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Charter School Closing Inequities: Do automatic closure laws target Black charter entrepreneurs and Black students?

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ABSTRACT
Charter schools can have their charters rescinded if they fail to meet performance metrics, which are often specified in the charter. In some states, however, charters must meet inflexible, standardized performance standards to survive. Through the lens of public choice theory, we hypothesize that charters that were established by African Americans and those which serve more African American students are more likely to close, and that state-imposed standardized closure rules exacerbate these inequities. Analyses using charter petitions (n=925) and National Center for Education Statistics data since 2010 (n=5,548), tend to confirm hypotheses: The percentage of African American students and having an African American founder were associated with charter school closure. Moreover, automatic standardized closure criteria disparately amplifies the effects.

INTRODUCTION

Inherent to the charter school innovation is the explicit bargain that in exchange for substantial autonomy, charter schools which fail to succeed will face closure, providing strong incentives for successful outcomes in serving students (Hassel, 1999). Many charter schools do in fact close, though this itself poses issues regarding racial inequity. Paino, Boylan and Renzulli (2017) report that from 1994 to 2005, 1-4% of charter schools closed each year (n=416), with 78% doing so in their first four years after opening. Controlling for variables including school age, size, measured achievement, and free and reduced lunch percentage of students, they find no relationship with the percentage of Hispanic and white enrollment, but that a 1% increase in African American enrollment is associated with a 1% increase in the likelihood of closure. Controlling for age, region, and urbanicity, an 80% African American school would have a roughly 4.6% annual likelihood of closure, compared to roughly 2.3% for an 80% white school. This research does not consider the race of the charter school founder as a predictor of school closure, nor probe potential interaction between race and regulatory policy environment. Both merit consideration, especially given research finding that African American operators are less likely to be awarded charters, particularly where the regulatory barriers to receiving a charter are high (Kingsbury, Maranto & Karns, 2020).

Here, using data from the Elementary/Secondary Information System (ElSi), a National Center for Education Statistics (NCES) web application, as well as successful (i.e. accepted) petitions to open charter schools submitted between 2010-2020, we can provide better understanding of whether charter schools that were founded by African Americans or serve a greater percentage of African American students are more likely to close, and specifically whether the regulatory barriers that disparately preclude market entry also disproportionately predict market exit. As detailed below, the data do in fact indicate that charter schools started by African Americans and serving relatively more African Americans are more likely to close, particularly in states with automatic closure provisions.

LITERATURE REVIEW

An enormous literature details multifaceted racial inequities in public schools. Prior work explores a wide range of phenomena including student discipline, student attainment and achievement, and even hiring and promotion into school leadership (works within Milner &

Lomotoy, 2014; Carroll, Cheng, Maranto & Teodoro, In Press). Importantly, policymakers created charter schools in part to empower teachers (Maranto, 2015) and to serve marginalized ethnic communities (works in Fox and Buchanan, 2014), but even more to close "achievement gaps" as measured by test scores, particularly for African American and Latinx students (Thernstrom & Thernstrom, 2003). Quantitative evidence indicates that certain charter schools have succeeded in closing achievement gaps (Cheng, Hitt, Kisida & Mills, 2017), though researchers have questioned the means used (Golann, 2015), and whether mere increases in test scores have substantial positive long term impacts on student success (Ladner, 2018). An additional literature offers widely contested findings regarding non-academic impacts from market-based approaches to public schooling, including increased use of charter schooling. For example, former Chicago Public Schools CEO and U.S. Secretary of Education Arne Duncan (2018) argues that closing low performing urban schools and replacing those schools with charter schools or other public school options has short-term costs to students and their communities, but offers long term benefits by improving human capital among the least well off, offering the most disadvantaged students greater opportunities. In contrast, Morel (2018) contends that closing district schools and replacing them with charter schools politically disempowers communities of color and reduces public employment of African American education professionals. In short, the impacts of charter schooling on racial equity involve complex, intellectually contested terrain.

