

NOVEMBER 2023

A Growing Industrial Complex

In the 1990s, some people viewed charter schools as a way to experiment with teacher-led and/or non-traditional educational strategies. But others saw charter schooling as an initial step towards opening the nation's largest public institution to free market forces. In many—if not most—states that allow the private ownership and operation of “chartered” schools, policymaking has been dominated by those who subscribe to this free market agenda.

Newly created businesses now offer every imaginable service or product to charter schools, including staffing, transportation, food services, curriculum, and more. As charter schools purchase from these entities, public dollars provided to schools are diverted to private, for-profit businesses and entrepreneurs. And because many state legislatures have exempted charter schools from regulations and oversight designed to guard against profiteering, the charter school marketplace is thriving.

One of the largest opportunities for profit is in real estate. The purchase, development, and financing of facilities for charter schools has become a lucrative industry, buoyed by public financing and the preferential credit lines and interest rates that come from the semi-public status of charter schools.

Today, while public messaging may tout the alleged popularity of charter schools and supposedly long waiting lists for charter seats, many believe that the *profitability of the market*—not parent demand—is driving charter school growth.¹

This brief introduces the basics of how real estate development has become a major force behind the expansion of charter schooling. After a short overview, we focus on the proliferation of “related entities” transactions, which make up some of the most egregious examples of real estate profiteering. We close with a few recommendations for reining in some of the worst practices in charter school real estate.

Why Real Estate?

One of the most significant challenges facing a prospective charter school operator is finding an appropriate facility. Many charter schools are forced to open in spaces unsuited for their purpose—including storefronts in strip malls, old warehouses, and church basements.

Acknowledging the challenge, every state that allows charter schools offers at least one—and sometimes many—funding and financing programs to support facilities development. These include direct state allocations for facilities,

¹ Black, Derek. W, Bruce D. Baker, and Preston Green. (2019, March 7). “Education Law Prof Blog: Charter Schools Exploit Lucrative Loophole That Would Be Easy to Close.” The Conversation. <https://theconversation.com/charter-schools-exploit-lucrative-loophole-that-would-be-easy-to-close-111792>

preferential access to under-utilized district facilities, state capital grant funding, loan programs, and eligibility for various bond programs. There is also federal support, including access to New Market Tax Credits and a grants pool through the federal Charter Schools Program designed to make it easier for charters to access private-sector capital to acquire, construct, and renovate school facilities. Finally, private philanthropy has stepped up to help: The Bill & Melinda Gates Foundation, the Daniels Fund, and the Walton Family Foundation all have programs to support charter schools in their search for adequate facilities.²

This combination of secure public funding, grants, and preferential financing options has attracted a large and growing network of nonprofit and for-profit corporations that leverage these various funding streams on behalf of charter schools. They portray their efforts as charitable: supporting children and schools. But make no mistake: They are making significant returns on their investments. Indeed, the *Wall Street Journal* dubbed charter school real estate “a new niche asset” in 2015.³

There are several troubling aspects to this growing market in charter school real estate. Any new market relies on the promise of growth to keep investors interested. This one is no exception. Public school districts conduct extensive demographic studies to project whether and where new schools are needed. Yet, in most jurisdictions, prospective charter school operators are not required to show that there is actually a need for additional school seats. In fact, many charter schools open in communities or school districts that are already confronting declining enrollments and unused space. The charter school movement is not trying to meet a demand for more classrooms. It is creating a parallel system of publicly funded schools. Thus, market growth can be assured as long as the potential exists for charter schools to peel off increasing percentages of the nation's 50 million public school students.

“I’m a real-estate developer; I don’t know the first thing about running a school.”

—James M. Huger, being honest with prospective parents at his Lafayette Academy charter school in New Orleans in 2006.

In addition, the lack of adequate regulation and oversight of the business side of charter schooling makes it attractive for forward-thinking investors. Many of the sparkling new facilities paid for with public funds will end up in private hands. There’s money to be made now, and there’s money to be made later. What investor wouldn’t be drawn to this opportunity?

Altruism— or Profit?

Multiple interests have been drawn to charter school real estate brokering as a lucrative portfolio.

Nonprofit real estate development corporations have been founded with an exclusive focus on charter school facilities development. Though officially nonprofit (and tax exempt) under the law, some of these entities handle tens of millions of dollars annually, and pay their CEOs handsomely.

Several major private equity firms have set aside hundreds of millions of dollars for the purchase of properties that can be converted into charter schools and then leased or sold to the schools at a competitive rate of return for their investors.⁴

Local banks are finding that lending to charter schools for the renovation or purchase of facilities space is a financially safe bet and boosts their claims of “service to the community.”

