

TWENTY YEARS LATER:

The Jeb Bush A+ Plan Fails
Florida's Students



The Jeb Bush A+ Plan Fails Florida's Students

By

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COMMON ACRONYMS

AIR	American Institutes for Research
AP	Advanced Placement
ATT	American Telephone and Telegraph
CSA	Charter School Associates
CSUSA	Charter Schools of America
ELA	English Language Assessment
ELL	English Language Learners
EOC	End of Course examinations
ESE	Exceptional Student Education
ESSA	Every Child Succeeds Act
FAIR	Florida Assessment for Instruction in Reading
FCAT	Florida Comprehensive Achievement Test
FEA	Florida Education Association
FEFP	Florida Education Funding Program
FDOE	Florida Department of Education
FLVS	Florida Virtual School
FSA	Florida Standards Assessment
FTCS	Florida Tax Credit Scholarship program for private schools
IDEA	Individuals with Disabilities Education Act
LEA	Local Education Agency
NAEP	National Assessment of Educational Progress
NBER	National Bureau of Economic Research
NCLB	No Child Left Behind
NCSL	National Council of State Legislatures
NGSSS	Next Generation Sunshine State Standards
PARCC	Partnership for Assessment for Readiness for College and Careers (Common Core tests)
PECO	Public Education Capital Outlay
PERT	Post-Secondary Education Readiness Test
PTA	Parent Teacher Association
SBE	State Board of Education
SSAT	State Student Assessment Tests
TPS	Traditional Public Schools
VAM	Value Added Model (average student achievement gain scores over three years)
VPK	Voluntary Preschool Program (state funded preschool four-year old children)

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ABSTRACT

Betsy DeVos, the current U.S. Secretary of Education, [stated](#) in 2018 that Florida's educational system was a model for the nation. Valerie Strauss, an education writer for the Washington Post, claimed that Florida's system is in chaos. For Floridians, politics and education have been intertwined since former governor Jeb Bush introduced the A+ Plan for reforming education in 1998.

The reform was based on a conviction that competition would provide dramatic improvements in educational achievement with little new money. It did not happen. Florida became the first state to have mandatory retention for third graders based on state assessment scores. The resulting jump in fourth graders' reading scores in 2003-4 made national news, but their eighth grade scores went down. Holding third grade students back a year was only a short-term fix for a long-term problem. The A+ Plan used a reward and punishment 'A—F' school grade and bonus system to push up scores. A school choice system of competition was launched. It resulted in reduced funding and cost inefficiencies as the state supported more schools than it could afford.

Twenty years later: The Jeb Bush A + Plan Fails Florida's Students is a report of the impact of school reform on students, schools and teachers. The conclusions are:

Florida's average student achievement is no better and no worse than in 2002. Retained fourth grade students lost their initial gains over time. Eighth graders were at the national average then and are now. The achievement gap for twelfth grade black and white students is wider than in 2002. Florida's graduation rate is below the national average and one half of its graduates do not read at grade level.

Bonus plans, school grades, and teacher evaluations based on student test scores are so unstable that they are not only ineffective but invalid and harmful. They reward those who are already successful. They create 'choice churn' in schools and communities.

Proliferating a cheap, low-quality system of private and charter schools spreads funding too thinly. It is creating serious problems that threaten to undermine confidence in all schools.

Better approaches to student learning surround us. There are magnet programs based on talents and interests, not test scores. There are community schools that bring services into schools where children and families can get support. There are teacher communities working together to help create group projects for students with diverse backgrounds. These projects exist. Finding ways to expand them should get our attention.

INTRODUCTION

Florida's A+ Plan has been Jeb Bush's legacy in Florida. School choice, school grades, rewards, and punishments have driven educational policy since 1998. A counterforce was also created in 1998 when the Constitutional Revision Commission, activated every twenty years, placed Amendment VIII to the Florida Constitution on the ballot. It passed with strong public support to ensure that all students would have equal access to a "uniform, efficient, safe, secure, and high-quality system of free public schools". The intent was clear: no public money to private schools. There has been a tug of war over funding and educational policy ever since, in court and out.

Jeb Bush was elected as a governor bent on dismantling what conservatives called a public-school monopoly. In 2001, Florida's schools were large and crowded. The schools had the largest average number of students in the nation. Only four states had a larger average class size. Promoting privately run charter schools and diverting funding to private schools were supposedly less expensive. Classroom space would increase without raising taxes.

Twenty years later, Florida schools are nearing a fiscal crisis, and awareness of social costs has grown. In the Bush reform, competition among schools and teachers would drive improvements in educational achievement. A dramatic change did occur early on. Florida was catapulted to a top ten national ranking in fourth grade reading. Many in the press, and Bush himself, called it the 'Florida Miracle'. Unfortunately for the students, this competition myth imploded by eighth grade when scores declined. The myth persisted in the political arena, but not in schools. Education became a battleground over funding, needed support for teachers, and the impact of 'choice' on neighborhood schools.

Bush's successors faced a conundrum. Long term economic well being in Florida depended upon attracting a younger, well educated workforce, whose children would require good schools. Schools cost money. While Florida had always been a destination for the wealthy, population growth had been driven by internal migration of older Americans from northern states. Florida was not only sunny, there was no state income tax. Increasing growth fueled the real estate market, but it did little to support education. The legislature was more inclined to cut taxes than to raise them. Nevertheless, there was pressure for change.

Until the 1970s, politicians from northern, mostly rural counties dominated the legislature, and the interests of the citrus, cattle, and sugar industries prevailed. As demography and Florida's economy changed, the old political world was disrupted. Cuban immigration to the Miami area reoriented the state toward the markets of Latin America. Disney World opened and tourism soared. The population boom along both coasts altered the balance of power in the legislature. The state went from 70% white to a majority Hispanic and black students. Sixty percent of children qualified for the Free and Reduced Lunch program.