An important, but less examined aspect of neoliberal education reform begins with the reality that it is not only traditional public schools which close after failing to meet specified criteria. A small, but important literature examines charter school opening and closing, processes which are indeed central to the charter school model, which proposes autonomy in exchange for accountability, the possibility of closure if charters fail to show financial viability, abide by the terms of their charter, and serve students academically and otherwise in ways specified by state laws and the conditions under which public bodies granted the charters. *Market* accountability is one part of this: if a school fails to please, parents may leave for other options, closing a school by voting with their feet. Yet charter schools also face administrative accountability, disciplinary or closure decisions made by the public bodies such as school boards and state departments of education which granted their charter. In practice administrative accountability may involve highly detailed rulemaking and complex administrative judgements on the part of regulators regarding whether performance is adequate (Hassel, 1999; Maranto, 2015). In practice such decisions, like charter authorization decisions, may reflect the biases of regulators. There is indeed a longstanding literature regarding how regulation has systematically disadvantaged African Americans in housing (Massey & Denton, 1998), professional licensure and employment (Dorsey, 1983; Friedman, 1962), and civil service employment (King, 1995). More recently, some have applied insights from these areas to the provision of charter schools.

While factors including financial stability and academic performance influence charter school approval and survival, research also finds empirical evidence of discrimination in policy-making systems. Using a Critical Race Theory approach to study the charter authorizing process in post-Katrina New Orleans, Henry (2021) argues that a charter authorizing process ostensibly engineered as "neutral, benign, and objective" is in fact a gatekeeping mechanism that tends to privilege elites and punish people of color. Some African American charter entrepreneurs have echoed these concerns. The African American Charter Schools Coalition formed in Philadelphia

in 2020, their mission predicated on the observation that Black-led charters face greater obstacles regarding oversight, expansion, and renewal (Graham, 2020).

Regarding charter school closing, studying Florida charter schools, Jameson (2017) finds that measured school academic performance, age, and size all correlate negatively with the likelihood of closure: in short newer, lower performing, and smaller charters are more likely to close. Roughly in accord with these findings, coding charter applications from eight states and New Orleans in the 2010-18 period, Kingsbury, Maranto and Karns (2020) find that charter schools associated with charter management organizations, which are more often led by whites, are less likely to close. Comparing the large and lightly regulated Arizona charter sector to comparable traditional public schools, Milliman (2016) finds that lower academic performance increases the likelihood that charters will close, while having no impact on other public schools. Milliman does not explore the impacts of race. In contrast to Milliman, in a quantitative and qualitative study of North Carolina charter school closures, Paino, Renzulli, Boylan and Bradley (2014) find evidence that market (parent exit), financial, and administrative/bureaucratic factors influence closing; academic results do not have direct impacts. Similarly, in their study of Ohio charter schools, Gilblom and Sang (2019) find little statistical evidence that measured academic achievement affects the likelihood of charter closure, but considerable evidence that integrated schools are more likely to survive while predominately white and predominately African American schools are more likely to close. Also studying the Ohio charter market, though over a different time period, Carlson and Lavertu (2016) find evidence that mandatory closures of low performing charter schools in Ohio led to modest improvement in charter school academic value added over time, as Duncan (2018) indicated regarding closings of low performing district schools in Chicago.

Here, we build on prior research regarding the role of race and regulation in shaping charter school markets, to test four hypotheses regarding disparate impacts of charter school closing on under-represented communities.

H1: The proportion of African American students in a charter school will be positively related to charter school closure.

H2: In states with automatic charter closing provisions when achievement goals are not met, schools serving larger percentages of African American students will be relatively more likely to close.

H3: Charter schools started by African American educational entrepreneurs will be relatively more likely to close than those started by other educational entrepreneurs.

H4: In states with automatic charter closing provisions when achievement goals are not met, schools started by African American educational entrepreneurs will be relatively more likely to close.

