

### Charter Colleges: Pro and Con

*On January 20, 2000, Pioneer Institute sponsored a Forum on a proposal for charter colleges, publicly funded institutions of higher education managed independent of most state controls. In a Pioneer Institute White Paper, two prominent academicians argue that such operational freedom may enable institutions to operate more efficiently and produce higher quality educational results. The charter college concept, they suggest, represents an attractive choice for several Massachusetts colleges and perhaps eventually for more of the state's public institutions. Forum participants included:*

*Robert O. Berdahl, professor emeritus of higher education at the College of Education at the University of Maryland, and coauthor of the White Paper "Charter Colleges: Balancing Freedom and Accountability;"*

*Terrence J. MacTaggart, chancellor of the University of Maine system and coauthor with Professor Berdahl of the White Paper;*

*Jeffrey A. Miron, professor of economics at Boston University, who provided commentary on the Berdahl-MacTaggart proposal.*

*In the following pages, Pioneer has reproduced an edited transcript of the forum.*

**Terrence MacTaggart:** My task is to define the charter college idea and suggest why we think it's a better approach to improving quality and access in higher education than either intense regulation--which is frustrating to almost everybody involved and seldom produces the results that it claims--or a complete laissez-faire open-market system.

What are the hallmarks of a charter college? In our view, it's an existing, publicly owned institution, freed of most of the procedural controls by state regulatory agencies. This is in contrast to a charter school, which tends to be a new institution. We're talking about freeing up existing public institutions. They would, for example, have their own governing board and the authority to hire and fire a president, approve budgets, set admission standards, set employees' salaries, and conduct negotiations if their employees are operating under a collective bargaining agreement. The president at a charter college would have the power to finance and oversee capital projects, build and hold financial reserves for multiple years, establish one or more foundations, hold and hopefully grow contributions from private sources, and contract for services.

In return for the relative freedom that would be granted, there would be an agreement, or charter, which would outline the mission of the institution, its program boundaries (whether it's baccalaureate, master's, or doctorate level), and its funding (how much money will come from the state, how much will be raised from students and tuition, and what percentage of the budget needs to be raised privately). The charter might also indicate what component of the student body needs to come from

low-income or other groups of students, and maybe a fundamental financial aid policy for achieving that. Most importantly, it would also include some expectations for better educational performance--perhaps measured by the distance in test scores between students who come in and those who graduate, or by other examples of educational and academic excellence. The essential deal would be: "You're getting more freedom to operate; we want better results."

What evidence is there that this would actually work? The source for my observations are the state of Michigan--which has had a deregulated free market for its public institutions since approximately 1817, when the University of Michigan received its charter--and the state of New Jersey, where Governor Christine Todd Whitman substantially, but not completely, deregulated the public baccalaureate institutions in 1994.

There are a number of hopes and a number of fears regarding deregulation. The hopes include these: that these more entrepreneurial universities would attract more creative and entrepreneurial leaders; that in this freer environment institutions would more quickly respond to consumer and market needs and could take advantage of niche marketing to increase quality; that they'd improve their general managerial efficiency, because they get to keep the money they save; and that greater competition on the public side would reduce cost, as it has in at least some areas of the economy. The fear is that all these newly liberated public schools would become what we call "public Ivies"--that they'd want to "ape" selective private institutions and would not fulfill their public access mission; that they'd duplicate programs as each strove to acquire more status or a larger share of the market; that uncompetitive institutions would go under and their historic constituencies would be underserved; and that fraud and abuse would increase because the heavy hand of state oversight was absent.

What has happened in Michigan and New Jersey? Some--but not all--of the hopes and few of the fears have been realized. While not particularly wealthy in terms of per capita income, Michigan nevertheless has institutions of higher education of substantial quality; the University of Michigan and the other research universities and the regional campuses in the state are among the best of their kind anywhere. And there's no evidence in New Jersey that quality has declined. In fact, a couple of institutions have raised admission standards and seem generally to have achieved higher levels of academic quality. Although the NAACP opposed deregulation in New Jersey, fearful of the "public Ivy syndrome" that I mentioned, those fears weren't founded; it didn't happen.

On the other hand, deregulation does not reduce cost. In both instances, the state treasury and, in some cases, the students are paying a fairly hefty price for the opportunity to have a much greater array of choices among public institutions.