The way the electoral map was drawn enabled many of the suburban and rural districts to continue to be a force in the legislature. They made strategic alliances to continue low tax rates to attract corporations to the state. Yet, business does rely on an educated work force. How to pay for schools became a central issue. The legislative response was to keep costs low by encouraging the privatization of public schools. A 2006 Florida Supreme Court decision blocked voucher expansion; the legislature then worked around it to create a corporate tax credit donation program to fund private school tuition.

The economic downturn in 2008 hit Florida hard. Real estate values crashed, and the legislature cut traditional public-school funding. Charter and private schools enrollments increased, and traditional public schools began to cut programs. By 2018, twenty-one percent of Florida's children were enrolled in private and charter schools, more than double the rate in 1998. Florida had 654 charter schools with nearly 300,000 students, the third largest number in the nation. Its Florida tax credit scholarships (FTCS) went to 1,700 private schools and were awarded to over 100,000 students. The cap was nearly one billion dollars. Most of these FTCS students attended

small religious schools, not the more selective and expensive private sector schools. Limited funding split among public, charter and private schools ensured schools in all three sectors would remain mediocre.

Florida educators and parents fought back. The Citizens for Strong Schools lawsuit was filed in 2009 to protest the inequities in school funding. The plaintiffs had argued that Florida's choice system failed its constitutional mandate to provide a uniform, efficient...high quality system of free public schools'. In January 2019, the Supreme Court in a contentious 4/3 split [decision](#), rejected the plaintiff's claims. The majority opinion was that the terms 'high quality' and 'efficient' are ambiguous and do not create judicable standards. Education policy and funding are in the domain of the legislature, not the judicial system. Chief Justice Canady said: the plaintiffs "failed to provide any manageable standard by which to avoid judicial intrusion into other branches of government". The minority opinions stated that the majority opinion "eviscerates the 1998 opinion...only time will truly reveal the depth of the injury inflicted upon Florida's children".

A constant stream of other lawsuits reflected the breadth of the issues: tax credit scholarships, an invalid teacher evaluation system, local district control over school funding, charter authorization, 'union busting', merit pay, third grade retention, students with disabilities, state take-over of local schools, teacher certification, and a proposed separate educational system for charters. Schools were caught in an education reform policy that treated them like businesses. They were to figure out how to survive by appealing to specific markets or were allowed to fail. Families and children were faced with making choices based on hype.

The first two sections of the report are a detailed account of the Bush A+ student achievement and school choice plans. The impact of the plans on education financing is the third section. The final section covers the impact of the A+ Plan on students, communities and teachers.

It is critically important to recognize whose interests are being served in this school reform process. School reform had little to do with student achievement and everything to do with money and politics.

PART I. THE BUSH A+ STUDENT ACHIEVEMENT PLAN

In 1999, Jeb Bush presented his [A+ Plan](#) for education to the U.S. House Committee on the Budget even though prophetically little was said about funding it. Florida's A+ Plan has four components to be implemented with "little new monies": first: high curriculum standards with annual testing for grades 3-10, second: an 'A—F' school grade system, third: rewarding success through various bonus plans, and fourth: school choice.

In response, most Floridians rallied for measures in the 'public interest'. Florida voters passed two constitutional amendments in 2002 to restrict class size and to provide a voluntary, free Pre-Kindergarten (VPK) program for four-year olds. The reduction in class size for core courses was to be phased in beginning in 2003 and to reach all classes by 2010. As the school population increased and funding decreased, the Florida legislature redefined 'core courses' to reduce to one third of the number of classes that had to meet the size limits. Districts were fined if limits were exceeded, but many found that it was less expensive to pay the fine.

The VPK program and class size reduction had a similar fate; [funding](#) was inadequate to meet the need. Since being fully implemented in 2005, VPK funding has remained about \$2,300 per student, but the number of students has increased. Unfortunately, about 25% of eligible children, mostly from low-income families, do not attend a VPK program at all. Quality is not universally high for those who do attend. Lead teachers, for example, must be at least 18 years old and only have post-secondary course work in early childhood education.

Academic standards for four-year-old children in VPK, however, have increased, particularly in math. As a result, 43% of the schools [failed](#) to meet the new standards for preparing students for kindergarten compared to 22% in 2013. The increase in math standards required students to count to 31; determine which is more, equal or less in sets of ten objects, and recognize circles, squares, triangles, and rectangles. These standards had not been taught, so lower scores were no surprise.

However well-intentioned the A+ Plan may have been, its implementation has been fraught with problems and controversy. In this first section, perhaps the most compelling evidence of the impact of the A+ Plan on student achievement is at the high school level where standards are high and the graduation rate is comparatively low.

1. Assess Annual Student Learning Against High Standards.

Curriculum standards and their associated assessments specify what students should know and be able to do. They drive the instructional process. In the 80s and 90s, changes in the workforce and growing international competition focused attention on the American educational system. Standards and tests became more rigorous, and the management of their implementation became more centralized at the state and federal level. Curriculum standards were constantly revised, and teaching strategies shifted to adapt to new policies. The apparent spurt in student achievement scores in 2003-4 went stagnant over time.

Curriculum Standards Regularly Grow More Rigorous and Complex. Each introduction of new standards was accompanied by revisions to state assessments. In the 1980s, the Florida State Student Assessment Test (SSAT I) focused on basic skills and was administered in grades 4, 5, 8, and 10. Florida's graduation test, the SSAT II, was first required in 1983. The Florida Comprehensive Assessment Test (FCAT) was based on new, more rigorous Sunshine State Standards adopted in 1996. The FCAT was first administered in 1998 to grades 4, 5, 8, and 11 and then annually after 2000 for grades 3-10.

In 2010, FCAT 2.0 was revised to reflect Common Core standards. In addition to the reading and mathematics tests administered annually in grades 3-10, writing and science achievement were assessed in grades 5, 8, and 10. More and more tests were required by the state in response to federal regulations.