METHODS

Testing our hypotheses requires data about which charter schools closed, the student demographics of charters schools, and the race of the charter school founder. The first two variables are available through the Elementary/Secondary Information System (ElSi), a National Center for Education Statistics (NCES) web application. Notably, ElSi does not provide information about *why* certain charter schools closed, but rather the timeframe in which they operated or ceased operating. Ideally, we would be able to disentangle the precise reason why a charter ceased operations--- whether it comes about from charter revocation, voluntary closure, transition into a traditional public school or some other factor---to bring greater clarity to our analyses. This is a limitation in that we lack data to determine whether closings reflect market or regulatory accountability. Policymakers like Keegan (2001) and academics like Maranto (2015) and Yancey (2000) suggest that that regulatory warnings or sanctions may reduce enrollment from parents, suggesting interactions between the two processes. Nevertheless, whether a cessation of operations is a market sanction (i.e. low enrollment or financial mismanagement) or was imposed by external public authorities, the data can test our hypotheses.

Identifying the race of the charter school founder is less straightforward. We code the race of the "contact person" identified on the petition originally submitted for charter authorization. The "contact person" (henceforth, founder) is likely the most deeply involved of the founding members, and their race serves a reasonable proxy for the composition of the founding group (Kingsbury, Maranto & Karns, 2020).[1] Charter school petitions do not identify the racial identity of the founder. We code race by performing an internet search of the name of the founder---along with their affiliated charter school or other details identified in the petition (e.g. place of residence or occupation)---and then use our best judgement to identify their racial classification. McCormick et al. (2015, p. 393) conclude that such practices tend to deliver accurate results, and that social scientists should consider social media "as a valuable source of demographic information to answer relevant social science questions."

Charter school petitions are not publicly housed in one domain. Rather, custody of records varies from state to state, and typically from authorizer to authorizer. To access as many records as possible, we collected all publicly available records of charter schools that opened between 2010-2020.[2] In states with charter school laws that did not make records publicly available, we contacted the state charter agency to request records of charters opened between 2010 and 2020, and then issued official public record requests if our informal request went unanswered. A summary of where the charter petitions were collected from is available in Table One. Several requests were denied, and we therefore do not have petitions from all states with charter schools. Moreover, because custody varies by authorizer, the petitions we received are typically not the universe of successful petitions submitted in that state, but the ones submitted to a particular authorizer or authorizers. In all, we collected 925 successful petitions from 24 states.

[1] Notably, the degree to which the race of the "main contact" reflects the demographics of the founding entity becomes obscured when the individual is affiliated with an education management organization (EMO) or charter management organization (CMO), which can be large, dynamic organizations that employ hundreds of staff. Affiliation with an EMO or CMO is not systematically recorded on charter school petitions or in any publicly available dataset, so we do not code this information. Our inability to control for this variable could increase the likelihood of a type II error.

[2] We limit the sample to these years due to our supposition that earlier records might not be digitized or readily accessible.

Table One: Charter Petitions by State and Means Collected

State	Petitions Collected	How Petitions were Procured
AR	39	Publicly available
AZ	70	Publicly available
CT	6	Shared upon request
CO	51	Received through public records request
DE	9	Publicly available
FL	180	Publicly available
GA	26	Shared upon request
ID	26	Shared upon request
IN	25	Publicly available
LA	22	Shared upon request
MA	27	Publicly available
MO	8	Publicly available
NC	92	Publicly available
NJ	16	Shared upon request
NM	23	Publicly available
NV	3	Shared upon request
NY	146	Publicly available
OH	10	Publicly available
OK	19	Publicly available
OR	5	Shared upon request
PA	30	Received through public records request
RI	8	Shared upon request
SC	68	Received through public records request
TX	16	Publicly available

RESULTS

Hypotheses 1 and 2 use data from ElSi. Therefore, to test these hypotheses, we use data that encompasses all charter schools that were opened between 2010-11 and 2018-19, the most recent year for which ElSi provides data. We treat schools operating as charters in that year as open, whereas we consider schools opened in 2010-11 or thereafter but closed or operating as traditional public schools (i.e. charter to district conversions) in 2018-19 as closed.

