

## On the (In)Feasibility of School Choice for Social Justice

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When the school choice movement first began gaining momentum I warned fellow progressives that the result for public education would be less rather than more socially just arrangements. The reason, I argued, was that the market rationale for school choice had a huge initial advantage in the policy arena and, if it had not already, would quickly crowd out the social justice rationale.

Harry Brighouse, for one, advanced a countervailing view. In the nuanced examination of school choice policy he provided in his 2000 volume *School Choice and Social Justice*, Brighouse acknowledged that whether a policy of school choice can serve to promote social justice depends on empirical contingencies.<sup>1</sup> However, he found the critics' claim that school choice for social justice is infeasible to be unwarranted. He did not rule out this possibility, but required the critics to establish that the introduction of school choice made things worse vis-à-vis social justice than they otherwise would have been.<sup>2</sup> Subsequently, in his "A Modest Defense of School Choice," Brighouse challenged critics to show how choice could interfere with improving the education of disadvantaged students whose parents took advantage of it.<sup>3</sup>

This paper intends to show that school choice for social justice is, indeed, infeasible under the prevailing political-cum-educational policy conditions in the U.S.<sup>4</sup> I begin with a brief examination of the empirical research, which indicates that, as a whole, school choice is exacerbating and not reducing inequality. I then buttress the claim of infeasibility by providing an account of why it was predictable that school choice would exacerbate inequality in the U.S. education system and why, for the same reasons, the anti-egalitarian impetus of school choice is not likely to disappear. I eventually bring my argument to bear on Brighouse's two challenges.

Before turning to my argument, a few remarks about its philosophical content — or lack thereof — are in order. The more obviously philosophical content — a general egalitarian framework — lies below the surface. It is the claim that school choice may *in fact* serve egalitarian aims that I am putting to the test. This is in keeping with Brighouse's view on the relationship between philosophical analysis and empirical evidence, as I understand it. For my part, insofar as philosophers wish to actually engage policy debates, as opposed to playing the role of critical spectators, they are required to take stances in light of the available empirical evidence and the political environment in which the evidence is embedded.

### THE EMPIRICAL EVIDENCE

Empirical evidence on the effects of school choice cannot, as a matter of course, be applied directly to the question of whether given choice policies produce what should be required of the educational system in a liberal democratic society. As Brighouse observes, different positions on the latter will affect what implications

empirical findings have for given choice policies.<sup>5</sup> Despite the potential for general political allegiances to diminish the applicability of empirical research, however, the disagreements between proponents and critics of school choice have not played out that way. The principle of educational equality has been taken as a given by proponents and critics alike, particularly with respect to reducing the achievement gap; central to the debate has been whether school choice is an effective means of closing the gap. That choice should serve to help integrate schools — or, at least, not further segregate them — has also been widely agreed upon. Integration is most directly tied to civic education as a means of fostering democratic pluralism, but it is also related to the principle of equality, as a factor relevant to the provision of “effective” educational resources.<sup>6</sup>

Empirical research on school choice has entered a phase resembling what Thomas Kuhn called “normal science.” As the number of studies has exploded, researchers have begun to focus on the trees — on technical disputes about the presence or absence of tiny effects — and to lose sight of whether school choice as a reform is producing the kind of sizeable effects its advocates promised. In a recent, quite heated exchange between Harvard economist Carline Hoxby and Princeton economist Jesse Rothstein, the matter in dispute was whether the number and size of streams within a given geographical area is a good indication of whether it provides a fruitful context for testing the effects of competition.<sup>7</sup>

Stepping back a sufficient distance to get a view of the forest reveals that the effects of school choice relevant to social justice have become pretty clear: choice has produced identifiable harm in the form of increased segregation; it has produced no discernable benefit in the form of increased achievement. This was the basic finding of the RAND study published in 2001, which examined both vouchers and charter schools.<sup>8</sup> It found no positive effects for choice schools regarding achievement, and that large-scale, relatively unrestricted choice systems increased segregation by race and income.