► *continued*

² Abraham, Reena, et. al. (2014, September). “2014 Charter School Facility Finance Landscape.” Local Initiatives Support Corporation. https://www.lisc.org/media/filer_public/59/38/5938b90b-07cc-411c-845f-431f50a4682e/2014csflandscape.pdf

³ Grant, Peter. (2015, October 13). “Charter School Movement Grows—for Real Estate Investors.” *The Wall Street Journal*. <https://www.wsj.com/articles/charter-school-movement-grows-for-real-estate-investors-1444750383>

⁴ Ibid.

Conflicts of Interest

The sector can be especially lucrative for both institutions and individuals when their interests are represented inside charter school decision-making bodies like boards of directors or authorizers.

▶ In the District of Columbia, Tom Nida was a senior vice president of United Bank from 2004–2016. Through his work, the bank built a substantial portfolio of lending to charter schools to help them find and renovate school buildings.

Nida also served as the chair of the DC Public Charter School Board (PCSB) from 2004–2010. The PCSB authorizes the opening, closing, and expansion of charter schools in the District. In his professional role with United Bank, Nida arranged for loans from the bank to charter schools. In his volunteer role at the PCSB, Nida approved proposals for the expansion and relocation of charter schools, sometimes with the help of loans from his bank.

For example, when the Elsie Whitlow Stokes Public Charter School wanted to move to a larger and more modern facility in Northeast DC, they applied for and received a \$7 million loan from United Bank. Despite community opposition to the school's move, the PCSB (with Tom Nida at the helm) approved the loan, which promised hundreds of thousands of dollars in interest payments to United Bank.⁵

A *Washington Post* investigation found that United Bank had lent more than \$55 million to charter schools, their developers, and landlords since Nida had begun working at the bank.⁶ Indeed, in a primer he wrote for the banking industry, Nida called his lending to charter schools “the most profitable piece of my portfolio.”

His work wasn't only profitable for the bank: Nida told the *Post* that the bank paid annual bonuses based on the amount of loan business generated by bank officers.⁷

Nida and other lenders and investors believe they are acting altruistically when they help charter schools improve their facilities, pointing to reports of superior academic outcomes at charter schools and long waiting lists of parents clamoring for charter school seats. Unfortunately, the reality contradicts both arguments. In fact, on average, charter schools do not outperform traditional public schools.⁸ And they are much less stable, with more than a quarter of charter schools closing within five years, and nearly half closing within 15 years.⁹ As for the often-touted lengthy charter school waiting lists? They've been shown time and again to be substantially inflated.¹⁰ Regardless of these facts, the sparkling appeal of investing in children while at the same time earning yourself or your company a solid return has made the charter school real estate market an extremely popular one.

Some investors, however, appear to be far more focused on personal gain than on the chimera of educational excellence.

Exorbitant Leases

Nearly half of all charter schools are part of a corporate chain with a parent company known as a charter management organization (CMO).¹¹ The CMO provides services to anywhere from two to well over 100 affiliated schools. Those services can include hiring, professional development, staffing, contract management, and many more. Some CMOs employ “sweeps agreements,” where virtually every penny allocated to the (nonprofit) schools is handed over directly to the CMO.

⁵ Fallis, David S. and Witt, April. (2008, December 14). “Public Role, Private Gain.” *The Washington Post*. <https://www.washingtonpost.com/wp-dyn/content/article/2008/12/13/AR2008121302079.html?hpid=topnew>

⁶ Ibid.

⁷ Ibid.

⁸ Burris, Carol. (2023, July 19). “In Fact or Fallacy: NPE Critiques Latest CREDO Report.” Network for Public Education. <https://networkforpubliceducation.org/wp-content/uploads/2023/07/In-Fact-or-Fallacy-CREDO-Report-1.pdf>

⁹ Strauss, Valerie. (2020, August 6). “New report finds high closure rates for charter schools over time.” *The Washington Post*. <https://www.washingtonpost.com/education/2020/08/06/new-report-finds-high-closure-rates-charter-schools-over-time/>

¹⁰ See Welner, Kevin and Miron, Gary. (2014, May). “WAIT, WAIT. DON'T MISLEAD ME! NINE REASONS TO BE SKEPTICAL ABOUT CHARTER WAITLIST NUMBERS.” National Education Policy Center. https://nepc.colorado.edu/sites/default/files/nepc-policymemo_waitlists.pdf and Childress, Greg. (2021, April 16). “Charter school waitlist data is inflated; exact number of students is unknown.” NC Newsline. <https://ncnewsline.com/2021/04/16/charter-school-waitlist-data-is-inflated-exact-number-of-students-is-unknown/#:~:text=%E2%80%9CAfter%20lottery%20results%2C%20families%20choose%20a%20single%20school,an%20accurate%20reflection%20of%20demand%20for%20charter%20schools.%E2%80%9D>