Descriptive statistics (Table Two) lend support to our hypotheses. Among majority Black[3] charter schools, 604 of 1,894 (31.9%) closed. Among all other charter schools, 900 of 4,058 (22.2%) closed. Moreover, automatic closure appears to impact schools differently depending upon their racial composition. In states with automatic closure, 416 of 1,120 (37.1%) charters that served a majority Black student body closed, compared to just 196 of 1,413 (13.9%) of other

[3] For this and other analysis that uses student demographics, we use ElSi data to calculate the average proportion of African American enrollment during the time period beginning in 2010-11 and ending 2018-19.

charters. By comparison, majority-Black charters in states without automatic closure were 2.3 percentage points *less* likely to close compared to all other schools (24.3% to 26.6%).

Table Two: Charter Closure Rates by Student Racial Composition and Automatic Closure[4]

Student Demographics	Number and % of Charters that Closed	Number % of Charters that Closed in States With Automatic Closure	Number % of Charters that Closed in States Without Automatic Closure
Majority Black	604/1,894 (31.1%)	416/1,120 (37.1%)	188/774 (24.3%)
All Others	900/4,058 (22.2%)	196/1,413 (13.9%)	704/2,645 (26.6%)

In our fully specified linear probability model[5] we express closure as a function of the proportion of African American students, automatic closure, and an interaction between those two terms, as well as year opened fixed effects, formally:

$$Y = \beta_1 AAShare_i + \beta_2 AutoClosure_{it} + \beta_3 AAShare_i * AutoClosure_{it} + \beta_4 YearOpened_i + \varepsilon_{it}$$

In this and subsequent models, we include a state fixed effect when automatic closure is not featured as an explanatory variable, but omit it if automatic closure is featured. Given the high degree of collinearity between the two variables, the inclusion of both variables makes interpretation of the automatic closure variable challenging.[6]

Table Three: Racial Composition and Closure Regression Estimates[7]

	I	II	
Proportion of African American Students	.0019*** (.0002)	.0003* (.0002)	-.0023*** (.0002)
Automatic Closure	-	-.1346*** (.0117)	-.2779*** (.0148)
Proportion of African American Students*Automatic Closure	-	-	.0047*** (.0003)
Year Opened Fixed Effect	Y	Y	Y
State Fixed Effect	Y	N	N

[4] Observations from states with automatic closure are categorized as "without automatic closure" if they were closed before the automatic closure provision was enacted.

[5] ElSi tables specifically denote whether a school has ceased operations. For reasons unclear, sometimes ElSi reports zero enrollment during years in which the school is reported to be operating, although the estimates generally return to a non-zero number after one year. As a sensitivity test, we omitted schools reporting zero enrollment during 2018-19 from the analysis. None of the estimates change in practical terms, and none change in terms of statistical significance.

[6] As a sensitivity test, we check how inclusion of both state FE and automatic closure impacts our estimates. The impact of the proportion of African American students changes appreciably in model II, increasing from .0003 to .0019 (p=.01). In model III, the coefficient for that variable becomes positive (.0012) and remains statistically significant (p=.01). All told, the models affirm our hypothesis about a disparate impact from automatic closure, although they indicate that all charters are penalized for enrolling more African American students.

[7] Regression estimates utilize robust standard errors.

Obs.	5,458	5,458	5,458

*p<.10, **p<.05, ***p<.01.

Regression results (Table Three) support our hypotheses. Among all states, a one percent increase in the share of African American students is associated with a .19% increase in the likelihood of closure after controlling for year opened and state in which the charter school operates. In the fully specified model, a one percent increase in African American students is associated with a .23% decrease in the likelihood of closure in states without automatic closure. However, in states with automatic closure, a one percent increase in African American students is associated with a .47% relative increase in the likelihood of closure, all else equal. Illustratively, the estimates indicate that a charter school in which 30% of the student body is African American has a 6.9% lower likelihood of closure compared to a school with no African American students if the school is in a state without automatic closure. However, if the 30% African American school is in a state with automatic closure, the school has a 7.2% greater likelihood of closing compared to the school with no African American students.