Educational reformers, especially the Jeb Bush ExceleEd Foundation, lobbied in 2014 to set the passing standards at the National Assessment of Education Progress (NAEP) proficiency level amid dire predictions of a wholesale failure rate. If standards were set at NAEP levels, proficiency would represent the academic achievement of the best students. Most students would fail. The final decision was a compromise. The 2014 passing standards for fourth grade reading were set for a 54% passing rate on the FCAT that was equivalent to a 39% proficiency on NAEP. The cut score was higher than the FCAT passing level but lower than the NAEP proficiency level. This focus on test scores changed instruction.

Tests Drive Instruction. The saga of Florida's testing policy is one of trial and error. The important question is whether school grades, teacher incentives, school takeovers, and school choice have done more harm than good. Florida's NAEP scores went up faster than the national average until 2009, and then then went flat. The reason is unclear, but the decline in achievement growth did coincide with the 2009 recession when funding for schools began a decade long drop.

'Too much testing' became the battle cry in 2013. The FCAT 2.0 assessment implemented in 2010 was to be scrapped to make room for the Common Core assessments in 2015. Florida had been the lead state in a consortium of states charged with developing the Partnership for Assessment of Readiness for College and Careers tests (PARCC) to assess the Common Core national standards. In September 2013, Governor Scott withdrew from the PARCC consortium citing federal interference in testing. In 2014, he announced Florida was out of the Common Core. Governor DeSantis, newly elected in 2018, announced the same thing!

Teachers are concerned that the Common Core standards are not age appropriate. The standards themselves are so comprehensive that teachers and even the former Commissioner of Education could not assure that it was physically possible to cover them all within a school year. Parents and educators wanted a moratorium on the use of the Florida Standards Assessment (FSA) scores. The state responded by calling for a study. A.I.R. in Utah, a test development company, was selected to develop new tests and new standards. Small modifications were made to the Common Core standards adopted in 2010. Cursive writing and calculus were added. The name was changed from Common Core to the Florida Standards Assessment (FSA). In the interim, a contract was let to develop essay tests scored in part by computer. The FSA test was to be online. Some funding was provided to upgrade computer labs and internet infrastructure, but in rural areas, implementation was nearly hopeless.

While the furor over Common Core was making news, a Gainesville kindergarten teacher, Susan Bowles poured gasoline on the fire. The state in its frenzy to advance testing had revised the Florida Assessment for Instruction in Reading (F.A.I.R.) kindergarten readiness test to a computer format. A test which used to take a short time to administer now required the teacher to test each student individually on the computer. Some children did not even know how to use a computer mouse and were frustrated. Some cried. Bowles rebelled, went to her principal, and together they went to the superintendent. They all went to the State. The computer version of the F.A.I.R. was withdrawn. Ms. Bowles' experience foreshadowed what would happen in the next few months.

The first administration of the FSA in 2015 was also a fiasco. Comedian John Oliver did a [feature](#) on it. Educators claimed that the implementation timeline was unreasonable. Inadequate servers caused computer failures and constant disruption. Students were funneled into labs over several weeks, and the release of scores had to be delayed. A validity study of the FSA was commissioned, and although the evaluators deemed the test valid, they acknowledged that two-thirds of the test items were not aligned directly with the Florida Standards. Calls for a moratorium by the PTA and others were not heeded. Despite the flaws, the validity study was to be used in the calculation of school grades and teacher evaluations. Many parents and educators were incredulous.

Some parents organized opt-out of testing movements. Florida law, however, mandates that students participate in state assessments. Districts are required to notify parents of consequences of non-participation. Fourteen parents filed a lawsuit when their high performing children were denied promotion to fourth grade for failure

to participate. Parents in Hernando County were denied a student FSA portfolio option to testing, and other districts were charged with acting in ‘a particularly blatant, arbitrary and capricious manner.’ The circuit judge supported the parents. They lost on appeal.

Despite claims to the contrary, the net result of the corrective measures was the elimination of two tests required for graduation and an option to substitute the SAT or ACT for some state assessments. On a positive note, the state assessments were moved to the end of the year to give teachers more time to cover the curriculum, and paper and pencil tests were approved for grades 3-6. The state average passing was 53%, down five percent from 2014. The 2015 passing rate by district in 3rd grade reading ranged from 33-73%. The passing rate rebounded to 57% in 2018 due mostly to the increase from a 53% to 61% passing rate in Miami Dade.

The 2015 legislature responded to the latest crisis by creating a standardized testing [calendar](#) which included required state tests. The eleventh grade English Language Assessment (ELA) and Post-Secondary Education Readiness Test (PERT) were eliminated. Double final course exams were prohibited in favor of statewide, standardized End of Course (EOC) assessments in Algebra I, II, Geometry, Biology I, U.S. History, and Civics. (The Algebra II EOC was eliminated in 2017, and a mandatory recess was instituted.) Mandatory online testing was ended for lower grades. The appearance of less testing was false. Districts had to calculate state mandated student achievement gains for teacher evaluations based on tests. The tests were not required by the state but the evaluations based on test score gains were. It was a ‘catch 22’ situation. Testing dominated the year (see Table I).

Table 1: Standard Florida Testing Calendar Summary

FALL: FSA retake exams	FEB.–MARCH: NAEP and FSA retakes
FALL: Student growth tests	FEB.–MARCH: ESE tests
AUGUST–SEPT: iReady Diagnostics	APRIL: FSA practice tests
SEPT.–NOV: FAIR and Pre ACT	APRIL–MAY: FSA tests
NOVEMBER: EOC tests	MAY: iReady Diagnostics
NOVEMBER: ACCESS for ELL students	MAY: Student growth tests
DEC: iReady Diagnostics	

Florida Student Achievement Gains are Temporary. In 1996, when Florida’s curriculum standards measured basic skills, Florida’s NAEP fourth grade reading scores were seven points below the national average. In 2002, Florida’s NAEP fourth grade reading scores were two points below average. In 2004, the increase in Florida’s fourth grade reading scores made national news.