Since the RAND study, nothing dramatic has developed regarding vouchers. If positive achievement effects exist, they are miniscule.<sup>9</sup> In the case of charter schools, several national studies since the RAND study have provided more conclusive evidence indicating that the overall effects of charter schools are negative. Although charter schools serve a high proportion of African-American students relative to public schools, a potentially positive effect, they do so in a way that increases racial and income stratification.<sup>10</sup> The accumulating evidence on achievement indicates that charters not only do no better than public schools in terms of academic performance; they do worse, particularly among low-income and racial minority students. They thus serve to increase rather than decrease the achievement gap.<sup>11</sup>

The empirical evidence indicates that school choice is, in fact, playing out pretty much in the way skeptics like me predicted it would.<sup>12</sup> Of course, by itself, this doesn't settle the question of the *feasibility* of school choice for social justice. That requires setting the research, the responses to it, and implications for the future in broader historical-political context.

## THE COMING OF AGE OF SCHOOL CHOICE POLICY

Both market and egalitarian rationales can and have been provided for school choice at the level of theory. When school choice reform began to be taken seriously at the level of policy, however, it was in the context of the Reagan era — a climate much more congenial to the market than to the egalitarian rationale and in which the commitment to equality in U.S. education policy inaugurated by *Brown* went into full retreat.<sup>13</sup> It is an era characterized by deregulation, privatization, and a reduced scope of responsibility for the state in all matters and out of which market-based proposals such as John Chubb and Terry Moe's *Politics, Markets, and America's Schools* provided the rationale for the expansion of school choice as it gained momentum in the 1990s.<sup>14</sup>

Vouchers targeted at low-income students, which possess an egalitarian rationale, also emerged in the 1990s; but their scope was and remains very limited. Moreover, they are in serious danger of being hijacked by market ideologues (about which I'll have more to say later.) School choice in the form of charter schools has been the primary growth area. Forty states currently authorize charter schools; 3600 charter schools now exist and the number is growing rapidly. The market rationale has come to dominate the charter school movement.<sup>15</sup> Legislation enabling the formation of charter schools has been characterized by weak or no requirements of charter school enrollments regarding racial and low-income students. States that do include such requirements typically fail to enforce them.<sup>16</sup> Depending on how much autonomy they are afforded, particularly with respect to budgeting and fundraising, charter schools can closely approximate universal vouchers.<sup>17</sup>

As observed earlier, the relevance of empirical research with respect to evaluating and formulating choice policy is limited by the degree to which agreement can be reached on the underlying political values to which research findings speak. Another and, as it turns out, more serious problem in the current environment is the degree to which the results of empirical research are subject to the partisan machinations of school choice advocates.

Ideally, the response to the empirical findings that indicate choice policies are exacerbating inequality would be to explore ways of revising policies to help mitigate or eliminate this outcome. But this is not the response. Instead, the most visible and influential leaders in the choice movement have adopted a strategy of shouting down negative results, ignoring them, or shifting ground — behavior that has earned them the label “zealots.”<sup>18</sup> These tactics are illustrated in the responses by choice advocates to two studies of charter schools conducted by the American Federation of Teachers (AFT), the nation's second largest teacher's union. The first study was released in 2002.<sup>19</sup> Among its conclusions were that charter schools exacerbated segregation and failed to produce better achievement. The response from school choice advocates was immediate. They jeered the study for its alleged bias: Lawrence Patrick, president of Black Alliance for Educational Options (a school choice advocacy group with significant ties to right wing think tanks), quipped, “An AFT study on charter schools has about as much credibility as a Phillip Morris study on smoking.”<sup>20</sup> This remark was quickly picked up and repeated by the

school choice “noise machine,” as other frontline school choice advocacy groups such as the Center for Educational Reform (CER)<sup>21</sup> and the Fordham Foundation<sup>22</sup> deployed it in their own denunciations of the AFT study.<sup>23</sup>

The AFT released a second study critical of charter schools in August 2004 that prompted a brouhaha of considerably larger proportions than the first, partly because it was reported in the *New York Times* and partly because the findings were so potentially damaging.<sup>24</sup> Based on an analysis of test data from the National Assessment of Educational Progress (NAEP) program, the study concluded that charter schools, on average, produced lower academic achievement than public schools, particularly in the case of low-income and minority students. In response, a mix of about thirty school choice activists and researchers (all advocates) listed their names in an ad in the *Times* (paid for by CER) condemning the AFT study as well as the *Times* for reporting it. Though not participating in the ad, the Bush administration, which vigorously supports school choice, expressed its displeasure via a letter to the *Times* by Robert Lerner, commissioner of the National Center for Education Statistics (NCES).<sup>25</sup> Notwithstanding, in December of 2004, the NCES released its own study of charter schools, also based on NAEP.<sup>26</sup> The findings differed little from those of the AFT study and, like the RAND study before, received relatively little heat from choice advocates.