¹¹ Miron, Gary, Charisse Gulosino et al. (2021, February) “Profiles of For-Profit and Nonprofit Education Management Organizations.” National Education Policy Center (NEPC). <https://nepc.colorado.edu/publication/emo-profiles-fifteenth-ed>

In return, the CMO—which can be and often is a for-profit entity—manages every aspect of the school, and the school’s public funding.

CMOs are private corporations that operate well outside the regulatory constraints of public school districts in many states. That is particularly true when it comes

to competitive bidding rules and conflict-of-interest rules that govern public agencies. In states where the regulatory landscape for charter schools is the least constraining, this can lead to opportunism and profiteering.

Most charter schools lease their buildings, using a portion of their public funds to pay rent. These arrangements can, however, be predatory:

- ▶ National Heritage Academies (NHA) operates over 100 schools in nine states, including Michigan and Ohio. The Ohio schools lease their buildings from the Charter Development Company (CDC), a for-profit subsidiary of NHA.

In 2019, the Auditor of the State of Ohio investigated NHA’s charter empire¹² and found a complex web of profiteering off the charter schools’ public funding.

NHA-owned schools sign what are known as “absolute net leases” with the NHA-owned development company. An absolute net lease means that, in addition to paying rent, the schools themselves are responsible for property taxes, insurance, structural and non-structural maintenance, and “any other costs associated with the property.” Yet even though the schools are responsible for all of these costs in addition to rent, the audit found that NHA schools were paying some of the highest lease-per-square-foot rates in the state—well above average market prices.

The money that charter schools pay for their facilities comes from the school’s operating budget. The more a charter school spends on its facilities, the less is available in the classroom. The audit in Ohio found that National Heritage Academies schools and other large charter chains in Ohio have been allocating more than twice as much of their public funding towards facilities than other charter schools in the state. “This is public money spent on rent rather than student education,” the Auditor wrote.¹³

Related Party Transactions

In a deregulated charter school market, it is not unusual for a single owner or group of owners to hold the license to one or more charter schools, a charter management organization, a real estate company, and even an investment company, all doing business with each other in a closed loop not easily visible to the public.

- ▶ Alim Ansari owned a 3-acre piece of land in Weslaco, Texas that includes a house and a school building. Ansari is the superintendent of that school—Horizon Montessori Public (charter) school, along with three other charters in the area. The superintendent lived in the house, and leased the building to the school, collecting \$168,000 a year in rent in 2020. In 2022, he sold the property for \$1.9 million to South Texas Educational Technologies for more than twice its appraised value. South Texas Educational Technologies is a charter management organization that now holds almost \$13 million in land/property assets and pays its chief executive officer—Alim Ansari—a comfortable six-figure salary (along with, apparently, free housing).¹⁴

▶ *continued*

¹² Yost, David, Auditor of State. (2019, January 10). “Public Interest Report: Community School Facility Procurement.” Auditor of the State of Ohio. https://ohioauditor.gov/AuditSearch/Reports/2019/Community_School_Facility_Procurement_Public_Interest_Report.pdf

¹³ Ibid.

¹⁴ McKinley, Edward; Eric Dexheimer. (2023, January 22). “Lax Texas charter school law allows splashy land buys, profits for leaders.” *San Antonio Express News*. <https://www.expressnews.com/politics/article/laws-Texas-charter-school-profits-DRAW-Horizon-17723803.php>

“This is public money spent on rent rather than student education.”

—Ohio Auditor of State, 2019

- ▶ Academica is a for-profit charter management organization founded in 1999 by Fernando Zulueta, a Florida real estate developer. Zulueta opened his first school as part of a housing development his company constructed. Seeing the potential, he went on to build an empire of over 200 schools in six states. Each school operates in a facility purchased or leased from Academica Charter Schools Facilities, LLC. If a particular school needs funding to buy a property, they can apply for a loan from Academica Charter School Finance, LLC.

According to a report by the Network for Public Education (NPE), by 2010, Zulueta and his brother Ignacio controlled more than \$115 million in Florida tax-exempt real estate alone, with their companies collecting about \$19 million in annual lease payments.¹⁵ As in Ohio, many of the charter schools paid rents well above market rates, according to an internal audit by Miami-Dade County Public Schools in 2006. The report outlines an extensive web of related party transactions among the Zuluetas and other family members.¹⁶

- ▶ Glenn Way founded American Leadership Academies (ALA) in Arizona in 2009. He now operates a dozen ALA charter schools across the state, enrolling over 8,000 students.