The sudden spurt in fourth grade achievement scores happened because of a new third grade policy. Governor Bush instituted mandatory retention (i.e. not promoted) in third grade for those who failed the FCAT. In [2002-3](#), fourteen percent of all third graders were retained, nearly twenty-eight thousand children. Since Florida was the first state to have mandatory third grade retention, it is logical that its average scores in a national fourth grade assessment the following year would improve its national ranking. Even in 2018, the National Council of State Legislatures (NCSL) reported that only sixteen states have required third grade retention.

Minority students, especially black students, made the most consistent improvement from 1998 to 2003; their proficiency on the FCAT nearly doubled from 23 to 41% over the five-year period. Black students, however, were also retained at three times the rate of white students. The largest percentage increase in proficiency for all students, regardless of race, occurred in 2004 after third grade mandatory retention was implemented ([see Table 2](#)).

Table 2: Statewide FCAT Reading Scores: Grades 3 and 4

Grade	Pass Rates by Year	Mean Scale Score
	2001 2004 2006 2011	2001 2004 2006 2011
3	57 66 75 72	289 303 313 314
4	53 70 66 71	298 318 314 323

Third Grade Retention Improves Ranking Not Achievement. Holding students back a year based on test scores was controversial, and several research reports were issued. Some researchers attributed the score increases to competition from the private sector vouchers ([Figlio et. al.](#)). More likely explanations come in two recent studies from the [Brookings](#) Institution and another from National Bureau of Economic Research ([NBER](#)). The Brookings Institution [study](#) reported that third grade retention was 13.5% in 2003 up from 2.8% the previous year. In 2012, eighteen percent (36,577) of third graders were held back due to low writing test scores, and only 57% of third graders passed the FCAT math and reading. The authors suggested that even though initial score increases may have been inflated due to student retention, lasting achievement gains if accompanied by targeted remediation strategies like Just Read! Florida could result. The 2017 NBER study followed retained students from 2003 through high school. Their achievement gain was gone within three years. They were, however, less likely to be retained again. There was no impact on their high school graduation rates.

Marcus Winters from the Manhattan Institute evaluated score [data](#) adjusted to measure retention, school grades, class size and the VPK in order to determine which of these factors explained the 2003 jump in the fourth grade NAEP scores. He concluded: *“Though each of these policies have been tied to student test-score improvements, either the effect size is too small, or the policy affected too few students to alone count for the substantial test-score improvements seen on the NAEP and the FCAT.”*

The impact of the retention policy eased over time as ‘good faith exemptions’ from retention were granted to some students based on their classroom work. Nevertheless, combining retentions with ‘good cause exemptions’ meant that fourteen percent of children were eligible for retention in 2002, and twenty percent were eligible in 2018. As standards rose, the failure rate went up. Retention for one year did not replace the need for continuing supplemental instruction. In 2007-09, the rapid increase in Florida’s fourth grade reading scores was over. One-point increases from 2009, after the FCAT 2.0 was introduced, until 2017 were not significant differences. The [graph](#) below shows Florida’s slower growth after 2007.

Figure 1: NAEP Florida Fourth Grade Reading Results 1998-2015

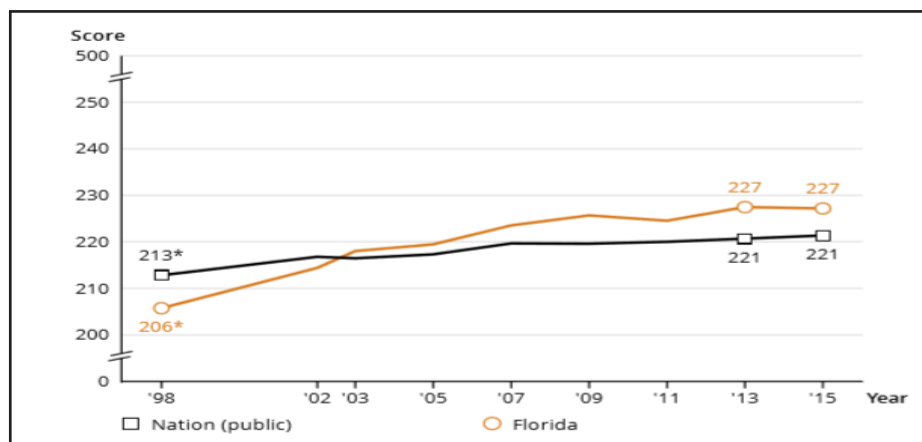


Table 3 [shows](#) the increase in NAEP fourth grade and eighth grade reading achievement between 2003 and 2017. It also shows the drop in achievement for Florida students between grades four and eight. Note the large increase before 2009 and the small, insignificant score increases afterward.

Table 3: Florida NAEP Scores by Grade by Years

Year	Grade	Subject	Rank*	Fla. Avg.	Nation Avg.
2003	4	Reading	33	218	216
2009	4	Reading	11	226	220
2017	4	Reading	6	228	221
2003	8	Reading	42	257	261
2009	8	Reading	31	264	262
2017	8	Reading	26	267	265

*State rankings cluster and are not significantly different for many states. They shift positions regularly.

On a positive note, the achievement gap between black and white students in Florida and in the nation narrowed by about four points in fourth grade reading. There was a difference of 27 points in 2017, and the difference in 1998 was 31 points ([see Table 4](#)).