Some of the concerns expressed about the technical limitations of the AFT study (and also the NCES study) are legitimate, for example, the use of snapshot rather than longitudinal data.<sup>27</sup> But such limitations are not of sufficient magnitude to vitiate the findings, and, in this regard, school choice advocates have rarely had a problem using similar data and analyses to attack the public schools. Indeed, one of the vanguard school choice researchers, Caroline Hoxby, deployed a similar kind of approach in a study, widely applauded by choice advocates, allegedly refuting the AFT study.<sup>28</sup> And Hoxby did this *after* including her name on the *Times* ad list criticizing the approach; she also rushed the study to press without vetting it, something else for which the AFT study was criticized in the *Times* ad. The shifty ad hoc-ing reached its peak with Chester Finn’s explanation of the poor showing of charter schools by claiming they serve a more disadvantaged population of disadvantaged students than regular public schools.<sup>29</sup> Even if true, which it is not,<sup>30</sup> this is a major departure from the view of accountability implicit in the “no more excuses” and the “soft bigotry of low expectations” rhetoric that has been so often used by choice advocates to beat-up on low performing public schools that serve disadvantaged students.

Less noisy, but of equal or greater importance in the end, is how things have been unfolding at the state level, the primary locus of school choice policy. The evolution of Colorado’s charter school policy placed alongside the evidence on Colorado charter school performance provides a very instructive case.

The number of Colorado charter schools has grown from one in 1993, the year the legislature passed the Charter Schools Act, to one hundred ten in 2004-05. Over this time, Colorado’s education policy has become increasingly generous to charter

schools. Significant changes in policy include removing the original cap of sixty; increasing the per pupil funding local school districts are required to pass through (from 80% to 100%); and requiring local districts to share virtually all forms of funding with charter schools, including that for capital construction. The implementation of the Charter School Institute in 2004, passed in response to certain local districts placing moratoria on new charter schools, provides its member schools with complete autonomy from local school districts.

So, how does this evolution of policy square with the evidence on Colorado's charter schools? Regarding student achievement, a 2004 study by SRI International found no significant differences between charter and other public schools in the high-income group (schools where the percentage of low-income students was below the median for Colorado schools), but traditional public schools performed significantly better in the low-income group (schools where the percentage of low-income students was above the median for Colorado schools).<sup>31</sup> In general, Colorado's charter schools do not produce higher student achievement compared to traditional public schools for any groups, and, in the case of low-income and minority students, charter schools produce lower achievement. Colorado's charter schools are thus more likely increasing the achievement gap than decreasing it.

Regarding segregation, Colorado's charter schools enroll substantially fewer low-income (19% versus 33%); minority (23% versus 32%); and special education students (6.4% versus 10%) than its traditional public schools. How this translates into race and income stratification attributable to charter schools within local Colorado districts is illustrated by the following statistics: 25% serve at least 10% more minority students and 22% serve at least 10% more low-income students, whereas 61% serve at least 10% fewer minority students and 68% serve at least 10% fewer low-income students.<sup>32</sup> The evolution of Colorado's charter school policy is thus significantly out of synch with the direction in which the evidence points if avoiding increased inequality is a serious consideration in policy setting. It quite clearly is not such a consideration in Colorado, nor many other states.<sup>33</sup>

Targeted voucher plans, which limit participation to low-income students, fare better on the criterion of social justice than charter schools. But they do so by diminishing the centrality of choice as a value and as a mechanism. Choice is not construed as a "panacea," as it was by universal voucher advocates like John Chubb and Terry Moe,<sup>34</sup> rather, it is grafted on to the public education system as a means to equalize educational opportunity for those most likely being denied it.