Like the Zuluetas in Florida, Way also owns a real estate development company and a finance company. These companies bought the land and built most of the facilities that now house the ALA schools. Way collects mortgage and interest or lease payments from Way's schools at rates determined by Way's finance company. Those payments are made with public, taxpayer dollars provided by the state.¹⁷ *The Arizona Republic* found that Way has netted as much as \$37 million through real estate deals associated with his chain of charter schools.¹⁸

Converting Public Money to Private Assets

In as many as 22 states, it is possible for privately-owned for-profit corporations to purchase a charter school building with public funds and/or incentives, and then, should the school close, assume ownership of the building and its contents.¹⁹ With between a quarter and half of all charter schools closing within 15 years, the question of who owns the assets of a failed charter is a significant one.²⁰

- ▶ In seeking to discontinue their management contracts in 2010, the governing boards of ten Cleveland charter schools managed by White Hat Management filed suit when White Hat refused to provide in-depth financial records showing how the schools' public dollars had been spent. White Hat's agreement with the schools required them to turn over 95 or 96 percent of their public funding to White Hat, and stated that, should the schools close or not renew their contract, all the property associated with the school, including facilities, computers, textbooks, and furniture, belonged to White Hat. The schools lost that suit, with the Court ruling that the contract, as written, was enforceable.²¹

California laws also allow charter school buildings that are constructed through conduit bonds (municipal bonds issued for large scale projects that benefit the public) or with funding through the New Market Tax Credit program to become the private property of the charter operator if the school is closed down. "Neither the state nor a local school district can take control of this property," wrote Gordon Lafer in a report for In the Public Interest.²²

¹⁵ Burris, Carol and Darcie Cimarusti. (2023, February). "Chartered for Profit II: Pandemic Profiteering." Network for Public Education. <https://networkforpubliceducation.org/chartered-for-profit-ii-pandemic-profiteering/>

¹⁶ Office of Management and Compliance Audits. (2006, November). "Investigation of Allegations of Impropriety: Mater Academy Charter Schools and Academica Corporation." Miami-Dade County Public Schools. https://mca.dadeschools.net/%5C/AC_Reports_0607/AC_1-30-07/MATER%20ACADEMY%20REPORT_REVISED11-2-06.pdf

¹⁷ Harris, Craig. (2018, July 11) "Arizona charter school founder makes millions building his own schools." *The Republic*. <https://www.azcentral.com/story/news/local/arizona-education/2018/07/11/american-leadership-academy-charter-school-founder-glenn-way-nets-millions/664210002/>

¹⁸ Ibid.

¹⁹ Burris, Carol. (2022, April). *Public Schooling in America* [dataset]. Network for Public Education. <https://networkforpubliceducation.org/public-schooling-in-america/>

²⁰ Strauss, Valerie. (2020, August 6). "New report finds high closure rates for charter schools over time." *The Washington Post*. <https://www.washingtonpost.com/education/2020/08/06/new-report-finds-high-closure-rates-charter-schools-over-time/>

²¹ Hope Academy Broadway Campus v. White Hat Mgt., L.L.C., 145 Ohio St.3d 29, 2015-Ohio-3716. <https://www.supremecourt.ohio.gov/ROD/docs/pdf/0/2015/2015-Ohio-3716.pdf>

²² Lafer, Gordon. (2017, April). "Spending Blind: The Failure of Policy Planning in California Charter School Funding." In the Public Interest. <https://inthepublicinterest.org/report-the-failure-of-policy-planning-in-californias-charter-school-facility-funding/> (p. 37)

Regulation Does Not Impinge on Educational Quality

Charter advocates argue that schools will better serve children if they are freed from the “burden” of undue regulation. Many states exempt charter schools from laws that are designed to protect taxpayers from the misuse of their tax dollars—regulations like open meetings laws, prohibitions against conflicts of interest in business dealings, and requirements about competitive bidding for publicly funded projects. But these guardrails affect *business* transactions, not the quality of an academic program.

Real estate interests have taken advantage of the largely deregulated charter school sector and have a stake in its continued expansion. If the sector stops growing, these deals dry up.

