Recommendations

Calls to clarify the statute or correct this problem have gone unanswered. According to official meeting minutes, the State Board of Education did not discuss policy TCS-U-003 (formerly EEO-U-003) at all between 2003 and 2010. Moreover, in January 2008, the independent NC Blue Ribbon Commission on Charter Schools recommended that the General Assembly amend charter school statutes to eliminate the contradiction. Recommendation six of the final report stated, “The State Board of Education should seek legislative change to eliminate the contradiction between the requirement that a charter school’s population reflect the racial and ethnic composition of the local district and the requirement for a lottery which cannot specify for a particular racial or ethnic group.”⁹ To date, the legislature has not acted on this or any other substantive recommendation outlined in the report.

The NC State Board of Education, Department of Public Instruction, and the General Assembly should take the following actions:

1. The State Board of Education legal advisor should direct the board to delete “TCS-U-003: Policy on charter schools racial and ethnic balance.” The policy does not add any substantive policy guidance to the charter school statute (§115C 238.29F).

2. If the State Board of Education is unwilling to act, the North Carolina General Assembly should invalidate State Board of Education policy TCS-U-003. The legislature should also strike the affirmative action clause in the charter school statute, thereby maintaining a fair and colorblind method of student enrollment; i.e., the lottery system already embedded in the statute.

3. Senior officials at the NC Department of Public Instruction and the State Board of Education should issue a joint apology to all charter schools in the state for their refusal to ask the General Assembly to correct contradictions in the statute.

4. The NC General Assembly should eliminate enrollment caps on charter schools, thereby giving minority applicants a greater chance of gaining admission via the lottery.

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End Notes

1. Mark Dorosin and Benita N. Jones, “Charters’ uneven racial makeup,” *The News & Observer* (Raleigh), Tuesday, April 27, 2010.
2. “Editorial: Basis for Bias?” *The News & Observer*, Wednesday, April 28, 2010.
3. NC General Statute, §115C 238.29F (g)(6), <http://www.ncga.state.nc.us/gascripts/statutes/Statutes.asp>.
4. NC General Statute, §115C 238.29F (g)(5), <http://www.ncga.state.nc.us/gascripts/statutes/Statutes.asp>.
5. NC State Board of Education, “TCS-U-003: Policy on charter schools racial and ethnic balance,” NC SBE Policy Manual, <http://sbepolicy.dpi.state.nc.us>.
6. John Manuel, “Charter Schools Revisited: A Decade After Authorization, How Goes the North Carolina Experience?” The N.C. Center for Public Policy Research, May 2007, p. 46.
7. Foy Matthews Crary, *Why are African American Parents Choosing Charter Schools? New Evidence from North Carolina* (Ph.D. Dissertation, Penn State University), May 2007, p. iii.
8. North Carolina Department of Public Instruction, Financial and Business Services, Student Accounting Division, “Grade, Race, and Sex, 2009-2010” posted December 18, 2009, <http://www.dpi.state.nc.us/fbs/accounting/data>.
9. Blue Ribbon Commission on Charter Schools, “Final Report of the North Carolina Blue Ribbon Commission on Charter Schools,” January 2008, p. 7. Critics of North Carolina charter schools routinely overlook this important fact. For example, see Luis Urrieta, Jr., “Heritage Charter School: A Case of Conservative Local White Activism through a Postmodern Framework,” *Educational Foundations*, Vol. 19, Nos. 1-2, Winter-Spring 2005, pp. 13-31.