Table 4: NAEP Black vs. White Achievement Gap: Grade 4 Reading 1998- 2017

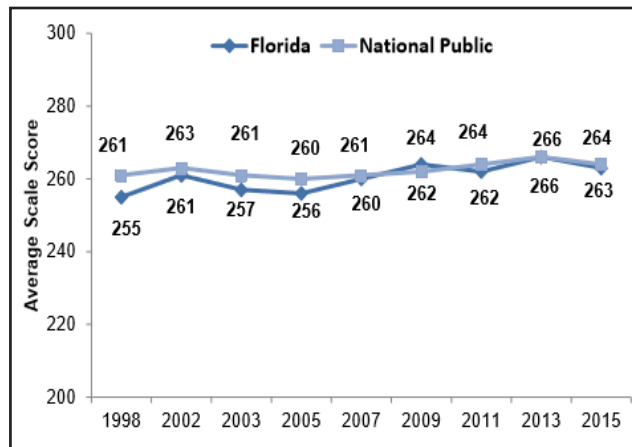
Year	Jurisdiction	Race	Avg. Scale Score	Year	Jurisdiction	Race	Avg. Scale Score
2017	National	White	231	1998	National	White	223
2017	National	Black	205	1998	National	Black	192
2017	Florida	White	239	1998	Florida	White	217
2017	Florida	Black	212	1998	Florida	Black	186

There was no significant difference in the achievement gap for Hispanic students or for students on Free or Reduced Lunch from 2003 to 2015. It did narrow by 2017.

The sudden increase in fourth grade NAEP scores shows that it is possible to change how scores are ranked by changing which students are tested. To change learning, however, takes time. If substantial learning gains for fourth graders had continued until they reached eighth grade, their ranking should have been equally high. It was not.

Eighth Grade Achievement is Stagnant. After 2002, Grade eight NAEP scores declined until 2007, as did the national average. Eighth grade scores remained at or just below the national average through 2017. The fact that scores for eighth grade remained substantially lower than fourth grade is puzzling. Perhaps the intense focus on remedial reading and math for third grade was lost in grades five through eight as skill levels increased, but funding to support struggling students was not provided. Once again, school grades or any other A+ Plan measures did not help the eighth grade ([see Figure 2](#)).

Figure 2: Florida vs. the National Public Average Reading Scale Scores, All Eighth Students



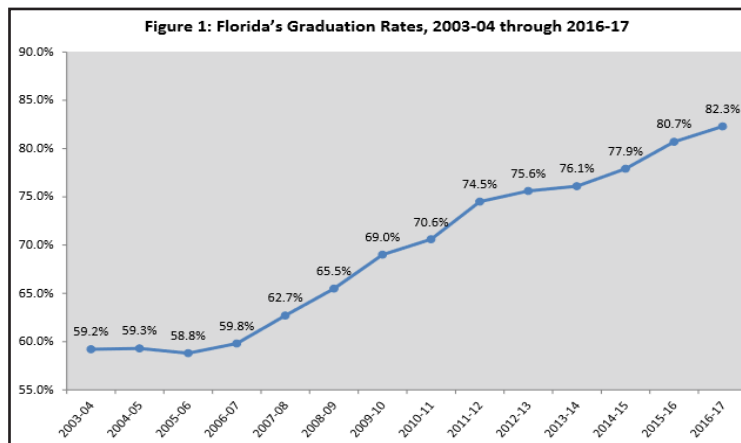
The return of lower performing students from private and charter schools to public schools also may have reduced eighth grade scores. Only about twenty percent of the 107,095 tax credit scholarship students are enrolled in private high schools. Another factor seldom considered was that student retention in middle grades was infrequent but rose in ninth and tenth grade to over eleven percent each year, suggesting that middle school achievement was too low.

The 2015 mega education bill, HB 2069, deleted the requirement that eighth grade students scoring at level one or two on the FSA math and English Language Arts (ELA) exams take a remedial course. The legislature also removed the requirement that high school graduates who failed college level placement tests take remedial courses. Manipulating scores did not improve learning; it resulted in pushing the problems down the road.

School choice studies produce a mixed bag of achievement results i.e. positive, negative, and some with no impact at all, according to David Arsen, a professor at Michigan State University who [reviewed](#) the research. Politifact also [rates](#) Jeb Bush's claims that privatization and competition improved student achievement as 'Mostly False.' As Carolyn Herrington noted in her 2005 policy brief, there is no single causal factor in Florida's small student achievement gains. Florida's low high school graduation rates confirm these assertions.

High School Graduation Rates Are Low. Florida boasts of strong improvements in high school graduation rates. See for example, Figure 3 [below](#), but there is no reason for complacency. The increase in the graduation rate for Florida and the nation was the same.

Figure 3: Florida's Graduation Rates: 2003-04 through 2016-17



Source: Florida Department of Education

In 2015-16, Florida was above 14 states (including the District of Columbia) and one-half of its [graduates](#) did not read at grade level. The Florida Department of Education reported that 80.7% of Florida students graduated from high school. The national average was 84.1%. The previous year Florida was above only nine states. Graduation rates for white students rose from eighty percent in 2012-13 to eighty-six percent in 2016-17, and black students' graduation rates rose from sixty-four to seventy-four percent.

Contradictory outcome measures must have frustrated education policy makers. For example, fifty-four percent of high school graduates failed the college remedial placement test in 2012, despite the glowing reports of rising scores on K-12 state tests. In a curious response, the legislature eliminated the remedial PERT diagnostic placement test. Students were now able to opt out of remediation at the college level even if they were not prepared.

Florida's low graduation rates are now excused by pointing to increases in graduation requirements. In 2010, passing Algebra I and II as well as the FCAT Grade 10 Reading test were required. The EOC exam counted thirty percent of the course grade. The legislature dropped that requirement and added assessment options for students with disabilities. Juggling requirements was no solution for a lagging graduation rate.

Proposals for addressing low graduation rates are emerging in the 2019 legislative session. An alternative vocational certification degree program reduces core credit hours from 24 to 18. The math requirement would be reduced from four to three credits, one of which could be part of the vocational program. The three-credit science requirement remains, but two of the three credits are part of the vocational program. Being 'college and career ready' is redefined.

