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Resisting Charters: A Comparative Policy Development Analysis of Washington and Kentucky, 2002–2012

Joseph B. Johnston[1]

Abstract

Over the past two decades, most states have adopted laws enabling charter schools, as charter advocates successfully presented charters as the solution to core problems in urban public education. Yet some states with large urban centers, notably Washington and Kentucky, resisted this seemingly inexorable trend for years. What explains their resistance? Furthermore, why did Washington—a state with a strong teachers' union and long-standing Democratic political control (resources for charter resistance identified in prior research)—ultimately adopt charters in 2012 while Kentucky has not? I use comparative-historical narrative analysis to trace differences in charter battles in the urban centers of the two states. I find that supporters framed charters as the solution in both cases but varied in their ability to name public schools as the problem in the first place. I identify the source of the discursive resources used by opponents of charter schools in state-level "educational ecosystems": the cultural and institutional legacies of a range of state educational policies.

Keywords

charter schools, policy development, comparative/historical, political sociology, discursive institutionalism

INTRODUCTION

Charter school advocates have fundamentally altered the institution of public education over the past two decades. Supporters have utilized the core American values of efficiency and equity to make their case: Charters are necessary to induce competition with bureaucratic public schools, thereby offering enhanced opportunities for disadvantaged students (Lubienski 2013). These appeals have resonated with a diverse array of policymakers and citizens, particularly in urban areas. For instance, 42 states and the District of Columbia have charter school laws (Center for Education Reform 2014), and charters have been a key part of the defining federal educational policies of the past two presidential administrations: No Child Left Behind (NCLB) in 2002 and Race to the Top (RTTT), starting in 2009.

To understand the factors driving the spread of state charter school laws, scholars have developed powerful diffusion frameworks (Mintrom 2000; Renzulli and Roscigno 2005). In particular, these models show charter proponents from neighboring

[1]Indiana University, Bloomington, USA

Corresponding Author:
Joseph B. Johnston, Department of Sociology, Indiana University, 744 Ballantine Hall, 1020 E. Kirkwood Avenue, Bloomington, IN 47405, USA.
Email: johnstjb@indiana.edu

"strong" charter law states spreading policy ideas, thereby exerting pressure on other states to adopt similar policies. While these frameworks help to explain much about charter adoption, they are incomplete.

For instance, diffusion models cannot explain state cases of resistance to charter policy adoption. In this article, I comparatively analyze the two states without charter school laws, prior to 2012, with the largest cities: Washington (Seattle) and Kentucky (Louisville). Because school choice proponents have gained the most traction in large urban areas (Carl 2011; Ryan 2010), all else being equal, these cases should have been *most likely* of the remaining states to adopt charter schools. How then were actors in these two states successful in combating charter school advocates?

Diffusion models point to strong teachers' unions and Democratic political control as the key sources of pushback against charter supporters (Renzulli and Roscigno 2005). Focusing solely on such factors, however, makes it difficult to understand the charter adoption outcomes in my paired comparison. Washington has one of the strongest teachers' unions in the country, combined with long-standing Democratic control of the legislature and governorship (Winkler, Scull, and Zeehandelaar 2012). Yet charters were adopted in Washington in 2012 after a long battle. Conversely, Kentucky has a weaker teachers' union and has had mixed political control over the past decade but has yet to adopt charter schools. Why did Washington adopt charters in 2012 whereas Kentucky continues to have no charter school law?

Diffusion frameworks do not analyze the processes whereby actors discursively engage in policy battles, which ultimately shape adoption (Irvine 2002). In the wake of *A Nation at Risk*, scholarship has identified the national paradigmatic assumption that public schools are a "problem" in need of remedy (Hilgartner and Bosk 1988; Mehta 2013; Stone 1989). Charter advocates have furthered discursive frames to couple the "solution" of charter schools with this diagnosed problem (Kingdon 2010). I argue that while scholars have documented these general national patterns, there has been little attention to important variability across state contexts.

Through a decade-long comparative analysis of the urban centers of Washington (Seattle) and Kentucky (Louisville), I document *how* actors refuted taken-for-granted national assumptions about traditional public schools and wielded alternative discourses to fight back against charters. I then offer a framework for understanding the *source* of the divergent frames, and *how* these insights usefully build on existing diffusion frameworks, to better understand variability in policy adoption.

IDEAS, POLITICS, AND EDUCATIONAL POLICY DEVELOPMENT

Scholars have relatively recently begun to explore the importance of ideas and policy discourse in education policy development (Binder 2000, 2002; Davies 1999, 2002; Irvine 2002; Mehta 2013; Paris 2010; Stevens 2001; Tyack and Cuban 1995; Zimmerman 2002). This work counters a long-standing lack of attention on the part of sociologists to education policy development and politics (Walters 2011) and at the same time contributes to work in political and cultural sociology on the role of ideas in other policy domains (Brown 2013; Skrentny 2006; Steensland 2008). Below, I outline the state of this scholarship and detail three ways that my analysis of state resistance of charter schools furthers our understanding of the role of ideas in educational policy development.

How Ideas Matter. Prior scholarship shows that discursive resources are important for marginal challenger groups in educational debates (Binder 2002; Davies 1999; Stevens 2001). For instance, Davies (1999) demonstrates how religious groups, with few resources, co-opted popular frames of multiculturalism and choice to garner state funding. This is a central insight from social movement research—challengers with few material or political resources utilize discursive claims to mobilize support and appeal to elites (Benford and Snow 2000).

Conversely, it is much more of an open question as to whether, or how much, ideas matter for actors and groups in positions of power within educational battles. Mehta's (2013) analysis of the growth of accountability in U.S. education is an important exception. He shows how a paradigmatic idea, in the form of a century-long move toward educational accountability and standards, shaped the actions of policy elites. Thus, he demonstrates how nationally popular ideas can both orient background cognitive assumptions and influence the kinds of foreground discursive claims elites use

in educational debates (Campbell 1998). Mehta's work builds on analyses of other policy arenas, like welfare and affirmative action, that detail how culture shapes the political interests of federal policymakers (Skrentny 2006; Steensland 2006).