In the meantime, as the number of charter schools continues to rise, watchdogs at the local level should keep an eye on charter school facilities issues, to understand or identify opportunism within the district. For example:

- Find out who serves on the governing boards of local charter schools. It is common to find realtors or bankers on these boards. Sometimes individuals will serve on multiple charter boards.
- If there are realtors, bankers, or investors on charter boards (or on the boards of authorizing agencies), find out whether their companies are doing business with the school or schools.
- Pay attention to which banks are lending to charters and which construction companies are building their schools. Ask to see contracts, or at minimum, minutes from Board meetings where contracts were discussed and approved.
- Find out what agencies in your district are in charge of monitoring business compliance with conflict of interest and/or procurement laws. Even if charters are not covered by those laws, go on record with your concerns!

On the policy side, researchers are calling for new regulations—and stronger enforcement—to curb the incidence of related party transactions and self-dealing in charter real estate.

University professors Derek W. Black, Bruce D. Baker, and Preston Green, in a 2019 article exploring the ways that charter school operators and their subsidiaries siphon off public dollars meant to educate children, recommend some straightforward policy changes that would help protect the public interest. They suggest:

- prohibiting charter school owners and operators from leasing and purchasing property from related companies;
- requiring state officials to audit facility purchases and leases for irregularities; and
- giving charter schoolteachers and employees whistleblower protections and a financial reward to alert the public to abuses.²³

Gordon Lafer, in a report on California’s charter school sector, suggests:

- prohibiting payment of above-market leases with public dollars, and requiring schools to report on lease payments; and
- disallowing the use of public funds to pay mortgages on privately-owned property.

Some lawmakers are taking action as well. After a scathing exposé by the *San Antonio Express News* about self-dealing in the charter school real estate world (it was this exposé that uncovered Alim Ansari’s story, among others),²⁴ the Texas legislature in 2023 passed a new law exempting charter schools from certain zoning or city planning regulations in exchange for requiring more transparency in real estate transactions and restrictions on self-dealing.²⁵

²³ Black, Derek. W, Bruce D. Baker, and Preston Green. (2019, March 7). “Education Law Prof Blog: Charter Schools Exploit Lucrative Loophole That Would Be Easy to Close.” *The Conversation*. <https://theconversation.com/charter-schools-exploit-lucrative-loophole-that-would-be-easy-to-close-111792>

²⁴ McKinley, Edward; Eric Dexheimer. (2023, January 22). “Lax Texas charter school law allows splashy land buys, profits for leaders.” *San Antonio Express News*. <https://www.expressnews.com/politics/article/laws-Texas-charter-school-profits-DRAW-Horizon-17723803.php>

²⁵ McKinley, Edward. (2023, June 28). “New Texas law requires more transparency from charter schools after Hearst report on self-dealing.” *Houston Chronicle*. <https://www.houstonchronicle.com/politics/article/texas-charter-school-self-dealing-hearst-report-18171737.php>

The California State Assembly is considering legislation to require related-party charter school facility owners to give other public education providers the first right-to-purchase or lease a closed charter school facility at cost. The legislation would further require that, if no public entity purchases or leases the former charter school facility, a certain amount of the net proceeds from the sale of the building must be returned to the State.²⁶

When taxpayers, through their elected representatives, approve the use of their money to fund a parallel system of semi-public schools, they should be assured that their dollars won't be gobbled up by real estate developers charging above-market rates and self-dealing to the tune of millions of dollars in profits. Investments in the education of our children should be spent on educating children.

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Further Reading

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²⁶ California State Assembly, AB1604. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1604

Examples of Charter Chains with Real Estate Arms

- **Academica:** Academica Charter School Facilities, LLC, and Academica Charter School Finance, LLC
- **ACCEL Schools LLC:** Global School Properties LLC
- **American Leadership Academy:** Schoolhouse Development, LLC
- **Charter Schools USA:** Red Apple Development
- **Concept Schools:** New Plan Learning, LLC
- **Imagine Schools:** Schoolhouse Finance, LLC
- **National Heritage Academy:** Charter Development Company

Examples of State, Regional, and National Charter School Development Funds

- **Building Hope**
<https://buildinghope.org>
- **Charter School Development Corporation**
<http://csdc.org>
- **Civic Builders**
<https://civicbuilders.org>
- **Equitable Facilities Investment Fund**
<https://eqfund.org>
- **Pacific Charter School Development (PCSD)**
<https://Pacificcharter.org/>

Examples of Private Equity Firms with Charter School Portfolios

- **Northstar Commercial Partners**—Denver, CO
<https://northstarcommercialpartners.com/>
- **Turner Impact Capital LLC**—Santa Monica, CA
Turnerimpact.com
- **Safanad Limited**—New York, NY and Dubai, UAE
<https://safanad.com/>