To say that targeted vouchers fare better on social justice is not to say they are not beset with problems of their own. They skim the least disadvantaged of qualifying students.<sup>35</sup> They are quite limited in scope and do nothing to help the disadvantaged students left behind — exemplifying what Jonathan Kozol calls a "life boat" mentality in which we save the few we can. And where religious schools are included in voucher programs, students can, depending on the availability of alternatives, be coerced into opting into religious schools as the only way to exit inferior public schools.

From a larger perspective, targeted vouchers are in significant danger of being fashioned into a Trojan horse to be deployed by the well-organized, well-financed, and highly partisan school choice movement. Polly Williams, the person most responsible for the creation of the Milwaukee voucher program, accused school choice advocates (including then Wisconsin governor Tommy Thompson, who subsequently went to work promoting vouchers in the George W. Bush Administration) of trying to “hijack” the program by expanding it to the more well to do.<sup>36</sup> The idea of universal vouchers, first proposed by Milton Friedman in 1950s, has not gone away. Indeed, Friedman created his own foundation devoted to propagating the idea in 1996, and he participates in a wide circle of right wing think tanks that are behind the idea.<sup>37</sup> Friedman, the pied piper of voucher enthusiasts, says this about targeted vouchers: “I support an entering wedge in the form of a program for low-income people, but I believe it would be a very serious mistake to stop at that point.”<sup>38</sup>

#### CONCLUSION

The evidence meets Brighthouse’s first challenge to critics of choice — to show that school choice has actually made things worse *vis-à-vis* educational equality than they otherwise would have been. And this is under an interpretation that uses the status quo ante as the standard of comparison. Given the counter-factual nature of the challenge, even if things had remained pretty much the same, school choice could be seen as making things worse than they otherwise would have been. For it held out the false promise of a significant improvement in public school performance on the cheap, and distracted attention from the deep social causes of inequality in schools and the kinds of measures it will take to solve them.

Brighthouse’s second challenge to critics of choice — to show how providing choice to the parents of disadvantaged children does not result in improving their schooling — can also be met, at least under its most defensible interpretation. Those who actually participate in choice may, indeed, improve their situations (though the evidence does not confirm this). However, this is too narrow an interpretation, one that critics of school choice, at least egalitarian ones, would surely reject. A legitimate challenge to the critics must be in terms of the effects of, in this case, targeted choice, on all disadvantaged students, not just those engaging in choice. And this takes us right back to the problems with targeted vouchers just discussed.

School choice policy was nurtured and grew in anti-egalitarian soil; the nutrients it took up through its roots have now become part of its tissue. It is difficult to see how school choice can promote social justice so long as its visible and well-financed advocates, including the federal government, choose to do their utmost to bury the problems regarding charter schools and, in the process, to prevent the redirection of policy toward better meeting egalitarian aims.<sup>39</sup> Regarding vouchers, certain elements have adopted a strategy of stealth, in which they avoid honest and open debate about their intentions, awaiting an opportune place and time to spring open the Trojan Horse that is targeted vouchers. Unless one believes in the magical thinking associated with things like the “invisible hand” that will make everything turn out right in the end, a policy of universal vouchers is no route to greater social justice.

I do not claim to know whether the kind of choice advocates I have been criticizing feign a commitment to equality for strategic reasons or are just hidebound in their commitment to market competition as the best way to “lift all boats.” (There are likely some of each.) Either way, unless the question of whether school choice for social justice is feasible is exempted from confronting the evidence, the answer for the U.S. has to be “no.”

What *is* feasible for egalitarians vis-à-vis education policy in the U.S.? In approaching this question, we have to begin by acknowledging that choice is, indeed, here to stay. Whether an intentional strategy or not, it was evident from the inception of the choice movement that, if it could hold on long enough to sufficiently expand, it would become safely entrenched so that evidence regarding its (in)effectiveness would get little traction. That is precisely the situation in which we now find ourselves.