We need to know much more about how actors in positions of power are both constrained by ideas and utilize cultural resources in educational policy debates. I add to this literature by investigating how ideas matter for actors in the important policy domain of state-level battles over charter schools. I document how state-level policymakers utilized discursive resources to forestall charter proponents wielding nationally popular ideas.

The Source of Policy Ideas. Attempts to understand *how* ideas matter for actors beg the question of *where* divergent ideas come from in the first place. Scholars have predominantly focused on one source of ideas used in educational policy battles: the national political culture within which actors operate.

Stevens (2001), for instance, shows how homeschooling movement organizers drew attention to the uniqueness of all children and the inability of intrusive bureaucratic public schools to attend to their needs. Because the frames used by homeschooling actors were based in appealing, abstract American values, they resonated with a broad audience and helped spur the homeschooling movement. Irvine's (2002) analysis demonstrates that impassioned local actors' discourse around sexual education emanated from the tremendous rise in power of the religious right since the 1960s. The Christian right's power, she argues, grew as national actors focused attention on sexuality—long an issue more conducive to arguing against, rather than for, in the United States. Drawing from a salient issue in the U.S. political culture helped fuel the rise of the religious right nationally, which in turn shaped the discourse utilized by actors in local-level sex education battles.

Charter school proponents used efficiency and equity frames based in core aspects of U.S. political culture—where did their opponents' discursive resources come from? Prior work does not provide an explanation for the source of state-level ideas that diverged from nationally popular reform movements. The core contribution I make in this article is to present a conceptual framework for an additional source of ideas in education battles. I argue that the discursive resources charter opponents utilized were based in unique state institutional configurations I term "educational ecosystems." Distinct from the abstract national political culture, I point to how actors used frames deployed in prior state-level battles and how the combination of a range of state-level policies formed educational ecosystems that made additional kinds of cultural resources available. Educational ecosystems were formed through the development and legacies of at least four interrelated educational policies: educational finance reform, accountability, desegregation, and the social geography of school-district boundaries.

Educational finance rulings open possibilities for legislators to enact changes to shrink the funding disparities between districts and provide better education for disadvantaged students (Paris 2010). State accountability testing policies signal dedication to quality practices, particularly since the publication of *A Nation at Risk* (Mehta 2013). Lengthy federal desegregation orders can reshape district boundaries and institutionalize practices that integrate schools, which can become politically popular (Orfield and Frankenberg 2013). The geographic composition of school districts shapes the relative heterogeneity of families within schools, key to the reputation of districts (Wells et al. 2009).

In combination, the legacies of these distinct policies shape the existing discursive repertoires from which state actors draw to name problems with the state's schools and to frame solutions. My work advances our understanding of how policy legacies shape discursive resources in two ways. First, I demonstrate that the connection between past policies and the policy in question is institutional as well as cultural. Differences in multiple earlier education policy battles resulted in unique state educational ecosystems during the time charter school battles were fought. The discursive resources actors used to turn back charter school initiatives emerged from the institutional arrangements that were created from a range of prior educational policy decisions as well as directly from the frames deployed by actors in prior policy battles. Prior research has focused on educational actors' use of cultural resources, especially popular frames, made available from past policy battles (e.g., Davies 1999). My research identifies a new way prior educational policy battles shaped the charter school debate: The institutional legacies of a range of prior state-level policies made possible new discursive resources that actors utilized to turn back charter school appeals.

Second, I show that a much wider constellation of education policies has a consequential influence on school reform battles than scholars have commonly noted as core to their explanatory frameworks (Binder 2002; Davies 1999; Mehta 2013; Stevens 2001; for a notable exception, see Ryan 1999). I show, for example, that the legacies of policies seemingly unrelated to charter schools, such as school desegregation and school finance reform, matter for the outcome of charter school debates.

The Constitutive Influence of Ideas. By highlighting the origin of ideas in state historical-institutional factors, I borrow the concept of "discursive institutionalism" from political sociology (Beland 2005; Schmidt 2010) and bring it into the analysis of education policy development. The central insight of this work is that rather than culture being a separate force (Elkins and Simeon 1979), culture is constitutive with other political and institutional dynamics in determining policy outcomes (Anderson 2008). For example, as prior diffusion frameworks demonstrate, the political factors of Democratic control and teachers' union strength influence charter policy adoption (Renzulli and Roscigno 2005). Identification of ideational factors does not dismiss political factors. On the contrary, political actors utilize cultural resources in charter debates. At the same time, cultural factors cognitively shape actors' assumptions about a state's educational system. Thus, ideational factors, together with particular state-level institutional and political factors, combine to explain the processes leading to variability in policy adoption.

The discursive institutionalism analytic framework I utilize can nicely supplement existing diffusion models to help us better understand variation in policy passage across states. This is particularly useful in examining education policy because national reform proposals continue to clash with unique state educational ecosystems (Cross 2010; Manna 2011). More dedicated attention to how political actors navigate unique educational ecosystems is vital to better understanding policy adoption variability.

Why is it important to investigate two straggling states in the march toward charter schools' seeming inevitability? Washington adopted charters in 2012, and Kentucky could adopt charter schools in the coming years. Charter bills have been advanced in Kentucky but were turned back in the 2013 and 2014 legislative sessions. My analysis is important because in-depth comparative studies of negative cases are an especially fruitful area for conceptual development (Ragin 1997). Washington and Kentucky did not adopt a nationally popular reform nearly a quarter century after charters were first adopted and years after almost every other state adopted charters. By understanding how this happened, I provide new insights into the role of ideas in educational reform battles.

Overall, the contributions I make (1) detail how ideas are utilized in charter school battles; (2) conceptually and empirically demonstrate a key source of ideas, located in state-level educational ecosystems; and (3) supplement existing diffusion explanations by adapting the concept of discursive institutionalism to educational policy development.

METHODS

I use comparative-historical narrative analysis to trace the contrasting processes of charter policy adoption between the two cases (Mahoney 1999, 2004). I analyze a variety of textual data sources (newspaper articles, gubernatorial and mayoral speeches, documents and websites of reform groups, education-related court cases, and major state education legislation) to document the discourse surrounding charter schools and public education. I focus on nearly 1,400 newspaper articles discussing charter schools in particular, and school choice more generally, in the major newspaper in the urban hub of each state: the *Seattle Times* and Louisville's *Courier-Journal.* I analyze large urban areas because school choice advocates routinely target cities as necessary places for reform (Carl 2011; Ryan 2010). The outcomes of battles over charters in central cities are key to state-level adoption of school choice reforms.