High school graduation is being accelerated. Schools are rewarded for enrolling students in advanced placement (AP) and dual enrollment programs. Florida leads the nation in AP program enrollments, but one-half of the students fail the exams. Dual enrollment regulations are revised to expedite graduation by expanding online course options. Computer driven blended learning programs allow students to move quickly through programs either for failed course credit retrieval or for accelerated graduation. This flexibility may be important and beneficial for some students, but it is also driven by cost cutting. Fewer years in school cuts state expenditures.

Overall, increasing standards had both a positive and negative impact. Skills formerly taught in high school were moved to middle school. Skills taught in third grade moved to first grade. Instruction changed, but the high stakes consequences of low scores turned teaching into 'test prep' and learning into a chore. The A+ Plan policy was to give rewards and punishments to overcome problems that grade retention could not solve. Even though the legislature has continued to pursue the A+ Plan, it has had to constantly shift course to avoid the public backlash. School staffs are increasingly frustrated, and the public is confused.

Key Takeaways: Florida Student Achievement is Stagnant and Average.

- Florida was the first in the nation to require mandatory third grade retention.
- Fourth grade achievement gains due to retention did not last until 8th grade.
- Eighth graders were at the national average in 2003 and are there now.
- The NAEP achievement gap between black and white twelfth grade students in 2017 is greater than in 1992.
- Graduation rates improved slightly since 1998 but are still ranked low nationally.

2. Define School Performance by School Grades.

Perhaps the key to the initial acceptance of the A+ Plan and also to increased school choice options was due to media attention. The tag line: 'A–F' Grades' was well chosen. It seemed straight forward but hid important problems and consequences.

The 'A–F' School Grade System is Unstable. It is hard to know what 'normal' means in education. Years ago, most people thought in terms of a bell-shaped curve—a few students do well, a few do poorly, and most are in the middle. In the last twenty years, what is 'normal' has changed to 'what is expected.' Students are expected to progressively know more and do more. Performance is constantly measured with a consequent reward or punishment. School grades are the measurement. It is not clear, however, what they have to do with improving school quality. A well-regarded school's grades are subject to frequent change having little to do with teaching and learning. As a result, the calculations for school grades change as validity problems reoccur.

StateImpact reports that Florida has made sixteen changes to the school grade formula since 2010. Standards, moreover, became narrower and deeper. Table 5 documents the changes.

Table 5: Changes in Florida Standards and Assessments

1998: FCAT administered to grades 4, 5, 8, 10.	2012: An extra hour of reading was added for 100 lowest performing schools; the 'A–F' school grade calculation was changed.
2001: FCAT expanded to grades 3-10.	
2002: Learning gains were added to school grades.	2012: The pass rate for FCAT Writing declined from 81% pass to 27%. The passing standard had to be lowered.
2003: Mandatory third grade retention began.	
2005: Students with disabilities and second language learners were added to gain scores.	2013: Florida withdrew from PARCC and Common Core.
2006: Science scores and learning gains were added for low performing students.	2014: NGSSS Common Core standards were renamed as Florida Standards. An extra hour of reading was required for lowest 300 performing schools.
2007: The 'A–F' school grade calculation changed.	
2010: New Next Generation Sunshine State Standards (NGSSS) Common Core was added.	2014: New EOCs and learning gains for alternate assessments were added.
2011: FCAT 2.0: FCAT and Teacher Merit Pay law required the Value Added Model (VAM) student achievement gain scores be included.	2015: The FSA was administered. Scores were delayed. A validity study was required.
2012: EOC exams were phased in for school grades.	2017: The 'A–F' School Grade calculation was changed.
	2019: The governor ended the Common Core again and called for FSA standards revision.

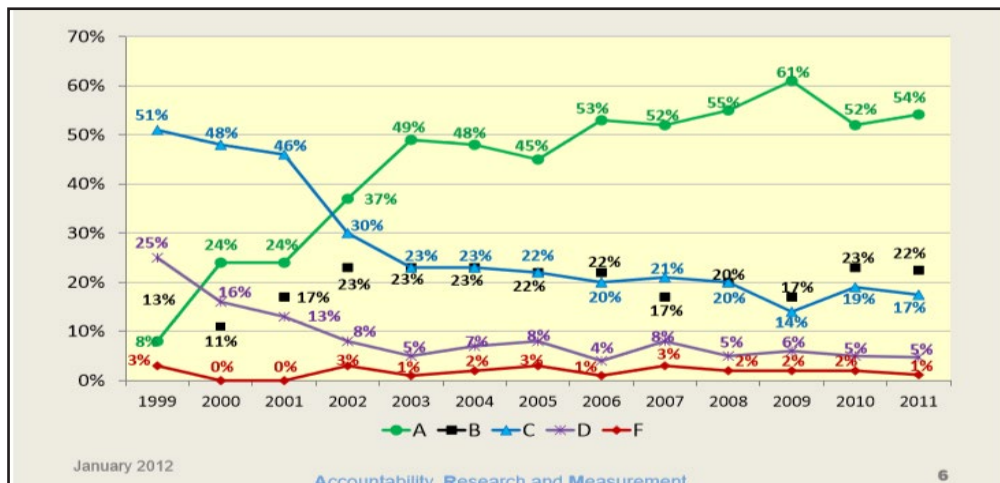
School Grades are Manipulated. The school grade formula varied depending upon the students tested and the use of the scores. In 1999, school grades based on the FCAT scores were first reported for grades 4, 5, 8, and 10. The FCAT was then expanded to include grades 3-10, and those test results were reported in 2001. Learning

gains averaging two years of FCAT scores were reported the following year. FCAT was required for graduation in 2003 and the graduation rate was included in the formula. In 2005, students with disabilities and limited English proficiency were assessed. This added over 240,000 students to the FCAT. FCAT standards were raised again in 2006, and intensive reading was added for low scoring high school students.