**Robert Berdahl:** The charter college concept is a not a panacea, but it's a small constructive step in the right direction. I'm much more willing than many of my fellow academics to recognize the legitimacy of a state role in higher education. But we make a crucial distinction between the state role in what we call substantive autonomy--the "what" of academe--and the state role in the "how" it's done--what we call procedural autonomy.

We argue that the state role in procedural accountability is a means toward an end--

not an end in itself; the state might get more efficient and more effective higher education with fewer procedural controls. This may be counterintuitive because for so long state accountability practices have gotten more and more deeply into monitoring the expenditure of public tax dollars. But the protections to prevent possible fraud, abuse, or mismanagement of public tax dollars overwhelm the purpose of getting the job done.

The state, however, should retain its legitimate role on the substantive side in monitoring the role and mission of the various institutions in the public sector to serve a diverse constituency of students with many different ranges of ability, many different ambitions, and so on. If the charter agreement specifies that, and specifies that the institution so freed on the procedural side will be accountable for the results of student learning on the substantive side, we think that it's a win-win bargain for both the state and the institution.

This experiment is so counterintuitive to most state people that they will feel very nervous about letting go of the normal procedural controls. We don't want the experiment to fail and to create a backlash that would slam the door on further deregulation down the road. Therefore we suggest starting out slowly--maybe only one, two, or three at first bite--rather than too quickly so the probability for success of charter colleges will be higher.

As an example, we cite St. Mary's College, a small liberal arts public honors college in Maryland. In 1992, it agreed not to ask the state for more money; in exchange, the institution got that money as a block grant with no controls over its expenditure, but was told it would be accountable to show that the results were beneficial. The St. Mary's experiment was very beneficial. It was considered win-win for both the institution and the state. The institution's internal budgeting and governance got better. It was allowed to double its tuition provided it increased student aid to maintain low-income students' access. The SAT scores of the institution's entering freshman class have increased, as has the proportion of minority students with high SAT scores. St. Mary's even reinstated tenure to strengthen the faculty's commitment to the institution, and the faculty has improved, with more faculty members having so-called terminal degrees. It's a very happy story in Maryland.

Now, would this work in Massachusetts? We don't know. Massachusetts is a very peculiar state with its own distinctive history. We learned there's an awful lot of politics involved in higher education policy, and we could not ignore that in trying to make recommendations that seem to us realistic in the present environment. We propose that if Massachusetts were of a mind to try it, it should start slowly.

**Jeffrey Miron:** What Berdahl and MacTaggart propose is sensible, and perhaps a step in the right direction. In my own assessment, as in theirs, there's far too much regulation and oversight of public colleges and universities, a huge fraction of that effort is counterproductive, and steps to reduce or eliminate that regulation and oversight, in my view, for all publics--not just for charters--are in and of themselves unquestionably worthwhile.

Nevertheless, I'd suggest three criticisms of what Berdahl and MacTaggart propose. The first accepts their general framework, but argues that within this framework they don't go far enough, the second criticism challenges one aspect of their framework as being very hard to implement in practice, and the third criticism takes a broader perspective and asks whether the entire framework is the right one for thinking

about public higher education.

My first criticism is simply that the Berdahl-MacTaggart charter college proposal is far too timid. The whole point of this approach is to give charter colleges the flexibility to reduce cost, to be efficient, to innovate in various ways. But Berdahl and MacTaggart avoid confronting head-on two critical aspects of running a college or university: collective bargaining and tenure. They suggest that the political climate in Massachusetts is so friendly toward--or, one might say, so terrified of--unions, the political reality suggests leaving that issue alone. Whether they are right or not about the political realities, however, I think they should propose what they think will be most effective for the operation of public colleges, and that has to be giving those institutions the choice to engage in whatever employment practices they find to be advantageous, subject to applicable law.

Does that mean that the use of non-union labor will necessarily make a huge difference to the efficiency and cost-effectiveness of public colleges and universities? I think that the answer is probably yes, but the magnitude of the savings is something that has to be determined. It should go without saying, however, that giving charter colleges flexibility on this issue, it has to be in the direction of making them more cost-effective. And one critical benefit of establishing a charter college would be conducting the experiment in which that college tries alternative approaches to things like collective bargaining. Given the high fraction of total cost that is accounted for by salaries, it's critical to allow any charter to attempt to reduce that component of cost the best it can.