Newspaper coverage reflects "what elites are thinking and doing" and, more specifically, how actors frame their argumentation, which affects citizens' viewpoints (DiMaggio, Nag, and Blei 2013:573). Media coverage is less privy to insiders' background conversations, but it does nicely capture the dominant policy discourse. I use newspaper coverage to gather a running record of the key events surrounding the debate over charter schools and how actors viewed charter and public schools in the two states. I use

gubernatorial and mayoral speeches to more fully trace the way elected leaders talked about public and charter schools over time and how they characterized state education legislation. I analyze the framing of problems with schools and proposed policy solutions put forth by reform groups active in the charter school debates in each state. I investigate important education court cases and legislation to understand how policy outcomes may have shaped the battle over charter schools. I analyze the period from 2002 to 2012 to understand how the two states resisted charter schools after (1) the overwhelming majority of states had already adopted charter school legislation and (2) charter schools were adopted in key federal education policies (NCLB and RTTT).

I conducted my analysis at four levels. For each article and speech, I did a qualitative discursive analysis focusing on themes, frames, and characterizations of problems and solutions based on the master frames for education (choice, quality, efficiency, and equity) found in extant exemplars of comparative education policies across states (Marshall, Mitchell, and Wirt 1989). I analyzed each paragraph within the documents to detail which master frames actors used. I also noted the relative support actors demonstrated for charters or the existing public schools. Second, I listed key factual details and then separately noted accompanying analytic questions and comments about the facts. In doing this, I compiled a lengthy chronological list of details of the policy battles in the two states. Third, I generated detailed timelines and lists of policy actors for each state. Here, I reduced the lengthy chronological lists from each state into the most essential elements of the debates and categorized actors by their level of support for charters. Finally, after each analysis session I wrote detailed analytic memos to refine my explanatory framework.

Throughout the analysis, I focused most intently on elected and appointed leaders, particularly their direct statements. I also paid careful attention to recurring outside groups and actors, in addition to newspaper editorials and endorsements; I paid less attention to citizen opinion letters. I gave "thick" periods of analysis, where charters were heavily debated and legislation was advanced, the most analytic weight. Throughout the decade, there were actors on both sides of the charter debate in each state. Within this variability, I paid close attention to the overall prevalence of different discursive frames and the range of actors that enacted the discourse. For instance, in the early years of my analysis of Kentucky, a free-market think tank called the Bluegrass Institute sounded key problems about public schools and trumpeted charters as a necessary alternative. Yet no other key actors shared these operating assumptions, and various actors dismissed the credibility of the Bluegrass Institute. I thus concluded that the group's discourse was marginal to the central discursive patterns in Kentucky.

ANALYSIS

Historical Background of Washington

In 1978, Seattle became the first major U.S. city to voluntarily begin desegregation busing. While various kinds of integration efforts continued until the early 2000s, Seattle was never under a court-mandated desegregation plan. King County contains 19 additional school districts surrounding the urban district of Seattle Public Schools (SPS). In 1976, state courts ruled in favor of SPS, which sued the state for failing to properly fund the public schools. The legislature responded by passing the Basic Education Act in 1977, establishing a minimum level of state funding for all schools. Yet state funding waned in the decades since, with Washington consistently ranking poorly nationally. Finally, Washington began assessing student learning through statewide testing in the late 1990s.

Washington's Long Battle Ends in Adoption

From 2002 through 2004, charter advocates signaled key problems with the quality of Seattle's public schools, particularly for disadvantaged students. For instance, during an SPS board meeting to discuss charters, Urban League of Metropolitan Seattle president James Kelly argued, "This [year] is the 50th anniversary of Brown vs. Board of Education. We still have a school system that is divided and savagely unequal."[1] The Gates Foundation funded a 2003 report highlighting poor graduation rates in Washington.[2] The *Seattle Times* editors and columnists regularly portrayed key problems in SPS.[3]

Charter proponents argued for legislation to offer choices for students in the bureaucratic public system. In the 2003 and 2004 legislative

sessions, Senate Education Committee chair Steve Johnson (R) sponsored charter bills. In particular, he was interested in how charters could make the system more efficient: "We know what competition does to most of us. It sharpens what we do. Empowering parents with the authority to choose schools prompts all schools to improve."[4] A coalition of Democrats backed the charter efforts, including House Education Committee chair Dave Quall who summed up his support by saying, "historically, the Democratic Party has always supported causes that support people of color. I'm doing what I've always done. I'm a supporter of the underdog."[5] Charter school efforts were voted down by the legislature in 2003, but a March 2004 bill narrowly passed that allowed for the creation of 45 schools over the next six years. Outgoing Democratic governor Gary Locke pledged he would sign the bill "reserved" for schools to mainly serve disadvantaged children.[6]

Charter detractors met the legislation with fierce resistance before and after passage. The Seattle school board passed a heated resolution against any charter legislation.[7] In an op-ed responding to the charter legislation, board president Mary Bass argued that charters were a "dangerous, unproven experiment that will threaten the progress that Seattle and other districts have made toward . . . innovation, student diversity, school autonomy, and academic excellence."[8] Charter opponents argued that alternative policies were necessary to continue to improve SPS. For instance, Washington Education Association (WEA) president Charles Haase harshly critiqued charters in a 2004 op-ed: "They represent a dangerous distraction from the real threat to continued school improvement in our state: inadequate, unstable funding."[9]

Charter advocates panned the actions of the Seattle school board and their supporters. For instance, a *Seattle Times* editorial dismissed the board's "rookie mistake" resolution against charters: "The knee-jerk position is an affront to legislators and educators who have studied the issue for years and are crafting bipartisan legislation that aims to benefit some of the state's most disadvantaged students."[10] The Center for Reinventing Public Education at the University of Washington also came down hard on the district's board. Associate director Robin Lake argued that "if nothing changes, the district will continue, by virtue of inflexibility and neglect, to drive away new school possibilities for low-income children. If not charter public schools, what is the board's solution? Families making choices today are waiting."[11]