Hypotheses 3 and 4 require us to utilize the dataset that we constructed through soliciting charter school petitions and coding the race of the main point of contact. Unadjusted differences (Table Four) hint at the possibility that automatic closure is more punitive to Black charter entrepreneurs than to others. Among schools started by African American charter leaders in states that utilize automatic closure criterion, 51.1% closed compared to just 20.4% of charters founded by others. The incidence of closure is also greater among African American entrepreneurs in states that do not utilize automatic closure criterion, but the difference is substantially less pronounced; Among charters founded by African American leaders in states that do not utilize automatic closure, 20.7% of charters closed compared to 11.5% of charters not founded by African Americans.

Table Four: Charter Closures by Race and Automatic Closure[8]

Point of Contact	Number and % of Charters that Closed	Number % of Charters that Closed in States With Automatic Closure	Number % of Charters that Closed in States Without Automatic Closure
African American	41/132 (31.1%)	23/45 (51.1%)	18/87 (20.7%)
All Others	94/645 (14.6%)	46/226 (20.4%)	48/419 (11.5%)

To obtain linear probability estimates we express closure as a function of the race of the founder and other characteristics, formally:

$$Y = \beta_1 AACharterEntrepeneur_i + \beta_2 AutoClosure_{it} + \beta_3 AACharterEntrepeneur_i * AutoClosure_{it} + \beta_4 AAStudentShare_i + \beta_5 AAStudentShare_i * AutoClosure_{it} + \beta_6 YearOpened_i + \varepsilon_{it}$$

[8] Observations from states with automatic closure are categorized as "without automatic closure" if they were closed before the automatic closure provision was enacted.

Though we already assessed the correlation between student racial composition and closure, we include them in certain iterations of this model. African American charter entrepreneurs are more likely to serve African American students (r=.49), so the inclusion of both variables is important to understand which variable, if either, is driving any observed effect.

Once again, we omit the state fixed effect from models that include automatic closure, as their inclusion makes it challenging to interpret the automatic closure coefficient.[9]

Linear probability estimates support our hypotheses that charter schools started by African American charter entrepreneurs are relatively more likely to close than those started by other charter entrepreneurs, and that they are disproportionately impacted by automatic closure mandates. Specifically, after controlling for state and year opened, charters with African American founders are 18.1% more likely to close compared to others. Estimates also support our hypothesis that African American founders are disparately impacted by automatic closure. Compared to states and time periods without automatic closure, African American founded charters are 19.8% more likely to close after controlling for whether the founder is African American, automatic closure, and year opened.

Table Five: Founder Race and Closure Regression Estimates

	I	II	III	IV	V	VI	VII	VIII	IX	X
African American Charter Entrepreneur	.1811*** (.0412)	.1557*** (.0408)	.0879* (.0454)	.0182 (.0542)	.0269 (.0559)		-	-	.0772* (.0428)	.0917** (.0436)
Automatic Closure	-	.1183*** (.0293)	.0856*** (.0304)	.0369 (.0308)	.0173 (.0420)	--	.0693** (.0280)	.0025 (.0387)	.0089 (.0434)	
African American Charter Entrepreneur*Automatic Closure	-	-	.1978*** (.0906)	.1899* (.0973)	.1582 (.1108)	-	-	-	-	
Proportion of African American Students	-	-	-	.0008 (.0005)	.0005 (.0006)	.0022*** (.0005)	.0016*** (.0005)	.0008 (.0005)	.0003 (.0006)	.0016*** (.0006)
Proportion of African American Students*Automatic Closure	-	-	-	-	.0007 (.0012)	-	-	.0020** (.0010)	.0017* (.0009)	
Year Opened Fixed Effect	Y	Y	Y	Y	Y	Y	Y	N	N	Y
State Fixed Effect	Y	N	N	N	N	Y	N	N	N	Y
Obs.	767	767	767	649	649	717	717	717	649	649

*p<.10, **p<.05, ***p<.01.