Changing the conversation about educational reform so as to diminish the centrality of choice as a value and as a mechanism is the only (potentially) feasible strategy I see. Instead of being *choice-driven*, enrollment policies should be *choice-utilizing* but *equality-driven*. This is the basic egalitarian rationale for targeted vouchers, which, as we have seen, turn out to be quite flawed in the overall scheme and are in danger of being “hijacked.” A more encouraging instantiation is Wake County, North Carolina, which includes Raleigh.<sup>40</sup> The attendance policy is clearly equality-driven — designed to close the achievement gap and foster integration — rather than choice-driven, though choice, particularly in the form of magnet schools, is incorporated into the policy. Unfortunately, the Wake County policy is probably workable in only a handful of places because it depends on an inter-district arrangement. Other restricted choice arrangements such as controlled choice and voluntary transfers have produced discouraging results.<sup>41</sup>

I confess I am not very optimistic about the prospects for a just system of education in the U.S. Although I firmly believe that an emphasis on choice takes us in the wrong direction, I’m stuck for feasible alternatives. Principled dissent may be the only *feasible* tack left.

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1. Harry Brighouse, *School Choice and Social Justice* (New York: Oxford University Press, 2000).

2. *Ibid.*, 209.

3. Harry Brighouse, “A Modest Defense of School Choice,” *Journal of Philosophy of Education* 36, no. 4 (2002): 653–659.

4. It is not about whether school choice for social justice can be defended in the abstract or in other political circumstances. I am not at all skeptical that it can be.

5. Brighouse, *School Choice and Social Justice*, 35–36.

6. Brighouse uses “effective” educational resources to refer to educational resources that can be taken advantage of by given kinds of students, for example, a hearing aid for a deaf student (see *School Choice and Social Justice*, 138–139). The Coleman Report was the first to suggest that integrated classrooms, with the proportions of white and African-American students falling within a certain range, function as an “effective” educational resource for African-American students. For a recent and comprehensive examination of this issue, see Russell W. Rumberger and Gregory J. Palardy, “Does Segregation Still

- Matter? The Impact of Student Composition on Academic Achievement in High School,” *Teachers College Record* 107, no. 9 (2005): 1999–2045.
7. See Jon E. Hilsenrath, “Economist’s Study on School Competition Stirs Debate,” *Post-Gazette*, October 24, 2005, <http://www.post-gazette.com/pg/05297/594198.stm>.
  8. Brian P. Gill, P. Michael Timpane, Karen E. Ross, and Dominic J. Brewer, *Rhetoric versus Reality: What We Know and What We Need to Know about Vouchers and Charter Schools* (Santa Monica: RAND, 2001).
  9. See Clive Belfield and Henry M. Levin, “Vouchers and Public Policy: When Ideology Trumps Evidence,” *American Journal of Education* 111 (2005): 548–567.
  10. Erika Frankenberg and Chungmei Lee, *Charter Schools and Race: A Lost Opportunity for Integrated Education* (Cambridge: The Civil Rights Project at Harvard University, 2003).
  11. For a comprehensive discussion, see Martin Carnoy, Rebecca Jacobsen, Lawrence Mishel, and Richard Rothstein, *The Charter School Dust-Up: Examining the Evidence on Enrollment and Achievement* (New York: Teachers College Press and Economic Policy Institute, 2005). See also Christopher Lubienski and Sarah Lubienski, “Charter, Private and Public Schools and Academic Achievement: New Evidence from NAEP Mathematics Data” (Washington, D.C.: National Center for the Study of Privatization in Education, 2006).
  12. Kenneth R. Howe, *Understanding Equal Educational Opportunity: Social Justice, Democracy and Schooling* (New York: Teachers College Press, 1997).
  13. See Rosemary C. Salamone, *Equal Education Under Law: Legal Rights and Federal Policy in the Post-Brown Era* (New York: St. Martin’s Press, 1986).
  14. John Chubb and Terry Moe, *Politics, Markets and America’s Schools* (Washington, D.C.: Brookings Institution, 1990).
  15. Frederick Hess, *Revolution at the Margins: The Impact of Competition on Urban School Systems* (Washington, D. C.: Brookings Institution, 2002).
  16. Frankenberg and Lee, *Charter Schools and Race*.
  17. See, for example, Kenneth Howe, Margaret Eisenhart, and Damian Betebner, “School Choice Crucible: A Case Study of Boulder Valley,” *Phi Delta Kappan* 83, no. 2 (2001): 137–146.
  18. Carnoy et al., *The Charter School Dust-Up*.
  19. American Federation of Teachers, “Do Charter Schools Measure Up? The Charter School Experiment After 10 Years” (American Federation of Teachers, 2002), <http://www.aft.org/pubs-reports/downloads/teachers/charterreport02.pdf>.
  20. Julie Blair, “AFT Study Denounces Charters,” *Education Week*, July 17, 2002.
  21. Center for Educational Reform, “Charter Leaders Dismiss AFT Report: Teachers Union Deliberately Skews Data Against Charters,” (Washington, D.C.: Center for Educational Reform, 2002).
  22. Chester Finn, “The Shame of AFT,” *Education Gaffly* 2, no. 27 (2002).
  23. As an aside, the analogy appears to be backwards: it is the unqualified advocates of charter schools who occupy a role more like that of Phillip Morris, for it is they who are trying to fend off the charge that their product produces “second-hand smoke” with harmful effects.
  24. American Federation of Teachers, *Charter School Achievement on the 2003 National Assessment of Educational Progress* (Washington, D.C.: American Federation of Teachers, 2004).
  25. Carnoy et al., *The Charter School Dust-Up*, 13.
  26. National Center for Education Statistics, *The Nation’s Report Card. America’s Charter Schools: Results from the NAEP 2003 Pilot Study* (Washington, D.C.: NCES 2005).
  27. This limitation has been addressed in the recent study by Lubienski and Lubienski, “Charter, Private and Public Schools and Academic Achievement: New Evidence from NAEP Mathematics Data.”
  28. Caroline Hoxby, “A Straightforward Comparison of Charter Schools and Regular Public Schools in the United States,” <http://post.economics.harvard.edu/faculty/hoxby/papers/hoxbyallcharters.pdf>.
  29. Diana J. Schemo, “Nation’s Charter Schools Lagging Behind, U.S. Test Scores Reveal,” *New York Times*, August 17, 2004.