Anticharter actors were undeterred. WEA's 76,000 members voted overwhelmingly to file a referendum against the charter legislation.[12] Over a few short months, WEA formed a coalition called "Protect Our Public Schools" and collected more than 100,000 signatures to place Referendum 55 on the ballot in November 2004.[13] The incoming gubernatorial Democratic candidate Christine Gregoire campaigned against the charter legislation. Key Democratic lawmakers, including former Senate education chair Rosemary McAuliffe, also fought against charters, pointing particular attention to the prior referendum failures of charters in 1996 and 2000.[14]

Leading up to the November ballot, this coalition of charter opponents was outspent by a group of prominent donors. Bill Gates, Don Fisher, Jeff Bezos, John Walton, and other noteworthy names contributed to the nearly $4 million raised by charter supporters. Charter opponents, in contrast, raised just over $1 million.[15] Yet in November, voters overturned the charter legislation by a wide margin through Referendum 55, voting down charters for a third time in nine years.[16]

What explains charter opponents' success in 2004? Powerful individuals and groups backed the already-passed charter legislation and highlighted key problems with SPS, yet charter detractors were still able to succeed. I point attention to charter opponents' ability to wield credible alternative solutions in 2004, in the form of (1) already passed but unfunded initiatives, (2) current district polices, and (3) new funding proposals that fell by the wayside by 2012.

In November 2000, voters passed two ballot initiatives to increase funding for schools to (1) decrease class sizes in public schools (Initiative 728) and (2) increase teacher salaries (Initiative 732).[17] Yet the legislature never acted upon the initiatives, due in part to unanticipated budget deficits. An SPS board member, along with a local superintendent, published an op-ed summing up their position:

> We know that smaller class size, a well-qualified educator in every classroom and effective instructional practices provide quality results. . . . Voters know this, too. That is why voters approved two initiatives to fund these very things in Washington's

> public schools. Instead of fully funding the education initiatives passed by the voters, the Legislature passed a charter-school bill that takes money away from our public schools.[18]

In early 2004, the League of Education Voters (LEV) introduced Referendum 884 to raise state sales tax by 1 percent to increase education funding. This proposal was backed by Governor Gary Locke as a core part of his desired legacy. While Locke supported the 2004 charter school legislation, he also pushed for increased funding for public schools. For instance, in his 2004 State of the State address, Locke said,

> Building a world-class education system requires funding. The investment required to take our education system to the world-class level is significant but absolutely necessary. The funding source must be dedicated, permanent and stable. That's why I've challenged the education community to develop the Washington Education Trust Fund. And that's why I will champion this effort. It's time for our state to properly fund education.[19]

Finally, SPS had a long-standing tradition of school choice within the district. In the early 2000s, Seattle continued to have a popular school choice plan and used it to integrate schools. For instance, board president Mary Bass argued that SPS remained "committed to policies that will foster diversity throughout our system . . . designed to voluntarily draw a diverse student body into a school community, rather than forcing students together through mandatory busing or leaving them isolated within homogeneous neighborhoods."[20]

Detractors of charter schools effectively presented alternative solutions to problems within SPS based on already passed, but unfunded, legislation; ongoing district policies; and a current initiative backed by the governor.[21] Actors argued that SPS offered important choices that allowed disadvantaged children schooling options, and they were committed to improving the quality of schools through greater funding.

While charter detractors were victorious with passage of Referendum 55 in November 2004, each of their alternative solutions was turned back. Voters rejected Referendum 884 in November 2004, and the legislature never fully funded the 2000 initiatives. As I will show, SPS's popular school choice plan was greatly diminished in the coming years.

Declining Trust in SPS. Following the 2004 referendum against charter legislation, another legislative charter proposal did not arise for several years. However, charter supporters took advantage of two key events highlighting the deteriorating quality of SPS between 2005 and 2008: (1) school closures and choice plan reductions in SPS and (2) a 2007 U.S. Supreme Court decision removing SPS's authority to use students' race in school assignment decisions.

SPS faced a projected $20 million budget shortfall for the 2006 to 2007 school year.[22] Washington ranked 42nd in the country in per-pupil spending, and *Seattle Times* reporters pointed to the inefficient management of SPS in recent years.[23] SPS superintendent Raj Manhas and the school board began to formulate a two-part plan to deal with the deficit: closing schools and canceling, or greatly reducing, the district's school choice plan. Seattle had not closed a school since 1989, but seven closed in 2006 with more proposed closings coming in 2008.[24] These closings were met with protests by parents and teachers outside multiple schools.[25]

Citizen concerns about school closures merged with additional worries about limitations to the long-standing choice program.[26] Parents of students attending special programs were particularly vocal. One such alternative program, Garfield High School, educated 400 gifted students bused from around the district. Parents fiercely resisted Manhas's proposed reassignment of these students to their respective neighborhood schools.[27] While the Garfield High School proposal was shelved, other reductions to the choice plan were ultimately implemented. These restrictions in choice contributed to the overall dip in perceived quality for the district noted throughout the *Seattle Times* coverage. For instance, a columnist wrote,

> I left this week's standing-room-only meeting feeling dispirited. My daughter enters Seattle public schools next fall. I am a product of the public system. I believe strongly in its ideal—that all kids deserve a shot at a great education. But like thousands of parents in this city, I'm lucky to have the means to send my daughter somewhere

> else if I have to. I have a choice. The late superintendent John Stanford used to say that the city's schools can't afford to lose the people who have a choice. Now it feels like they're saying they can't afford to keep us.[28]

On June 28, 2007, in *Parents Involved v. Seattle*, the U.S. Supreme Court ruled that student race could no longer be used as a factor in assigning students to schools. In the early 2000s, SPS's integration policy gave priority to students who would improve the racial profile of a school.[29] These integration efforts were challenged by the group Parents Involved in Community Schools, who argued that children were being denied access to public schools. Kathleen Brose, president of the group, wrote following the U.S. Supreme Court decision,

> We told the School District in 2000 that the use of the race of a student to decide to assign our ninth-graders to a high school was illegal, unconstitutional, immoral and just plain wrong. Our children were denied entrance to certain high schools because of their skin color, and both nonwhite and white children were affected by this racist policy. . . . The case started in Seattle and now has impacted every school district in the nation.[30]

Following the initiation of the lawsuit, SPS dropped the use of racial assignment, pending the lawsuit's result. The Supreme Court decision in 2007 ensured that racial integration would no longer be part of district policy.