Insofar as student and founder demographics are correlated, regression analysis indicates that both factors independently predict closure, although the finding is sensitive to model specification. Moreover, the estimates generally affirm that automatic closure disparately impacts both Black founders and schools that serve a larger share of African American students

[9] As a sensitivity test, we included state fixed effects in all models to observe how it effects our variables of interest. Several variables of interest gain in statistical significance, and none change in direction. The interaction term in column VIII is the only one to show a weaker association; it drops to 90% statistically significant.

even when accounting for the other variable. For reasons unclear, the only model iteration in which automatic closure does not impose disparate impacts according to student and founder demographics is when both variables are interacted with the automatic closure variable.

DISCUSSION

Linear probability estimates support our four hypotheses. Charter schools are more likely to close when they educate more African American students and more likely to close when they were founded by an African American charter entrepreneur. Moreover, automatic closure mandates appear to disparately impact charter schools that serve more African American students or those founded by an African American charter entrepreneur.

Notably, recent research (Kingsbury, Maranto & Karns, 2020) indicates that African American charter leaders are less likely to be affiliated with charter management organizations or education management organizations compared to other charter leaders. Information about association with an EMO or CMO were not systematically or consistently recorded in the charter petitions that we accessed, so we cannot conclude to what degree that might explain the higher incidence of closure or disparate effect from automatic closure laws. Given that EMOs and CMOs have expertise in navigating state charter laws and regulations, it is plausible that schools affiliated with them are less likely to be closed down, and that this phenomenon may help explain the greater incidence of closure among charters founded by African Americans.

Regardless of underlying cause, our observations about how student and founder demographics predict charter school closure should raise alarm among policymakers and advocates. For those who intrinsically value charter schools as institutions authentically rooted in and empowering the communities they serve, our findings---in conjunction with the observation that African Americans are disproportionately denied charters in the first place---raise concern about the degree to which charter schooling has strayed from its original mission. For those who view charter schools as a means to better outcomes rather an end unto themselves, our findings raise questions about whether charter school closures---especially those caused by automatic closure laws---benefit the students they serve. Concerns are elevated by the fact that African American staff tend to benefit African American students, often in ways not detected by test scores (Kingsbury, Maranto & Karns, 2020; works in Milner & Lomotey, 2014). In the same vein, perhaps charters founded by African American charter entrepreneurs benefit African American students in ways not detected by test scores.

Our findings also invite fresh deliberation about the merits of automatic charter closure laws. As of 2011, approximately 1 in 5 charters that close do so because they fail to meet performance benchmarks (Consoletti, 2011). The topic of automatic closure laws is contentious even among pro-charter organizations, as it exposes a rift between the “market model” and “regulatory model” of charter schooling (Hess, 2004). The National Association for Charter School Authorizers “encourages states to establish in statute a process for automatic closure of underperforming charter schools” (NACSA, n.d.). The National Alliance for Public Charter Schools echoes that sentiment (Ziebarth, 2015), whereas the Center for Education Reform posits that foot voting by parents should ultimately arbitrate questions of school quality (Consoletti, 2011). Overall, the evidence base to support their differing positions is mixed. On one hand, a study in Ohio indicated that charter school students academically benefited in math when their

schools are shuttered due to mandatory closure laws (Carlson & Lavertu, 2016). On the other hand, a national study indicates that more stringent charter regulatory regimes are not predictive of stronger achievement on National Assessment of Educational Progress (NAEP) exams (Wolf et al., 2021).

Clearly, this is an area on which more research is needed, so that policy-makers can make better informed choices regarding how to best balance possible tradeoffs between two values underlying the charter school movement: accountability, and representation of under-served communities.

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