30. Carnoy et al., *Charter School Dust-Up*.
31. Kara Finnigan et al., *Evaluation of the Public Charter Schools Program: Final Report*, (Washington, D.C.: Educational Publications Center, 2004), 112. <http://www.ed.gov/rschstat/eval/choice/pcsp-final/index.html>.
32. Colorado Department of Education, *The State of Charter Schools in Colorado 2000–2001*, 49. <http://www.cde.state.co.us/cdechart/charsurv.htm>.
33. See Table 1, 20–22 in Frankenberg and Lee, *Charter Schools and Race*.
34. John Chubb and Terry Moe, *Politics, Markets, and America's Schools* (Washington, D.C.: Brookings Institution, 1990).
35. This claim is based on the mother's level of education, Gill et al., *Rhetoric versus Reality*, 148–149.
36. Megan Twohey, "Who Vouches for Vouchers?" *The American Prospect* 13, no. 12 (July 1, 2002).
37. There is a constellation of organizations that include the Bradley Foundation, the Walton Foundation, the Freidman Foundation, the Heritage Foundation, the Fordham Foundation, the Cato Institute, the Manhattan Institute, the Heartland Institute, and, last but not least, the Hoover Institution.
38. George A. Clowes, "The Only Solution Is Competition," *The Heartland Institute*, December 1, 1998, <http://www.heartland.org/Article.cfm?artId=12013>.
39. American Federation of Teachers, "Charter Schools Underperforming, Repeatedly Delayed," [http://www.aft.org/news/2004/AFT\\_charterschools.htm](http://www.aft.org/news/2004/AFT_charterschools.htm).
40. Alan Finder, "As Test Scores Jump, Raleigh Credits Integration by Income," *New York Times*, September 25, 2005.
41. Amy Stuart Wells and Robert L. Crain, "Where School Desegregation and School Choice Policies Collide: Voluntary Transfer Plans and Controlled Choice," in *School Choice and Diversity: What the Evidence Says*, ed. Janelle T. Scott (New York: Teachers College Press, 2005).