Two years later, FCAT science was added. From 2007-2012, Common Core NGSSS and the FCAT 2.0 were adopted. ELA and math tests were introduced in 2010. These additions reflected national concerns over poor U.S. rankings on international achievement measures and the fact that many U.S. high school graduates were placed into college remedial programs.

By 2017, the school grade formula had become so complicated that the Florida Department of Education (FDOE) totally revised and simplified it. 'A' grades became more stable while others continued to move up or down at least one grade. Only sixteen schools had an 'F' two years in a row. In Figure 4, it is almost amusing to see the reverse in 'A' and 'B' grades between 2001-3. There were half as many 'A' schools and twice as many 'B' schools. The schools were not different, but scoring was. The fluctuations continued over the years. What were parents to think?

Figure 4: School Grade Distribution—Graded Schools 1999—2011



Source: Florida Department of Education

The impact of school grades is undeniable; it just is not good. Improving achievement for struggling schools and students was the stated goal at both state and federal levels. Reducing the number of 'D' and 'F' schools was the measure. Failing schools did decrease from 677 in 1999 to 143 in 2006 but increased to 213 in 2010. The lowest number of 'F' ratings in individual years was 143 schools in 2006 but increased to 213 in 2010 and then dropped to 43 in 2018. Were failing schools a problem or not? Most likely, the failure rate was an artifact of invalid grading formulas and political pressure. For example, in 2017, the governor agreed to the Commissioner of Education's (Tony Bennett) suggestion not to count as failing those schools that dropped two letter grades. Bennett later resigned when it was revealed he had ordered inappropriate grade changes as Indiana's education commissioner.

Parents responded to the school grading system by moving their children from one school to another. As enrollments shifted, school grades bounced around even more. Teachers also responded by transferring to schools with higher grades. Complaints were raised that inexperienced teachers were assigned to schools with low grades. In [Figure 5](#), about seventy-five percent of schools retained an 'A' grade both years. Maintaining a grade of 'B' was more unlikely. Only 133 schools, less than a third, received a 'B' both years.

Figure 5: Comparison of Florida School Grades 2007-08

		2008 School Grade				
		A	B	C	D	F
2007 School Grade	A	1,204	189	73	2	0
	B	242	133	79	9	1
	C	94	174	263	38	12
	D	7	23	93	79	7
	F	5	7	33	20	16

Source: Florida Department of Education

School resources were shifted to focus on the lowest performing students. Funding from the federal government's Title I grants, however, did not cover the costs. Therefore, some districts put the funding in the lowest performing schools, but there were low performing students in many schools who did not receive additional support. The state spotlighted schools with persistently low school grades but identifying which schools to target was difficult. School grades were not stable.

In 2012, the lowest 100 schools were required to add an additional hour of reading instruction. Then in 2014 the [lowest](#) performing 300 schools were targeted. In 2018, eighty-six of this group of 300 schools included schools with 'C' or better school grades because there were not 300 low performing schools. Yet, all 300 schools had to implement the extra hour of reading by reducing time for art, music, physical education, and recess.

In 2018, schools with grades lower than a 'C' over three consecutive years were subject to a state takeover. Fifty-three schools were rated as persistently failing over three years. Even that indicator was variable. There were 95 persistently failing schools the year before. The legislative response in 2017 was to mandate recess.

3. Reward Success Through Bonus Plans.

Florida assessments are high-stakes. Successful schools and teachers are rewarded with [bonuses](#). Bonuses are funded from the lottery system passed in 1988 to support public schools. The lottery was sold as an add-on to regular state support. Most of the funding, however, was diverted to the Bright Futures scholarship program for higher education.

School Recognition Bonus. Schools earning an 'A' grade or improving a letter grade receive *School Recognition grants* of \$100 per enrolled student. Over eight years, \$852,688,204 was distributed from Florida Lottery funds. Alternative Exceptional Student Education (ESE) schools receiving a 'commendable' rating or improving at least one level also qualify. The total amount awarded in 2017 was \$129,169,667 to about 40% of Florida's 4,200 public schools. School staff and school advisory councils determine how the money is used. School bonuses have the greatest benefit for 'A' schools. Schools grades in the other categories frequently move up and down making it difficult to allocate money consistently. Some examples are shown below. :

1. Elementary schools saw the largest percentage increase in 'A' schools, with 30 percent (542 schools) of elementary schools earning an 'A' and a subsequent bonus in 2016-17, up from 21 percent (386 schools) in 2015-16.

2. The number of 'F' schools decreased by 61%, dropping from 111 schools in 2015-16 to 43 schools in 2016-17. The 'F' schools that improved received a bonus.
3. Seventy one percent of the low-performing schools for which turnaround plans were presented before the State Board of Education in July 2016 improved to a 'C' or greater. This helped few schools since the number in this group was small.
4. Forty-eight of Florida's 67 school districts are currently graded 'A' or 'B', up from thirty-eight in 2015-16. Additionally, fifty of Florida's school districts have no 'F' graded schools in 2016-17. The changes districts made to improve were not reported.

Teacher Performance Bonus. The Florida original *Best and Brightest* program gave a \$10,000 bonus for teachers whose ACT or SAT test scores were at or above the 80th percentile and who received a 'highly effective' teaching evaluation. Presumably, this would attract better teachers into the profession. Beginning in 2020-21, qualifying scores were lowered to the 77th percentile unless the teacher graduated cum laude in which case the 71st percentile score was to be used. In February 2019, the new governor announced he was opposed to the use of this bonus plan. Potential teachers in critical need areas would receive a one-time bonus.

In 2016, one third of the bonuses went to new teachers. About 5,200 teachers qualified exceeding the budgeted funding cap. Thus, the teachers only received about \$8,200. In 2018, 9,200 teachers rated highly effective and they got \$1,200. Teachers with 'effective' ratings received \$800. These bonuses cover about 85% of all teachers.