Similarly, Berdahl and MacTaggart shy away from the tenure issue, presumably again, because they regard it as too controversial. I'm personally not sure whether it is in the interests of successful colleges and universities to restrict or abandon the use of tenure. After all, the most distinguished private universities in the country have all used tenure for decades. It is true that the tenure system developed before the federal government, in its infinite wisdom, decided to outlaw mandatory retirement. So the disadvantages of tenure are probably worse than they were when the system was first created. But taking a stand for or against tenure is not the key point. The critical issue is, instead, that given the spirit of a charter college approach, these institutions should be able to experiment with alternatives to the tenure system or not, as they see fit.

If charter colleges are worth doing, they're worth doing right. And that has to mean, in my opinion, giving charter colleges free reign regarding collective bargaining and tenure, in addition to greater independence with respect to other issues.

The second point I want to make about the Berdahl-MacTaggart proposal is one that challenges their framework just a bit. Specifically, I question the notion that a charter agreement can really impose accountability and insure that the state's goals for higher education funding are being met, or in the other direction, that the charter agreement can guarantee flexibility and independence for the charter college.

The problems in implementing accountability are several. To begin, what are the charter colleges going to be accountable about? There is enormous difference of opinion as to what a college or a university should be trying to accomplish. So any charter outlining accountability will inevitably be encumbered with multiple goals, many of them likely to be contradictory or so inherently vague as to defy objective assessment. Still other goals, while quantifiable, are so open to many kinds of

manipulation or fraud that they are, in practice, unenforceable.

By the same token, independence is difficult, if not impossible, to impose via charter. A state legislature can always threaten overtly or more subtly to revoke or modify a charter, to reduce future funding levels, or to add new kinds of regulation that make the charter itself moot, so that the legislature's own goals and objectives are imposed on an allegedly independent charter college. And that is exactly what will happen whenever the political winds so dictate.

Thus, no charter can, in reality, insure that the charter college is accountable, on the one hand, or independent, on the other. Instead, both sides are likely to manipulate any charter so that both sides can always claim victory. These problems are, of course, inherent in any public institution. They are not necessarily worse for a charter college. But I seriously doubt the charter approach will produce a substantial improvement along either dimension.

So if the charter approach to independence and accountability is not the answer, or at least not a very satisfying answer, then what is? That question brings me to my final point, which is that however radical it might appear to some parties, the Berdahl-MacTaggart proposal nevertheless takes as given that government should be in the business of operating colleges and universities. It is that assumption I find the most problematic.

Economists generally agree that government should be in the business of supplying a particular good or service only when the private sector cannot readily supply that commodity on its own, as in the cases of national defense or the enforcement of property rights. In the case of higher education, however, it is abundantly clear that the market is capable of producing higher education services. Indeed, it does so far more effectively than the public sector, in many instances.

The fact that government should not be operating institutions of higher learning does not mean there is no role for government in subsidizing the acquisition of higher education. If some qualified students are unable to afford higher education or to borrow the necessary funds on their own, or if higher education has beneficial spillovers to society in general, then there might be a case for subsidizing the purchase of higher education by means of higher education vouchers or subsidized loans.

But none of the arguments for government subsidy of higher education imply that governments need to own and operate colleges and universities. That is well done by the private sector, without the many unintended side effects of government higher education. In particular, the exclusive reliance on private colleges and universities, possibly combined with subsidized voucher or loan programs, has all the benefits of charter colleges: flexibility, independence, efficiency, access, and the like, and a kind of accountability that cannot be manipulated by either politicians or colleges--the accountability of the market. Private colleges and universities must provide a product that someone wants to buy, or they cease to exist.

In the end I'm somewhat agnostic about whether charter colleges would be a useful addition to current practice. On the one hand, they would have obvious benefits by eliminating some kinds of costly regulation and oversight on at least a few campuses. Yet because they leave so many problems untouched, I find this approach very unsatisfying. Although political realities perhaps argue for incremental change, I

think it is useful to consider all the alternatives before deciding to settle for second best.

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