School closures, reduction in the choice plan, and removal of integration efforts all weakened SPS's supporters. Charter supporters, in contrast, began to rally support, particularly in light of the developments in SPS. For instance, a research fellow at Stanford's Hoover Institute wrote an op-ed following the court decision, arguing that SPS must put diversity concerns on the "back burner" in favor of charter schools, which are "simply put . . . the best hope for narrowing urban achievement gaps."[31] Bill Gates also seized the opportunity:

> Washington is one of the most inhospitable states in the country for educators who want to give new ideas a chance. Our foundation works with an innovative group called KIPP—the Knowledge Is Power Program. . . . KIPP would like to work in Washington state, but it can't. Unlike 40 other states in the country, Washington does not allow charter schools—so the government can't give KIPP permission to run its model here. . . . If we have the will, we can make Washington a world leader in education and economic growth for the 21st century.[32]

Charter Advocates Finally Succeed. From 2009 to 2012, charter proponents took advantage of three developments that contributed to their eventual success in adopting charters in November 2012. First, the Obama administration announced the RTTT competitive initiative. Second, multiple events occurred in SPS that signaled the declining quality of the district. Third, in January 2012, the Washington State Supreme Court ruled the legislature was underfunding the public schools and thus was in direct violation of the state constitution.

RTTT gave states the opportunity to apply for billions of dollars through a competitive federal grant program based on a number of criteria, including the adoption and expansion of charter schools.[33] All the finalists in each round of RTTT allowed charters, with the exception of Kentucky. In President Obama's first education speech in March 2009, he noted that any limits on charter schools were not "good for our children, our economy, or our country."[34]

Washington had no success in the RTTT program; it was one of nine states not to submit an application in the first round, with Governor Christine Gregoire acknowledging the state would likely not be competitive.[35] Key RTTT criteria, including enhanced teacher evaluations and merit pay, had long been opposed by Washington Democrats and the teachers' union. Additionally, legislation was passed in 2009 to scale back testing requirements for high school graduation, a move fundamentally opposed to the criteria in RTTT.[36] Washington applied in the second round of RTTT in 2010, but it was not named a finalist. Charter advocates expected the results. A *Seattle Times* columnist called them "unsurprising."[37] The executive director of LEV noted, "we started behind, and we offered less."[38] Legislators attempted to move forward with various kinds of educational changes, but these efforts were not enough to ultimately garner RTTT funding.[39]

At the same time, several events helped to further portray SPS as lacking in quality. First, 165 of Seattle's newest teachers were laid off based on union seniority rules. This led a group of irate citizens to file a petition about the state of SPS, which included comments like,

> Wake up and see how union refusal to consider merit is damaging the profession and our kids. . . . We are extremely frustrated about policies that make little sense that are eroding the quality of the schools. . . . Teacher unions are an anachronism . . . an insult to our intelligence as parents.[40]

Second, SPS adopted a new student assignment plan whereby students' home locations would determine where they went to school, further reducing choice options and increasing the homogeneity of students within schools.[41] Third, SPS superintendent Maria Goodloe-Johnson was fired in March 2011 over a financial scandal.[42]

Finally, in *McCleary v. Washington*, the Washington Supreme Court ruled in January 2012 that the state was in violation of constitutionally guaranteed minimum school funding. This was a long-sought victory for WEA and others who had pushed for increased funding for years.[43] The *McCleary* ruling gave the legislature six years to develop changes; however, it came at the beginning of a statewide election year, and no substantive progress was made during 2012 to respond to the ruling. Even so, *McCleary* pushed education to the forefront of the gubernatorial debates and opened a policy window for charter advocates to once again argue for the need for charters.

One week after the *McCleary* ruling, a group of Democratic and Republican lawmakers introduced a charter school bill. Cosponsors of the bill, Steve Litzow (R) and Eric Pettigrew (D), made their case in an op-ed:

> The state Supreme Court recently answered a question . . . by ruling that state government isn't doing enough to fund basic education. . . . So let's ask another question that acknowledges the realities of our state's situation: Without breaking the bank, can the Legislature do anything during its 60-day session to move toward the world-class K-12 system our state needs while taking a giant stride to close the "opportunity gap" and offer hope to parents and children who feel trapped by low-performing schools? . . . These public charters would be free, optional and open to any student in Washington. . . . The ultimate answer to the McCleary decision is to fund education first. In the meantime these . . . proposals would complement, not conflict with, the reforms . . . cited by the justices.[44]

Other charter supporters rallied support for the cause. Robin Lake of the Center on Reinventing Public Education testified in a House panel, "After 20 years, I think charter schools have a proven track record."[45] Arguing for the immediate need for charter schools, Pettigrew described his childhood growing up in a poor area of Los Angeles with a single mother: "I think there are a lot more Eric Pettigrews we are leaving on the table every day."[46]

Charter detractors, like WEA president Mary Lindquist, countered that the charter proposal was "a distraction from the real debate and not a full-funding solution."[47] Governor Gregoire vowed to veto any charter school bill.[48] Senate education chair McAuliffe refused to call a vote on the charter school legislation, ultimately killing the bill.[49]

Unlike in 2004, when charter legislation was passed and then overturned via ballot referendum, the opposite scenario played out in 2012. A coalition of groups and powerful actors gathered 350,000 signatures, placing Referendum 1240 on the November ballot.[50] This coalition included LEV, which had opposed charters in 2004. LEV cofounder Lisa McFarlane explained that President Obama's education platform made her rethink her position. She wished "more kids could have [the option of charters]. The resistance feels silly."[51] This position was echoed by top Democratic donors[52] and highlighted in the *Seattle Times* endorsement of the Republican candidate for governor Rob McKenna.[53]

Prominent procharter donors spent heavily on Initiative 1240, with Bill Gates, Alice Walton, and others amassing nearly $11 million.[54] As in 2004, anticharter actors were heavily outspent. SPS, WEA, and other labor groups fought back against charters, noting how they distracted from the *McCleary* decision.[55] Even though SPS's math and English test scores were above the state average (Office of Superintendent of Public Instruction of Washington 2012), Initiative 1240 passed by a narrow margin, allowing charter

schools in the state.[56] A *Seattle Times* editorial captured the sentiment of key charter supporters leading up to the vote:

> Washington state is failing too many of its 1 million public-school children. . . . Debate about K-12 education after the *McCleary* decision focuses too narrowly on money. Figuring out how public schools can serve students more effectively is just as central to the education-reform conversation. . . . Washington has had some success boosting academic performance, but not enough to stem the widening gap between education opportunities for white students and those for minority and low-income students. . . . To cure that omission, voters should approve Initiative 1240.[57]

Historical Background of Kentucky

Louisville was under a federal desegregation order from 1974 to 2000. Prior to the desegregation order, multiple different public school systems operated in the county surrounding Louisville. Following the order, one countywide metropolitan district, Jefferson County Public Schools (JCPS), was formed.[58] After a 1989 state court school-finance decision, the legislature enacted the Kentucky Educational Reform Act (KERA). This legislation made core changes to state funding of schools, prompting continued funding increases over the next decade (Hunter 1999). KERA also established an advanced state testing accountability system more than a decade before NCLB.

Kentucky's Continued Resistance

While procharter advocates effectively framed Seattle's schools as failing from the outset, actors in Louisville rejected attempts by charter advocates to characterize JCPS in negative terms. Prior to RTTT, nearly all the prominent education actors in Kentucky expressed confidence in the state's schools generally and JCPS specifically.

For instance, Kentucky's Commonwealth Accountability Testing System (CATS) was ranked near the top of the nation for multiple years by *Education Week* in the mid-2000s.[59] CATS began after the passage of KERA in 1990, which elected leaders continued to point to as a sterling accomplishment. For instance, Governor Paul Patton's (D) 2003 State of the State address proclaimed,

> I've said it before and I'll say it again, the Kentucky Education Reform Act is the greatest display of statesmanship and confidence in the people of Kentucky that I've seen in my lifetime. . . . By every gauge available, Kentucky schools are better, much better, than they were; and they're getting better every day. . . . Our students are now performing above the national average in math, science, and language arts; who would have ever thought that that turn-around could happen here in Kentucky, the state that twelve years ago could only say "thank God for Mississippi."[60]

During the same period in which SPS was closing schools, the JCPS board was approving plans to build new schools.[61] This was part of long-term growth in student enrollment, and the district neared 100,000 students by 2008.[62] *Courier-Journal* editorials routinely portrayed JCPS as a quality school district that was particularly attentive to disadvantaged students. For instance, in response to NCLB test results identifying numerous schools within the district as needing improvement, editorials panned the NCLB results as inferior to the CATS results and an inaccurate reflection of the quality of the public schools:

> This state has adopted higher than average (and higher than required) academic standards, which are now hurting instead of helping its schools' reputation. . . . These problems especially penalize an urban district like ours in Louisville. The Jefferson County schools are widely recognized as doing one of the best jobs in the nation in meeting the challenges of urban education. Years of state and national tests document steady gains. . . . The No Child Left Behind solutions don't fit Jefferson County any better than the ratings. The supposed remedy for schools that fall short is to allow their students to transfer elsewhere. But Jefferson County already has an elaborate school choice system. . . . None of its students fit the conservative rhetoric of being "trapped in a failing school." They are all there by choice.[63]

Throughout the 2000s, the Bluegrass Institute, a free-market think tank, promoted charter schools and deployed frames that substantively differed from the operating assumptions of state actors

regarding the quality of Kentucky's public schools. The institute, along with some local pastors, argued that JCPS was a deteriorating school district and was turning its back on disadvantaged minority children.[64] They proposed charters as a necessary alternative to a school system in which students were being completely "left out" of the process.[65] The Bluegrass Institute's director Jim Waters argued,

> Permitting charter schools allowed to operate free of the stranglehold of teachers unions and other defenders of educational failure offers a reasonable way of addressing these deficiencies while allowing poor and minority students the same educational opportunities as those from families with bigger paychecks. Fifty years ago, our nation had soldiers standing in the doorways of public schools to ensure that little black boys and girls could learn alongside little white boys and girls. Now, school bureaucrats, politicians and editorial boards stand in the doorways of failing schools, seemingly determined to keep children especially black girls and boys trapped in Kentucky's deteriorating education system.[66]

Starting in 2005, the Bluegrass Institute attempted to gather 100,000 signatures to push the legislature toward charter schools. Yet by 2007 they had only gathered "a couple thousand" signatures.[67] No lawmaker sponsored a charter school bill until 2009. The Republican governor Ernie Fletcher did not mention charter schools once in any of his State of the State addresses from 2004 to 2007. The institute's position on the public schools and their proposals were roundly dismissed. For instance, Terry Hibpshman, a database analyst for the Kentucky Education Professional Standards Board, responded to a Bluegrass report saying, "I have a lot of respect for the institute. I'm very conservative, personally, and I share a lot of their politics. But I thought their study was flawed to the point of being misleading."[68] The president of the Jefferson County teachers' union, Brent McKim, said, "[The Bluegrass Institute has] no credible academic or educational background to warrant discussion."[69] Editorials by the *Courier-Journal* written in response to the Bluegrass Institute excoriated the prospect of charters, with titles like "Charters Fall Short,"[70] "The Missing Facts,"[71] and "Charter Schools' Mirage."[72] A 2005 editorial explained, "The institute consistently uses skewed, selective and distorted data to push its free-market political agenda and to deny the extensive evidence of Kentucky's education progress."[73]

JCPS's managed choice plan. Throughout the 2000s, JCPS operated a countywide "managed choice" assignment plan whereby families were offered a variety of school options and student racial characteristics were used to integrate schools. As in SPS, a group of parents filed a lawsuit against the district claiming their children were being discriminated against because of their race.[74] But unlike SPS, JCPS left their district policy in place up until the 2007 U.S. Supreme Court decision.

Following the ruling, key JCPS actors fought to continue something similar to their previous plan in the short term, while developing and then implementing new plans for integrating schools in the following years. Testimony from the Civil Rights Project's director Gary Orfield early in the trial proceedings argued that if the policy was suspended "people would lose all sense that the schools were reasonably equivalent."[75] JCPS board member Linda Duncan noted that "this community does value and know the importance of their kids coming together to learn."[76] Jefferson County PTA president Paul Wolf argued, "Our neighborhoods are not integrated. Until they are . . . the school systems should be integrated."[77] JCPS superintendent Sheldon Berman stated, "This community really values an integrated school system. It is a core value within Jefferson County. We will find some creative ways to continue to model that."[78]

Some parents fought back against JCPS's intended plan, filing lawsuits specifically citing the lengthy bus ride times their children were enduring.[79] Yet these lawsuits were ultimately turned back by state courts. Berman and his staff, buoyed by support from Louisville mayor Jerry Abramson and NAACP president Rauol Cunningham, undertook months of work with the school board to develop new solutions following the court ruling.[80] Using individual students' racial characteristics was deemed against the law, so JCPS used census neighborhood characteristics to continue its long-standing integration efforts.[81] Berman rejected plans of assigning students to their neighborhood schools, saying such plans would "segregate our schools, not just by race, but by income and other socio-economic factors."[82]

In Seattle, charter school supporters highlighted SPS's decision to end its managed choice policy after the 2007 Supreme Court decision to direct attention to the problem of disadvantaged children's being trapped in poor-quality public schools. JCPS, on the other hand, reaffirmed that the public schools were maintaining policies focused on disadvantaged students, helping to delegitimize charter supporters' arguments in the policy battles to come.

Legislative Charter Battles Begin. Following the initiation of RTTT, key educational actors in Kentucky began to devise ways to improve Kentucky's application for the sizeable federal grant. In 2009, Terry Holliday, the newly appointed Kentucky education commissioner, said his top priority was to make Kentucky an RTTT winner.[83] The Gates Foundation gave Kentucky a $250,000 grant to aid in preparing its RTTT application.[84] A key portion of Kentucky's application was Senate Bill 1, passed by the legislature in 2009. Backed by the teachers' union and Democratic governor Steve Beshear, Senate Bill 1 updated CATS with a new system of standards and testing. CATS had been a key sign of quality and accountability for Kentucky schools since KERA, but Senate Bill 1 allowed Kentucky to be the first in the nation to adopt Common Core standards in math and language arts, a key nationally recognized validator of rigorous accountability at the time.[85] Conversely, during this same period, Washington was scaling back accountability testing for students.

In March 2010, Kentucky was named one of the 16 finalists for the first round of RTTT funding.[86] In addition to new accountability provisions passed in 2009, the legislature passed House Bill 176 at the beginning of the 2010 legislative session, which allowed public school systems more options to improve low-performing schools.[87] The decisive legislative action was rewarded by a federal grant of $56 million from the Obama administration, and it bolstered Kentucky's RTTT application.[88] Commissioner Holliday declared that "thanks to the support of Gov. Beshear, the House and the Senate, along with local school officials, school boards . . . across the state, Kentucky will lead the nation in the next wave of educational improvement."[89] House Education Committee chairman Carl Rollins (D) explained that the law accomplished two things: "First, it makes our application that much stronger, but just as importantly, the speed in which it was enacted also shows federal officials just how committed we are to taking our schools to the next level."[90]

Yet Kentucky was not named one of the winners for the first round of RTTT funding, finishing ninth overall. Federal review comments of Kentucky's application noted a key limitation, saying, "the state has been viewed as a pioneer in school reform and innovation for many years, but receives no points because it has no charter school law."[91] The results came in March 2010, while the legislature was still in session, occasioning a legislative debate of charter school bills introduced by Representative Brad Montrell (R). Education commissioner Holliday and others noted how the adoption of charter schools would have aided Kentucky's RTTT application and how much it would aid its second round application.[92] A charter school bill barely passed the Senate, but it was never voted upon in the House. Representative Rollins argued, "I'm not going to do something bad for the state just because the federal government wants us to."[93] A *Courier-Journal* editorial strenuously objected to the charter bill:

> The fact is that in Kentucky, we already have many of the advantages of charter schools—but they exist within the public education system. . . . In Jefferson County, the wide array of choices provided for students has proved to be appealing to parents and also to businesses, which consider the quality of public education when making choices about where to locate. Unpersuasive is the argument that, if Kentucky had already approved charter schools we would have been ranked higher to qualify for funding under the Race to the Top program, the results of which were announced earlier this week. While it is true that having charter schools could have boosted the state's scores significantly in this particular competition for federal aid, there are many other changes in the education pipeline that make officials optimistic Kentucky can move higher in the next round. The fact is that charter schools, as an experiment, have not delivered the kind of results their adherents claim for them.[94]

Later in 2010, Kentucky was named a finalist in the second round of RTTT but once again did

not win. Key actors cited the lack of charter schools as a core reason for Kentucky's failure. For example, Education Commissioner Holliday acknowledged that "if we had charter schools, we'd be in the money."[95] Charter supporters, including Senate president and gubernatorial challenger David Williams (R), used the results as a rallying point to propose another charter bill at the beginning of the 2011 legislative session.[96] This time, however, charter proponents merged the charter schools bill with another proposal to mandate that all parents be allowed to enroll their children in the public school nearest to where they live.[97] Charter advocates were responding to some parents' continued concerns about the new student assignment plan put in place by JCPS following the 2007 *Parents Involved v. Seattle* decision. Williams argued, "I'm a great believer in diversity, and I have a long history of supporting and enhancing civil rights issues. The best thing you can do for any child is get them a quality education. Putting these kids on buses for hours on end does not necessarily accomplish that goal."[98]

This combined Senate bill was met with harsh resistance and turned back in the legislature. Louisville NAACP president Raoul Cunningham said, "The bill will resegregate the Jefferson County Public Schools system—there is no question and no doubt about that."[99] State senator Gerald Neal (D) also opposed the bill, arguing that "diversity is a high priority, because we are trying to become a community of one, we are trying to overcome the legacies of the past, we are trying to sweep it away."[100] The JCPS superintendent and board expressed heavy opposition, noting, among other things, that the financial costs of moving back to neighborhood schools would be "hundreds of millions of dollars."[101] Superintendent Berman noted that "the kind of chaos this would create is extraordinary."[102] Governor Beshear and Representative Rollins both argued that school assignment decisions had long been the provenance of local school districts and should continue to be.[103]

While Senator Williams and others pointed to some parental concerns about bus ride times, JCPS worked with Gary Orfield, director of the Civil Rights Project, to survey JCPS parents across the district. They released a report in early 2011 that cited overwhelming support for JCPS's assignment plan, with 90 percent of parents believing that diversity benefitted their children educationally and that the district's plan should "ensure that students learn with students from different races and economic backgrounds."[104] Longtime JCPS director of student assignment Pat Todd explained, "Since 1975, we've had multiple opportunities to go back to neighborhood schools. But this community has done the soul-searching and was always willing to stay the course."[105]

In December 2011, Kentucky was awarded $17 million in the third round of RTTT—this round went to states that had previously been finalists but had not been awarded funding.[106] Yet charter advocates were undeterred. Another charter bill was filed for the 2012 legislative session by Representative Brad Montrell (R).[107] This time, a new nonprofit organization called Kentuckians Advocating Reform in Education began to run television and radio ads to support charters.[108] In an op-ed the group argued, "It will be a surprise to some Kentuckians, but not to others, that opponents of change have quite effectively blocked any attempt to have serious conversations about charter schools. Unfortunately, their blockades have come at the expense of thousands of at-risk children who have for decades not been served well by traditional public schools."[109]

Once again, the charter bill died in the legislature.[110] Instead, a "Districts of Innovation" bill was passed to allow public school districts, including JCPS, enhanced flexibility in attempting to further innovate and provide excellence for students.[111] The legislature entrusted Kentucky public schools to continue improvement at the expense of charter school supporters.[112] This occurred even though "objective" evidence showed that JCPS was performing poorly. JCPS's math and English test scores were below the Kentucky state average (Kentucky Department of Education 2012), whereas SPS's scores were above the state average during the same time. Yet charter supporters in Kentucky were unable to use this evidence to effectively cast JCPS in a negative light. Instead, as JCPS teachers' association president Brent McKim noted,

> There are much better ways than charter schools to promote innovation. The Jefferson County Public Schools are at the center of creativity and bold initiative, launching high-quality programs for students, such as many successful new magnet schools. This has only been possible because our community has come together to support JCPS. The fragmentation and disruption

> created by charter schools would only undermine the community's efforts to create powerful programs in an equitable way.[113]

CONCLUSION

Charter proponents in both states used similar kinds of equity and efficiency frames to present charters as a necessary solution. However, charter advocates varied in their ability to name public education as a problem in the first place. Charter supporters eventually successfully established the problem in Washington: poor-quality bureaucratic public schools, particularly for the most disadvantaged students. Conversely, in Kentucky, nearly all the key actors dismissed attempts by charter advocates to name the public schools as a problem in need of a solution, instead characterizing Kentucky schools as quality institutions. These differences in problem framing are core to understanding the variability in charter adoption between the two cases.

How can we make sense of these differences? I argue that actors drew discursive resources from the unique educational policy histories in their states. In Kentucky, the landmark 1990 KERA reshaped the landscape of public education in the state. Schools were funded more equitably, and an advanced testing accountability system was enacted. Additionally, the long-standing federal desegregation order in Louisville formed a unified, countywide metropolitan school district. On the other hand, school funding in Washington waned for decades in advance of the passage of charter schools. Washington was relatively late in adopting statewide testing. And while Seattle was a leader in voluntarily integrating schools through busing, SPS remained isolated as the city school system surrounded by many other districts in the Seattle metropolitan area.

These quite different policy histories shaped assumptions and provided discursive resources for actors. Yet they did not predetermine outcomes of the charter battles in the two states. Without actors' continued fight against charters throughout the 2000s, the legacies of past policies would never have been enough to forestall charter supporters. In particular, actors in Kentucky took advantage of opportunities to continue to advance other educational reforms as alternatives to charters. For instance, in an attempt to further improve the popular CATS system developed under KERA, Kentucky was the first state in the nation to adopt nationally recognized accountability standards. Likewise, Kentucky responded quite differently to parents' lawsuits over student assignment. While SPS ended its integration policy, JCPS implemented innovative new ways to integrate schools across the district. Actors in Kentucky continued to make the case for the quality of the public schools, using a language of achievement and diversity.

My analysis demonstrates how institutional factors constitutively combined with frames deployed by political actors. Charter advocates won support with a wide array of policy elites across the nation by naming key problems in public education and framing charters as the solution. Understanding how states varied from the national pattern entails an analysis of the discourse charter detractors utilized, the political actors and groups that rallied together to reject charters, and the state institutional context in which the battles took place.

There are two potential alternative explanations for the charter adoption differences: the referenda process and the strength of outside groups. First, Washington has a referenda process whereby citizen groups can amass signatures to place initiatives on the ballot, thereby superseding the traditional legislative process. Kentucky does not have a similar process. Can this explain the comparative differences in adoption? Charter advocates utilized Washington's referenda process in 2012 to ensure charter adoption. Yet in 2004, the referenda process was the sole avenue charter opponents had to turn back the adopted charter legislation. Thus, the referenda process was utilized to undermine *and* aid charter proponents. Second, comparative differences could be explained by the presence of powerful groups, like the Gates Foundation located in Seattle. Yet this explanation on its own cannot account for why Washington resisted charters for more than two decades in the first place. More specifically, Gates and other large donors heavily outspent charter detractors in the 2004 referendum battle in Washington, but voters still overwhelmingly turned back charter schools.

In this article, I document the public battles over charter schools in the two states. I argue that analyzing actors' discourse and tracing its sources to unique institutional configurations is important to understanding patterns of policy adoption across the United States. Future research

should document actors' insider perspectives in charter school (and other educational reform) battles by conducting in-depth interviews to refine the framework I present. For instance, future scholarship could expand the analysis of charter school resistance to the battles in the other seven states that do not currently have charter school laws (Center for Education Reform 2014). Or scholars could analyze other education reform domains to test whether the educational ecosystem factors I identify shape the possibilities for actors in other education policy battles.

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Author Biography

Joseph B. Johnston is a PhD Candidate in Sociology at Indiana University. He studies the comparative/historical development of educational policies that contribute to, or reduce, inequality.