Measuring and rewarding effectiveness with school grades and bonuses is unreliable and misleading. A school that receives the same grade consistently may never receive a bonus. Schools receiving a bonus one year may not get one the next. Schools with 'A' grades tend to be in high income areas where resources are readily available. Yet, they consistently receive the largest share of the bonus funding. The 'A-F' school grade rating is not only an unstable measure for school quality, it causes real harm. Parents make decisions about the effectiveness of schools based on a grade that has little to do with the teaching and learning environments of their students.

Measuring the quality of a school can produce meaningful information as Jack Schneider has shown in his book: *Beyond Test Scores: A Better Way to Measure School Quality*. His approach, which is used in Massachusetts, [includes](#) indicators for the quality of teachers and the teaching environment, school culture, resources, academic learning, citizenship, and wellbeing. The information parents need to judge a school goes far beyond a letter grade.

Key Takeaways: The Impact of the Teacher and School Bonus Plans on School Grades and High School Graduation Rates.

- School grades damage communities and are too variable to indicate quality.
- Bonus plans reward advantaged schools and teachers. They increase inequity.
- Florida graduation rates are low. Proposals to reduce credits may lower standards.
- Florida's achievement gap for black vs. white high school students has increased.

To understand how Florida has reached this abyss, it is instructive to remember how it happened. A 2015 New Yorker [article](#) by Alec MacGillis provides the history. In 1993, George H.W. Bush's presidency ended; his dream of being the 'education president' was thwarted. The vision survived through his sons' (Jeb and George W. Bush) 1994 campaigns for governor in Florida and Texas. Jeb was unsuccessful. His defeat is often attributed to a response of "very little" to a question about what he would do for black voters. In preparation for his second try, Bush joined forces with Jon Hage, whom he knew through the Heritage Foundation, and T. Willard Fair, a black civil rights activist, to launch a charter school. The Liberty City charter was in one of Miami's lowest income, minority areas. When Jeb Bush won his race in 1998 for Florida's governorship, he continued to support their Liberty City charter for a few years, and then in 2008 it closed, insolvent and unsuccessful.

While Jeb Bush was launching the charter school campaign in 1997, John Kirtley, a venture capitalist from Tampa, was funding private school scholarships for low income children. When Bush became governor, Kirtley took the idea to then Representative Joe Negron who spearheaded the legislation. In anticipation of legal challenges, two alternatives were passed. The first one, Opportunity Scholarships to provide state funded vouchers for private schools, was declared unconstitutional in 2006 but several voucher programs for students with disabilities persisted. Gardiner Scholarships now provide over \$124 million to families to purchase support services for children with severe disabilities. Students with less severe disabilities may qualify for McKay vouchers to private schools. Currently, 31,000 students participate in the McKay program. This program spawned a 'cottage industry' of schools some of which were non-existent, and attendance records were falsified in others according an investigation by the Miami New Times. Eventually background checks and visits from the Florida Department of Education were required for new private schools.

The tax credit scholarship program enacted in 2001 was the alternative approach to funding private schools. By allowing corporations to donate owed taxes for tuition, the state bypassed the constitutional provision against using public funds for private schools. A lawsuit against the FTC scholarships was dismissed by the Florida Supreme Court in 2017. Donations of taxes were not considered to be public funds because they never reached the State treasury. According to Politico, in 2016 Betsy DeVos contributed one million dollars through her foundation to send thousands of children to Tallahassee for a rally against the FTC scholarship lawsuit.

Choice in Florida is now for everyone, even those in traditional public schools. The expansion of choice has become an end in itself. Parents have the right to choose any school if there is space. Even transportation is available for some students. Choice has little relationship to school efficiency, effectiveness, or to cost reduction. Choice, however, has consequences that many parents do not recognize. In charters and private schools, the schools choose, not the parents. Few families realize that there is a loss in parental control implied when the family is chosen, not the reverse. Children with disabilities, for example, lose their federal protection from the Individuals with Disabilities Education Act (IDEA) rights to an appropriate education.

The constant churn of student enrollments produces growing school management problems, corruption scandals, and social problems. How the choice system has contributed to these issues is the subject of this next section. Only the private, online, and charter school choices are considered. The choices for students with disabilities and homeschooled students deserve their own report.

1. Florida Tax Credit Scholarships and Vouchers for Private Schools.

The state created a non-profit agency called *Step Up for Students* to distribute FTC funds. John Kirtley became chairman of the board. Doug Tuthill, *Step Up's* president achieved notoriety in a 2011 [video](#) when he revealed that over one million dollars was spent in every other election year on local political races. The strategy was to make low income families the face of the program and target black ministers to support the program.

[Step Up for Students](#) has grown into a more than \$600 million-dollar a year operation. It currently allocates nearly 100,000 FTC scholarships to over 1,800 of Florida's private schools. In addition, it administers the Gardiner scholarships for students with severe disabilities and the Alabama Opportunity Scholarships. The FTC scholarships alone cost \$422,648,470. Administrative expenses include four million dollars for programs related to *Step Up's* advocacy for choice mission including RedefinEd, its newsletter. In the 2018 legislative session, *Step Up* was expanded to coordinate all the state's scholarship programs and scholarship amounts increased.

FTCS Student Demographics. Most FTCS schools have fewer than 100 students. The FDOE [reports](#) that 67% of schools are religious, and 83% of students with FTC scholarships attend them. Hispanics, mostly from Miami-Dade are the largest group (35%) of students. Thirty percent of FTCS enrollees are black. Students represent a broad range of achievement levels. Only twenty three percent of FTCS students' scores were in bottom fifth of their prior public-school's reading achievement scores. The FTCS program does not target students from struggling public schools. Only twenty-five percent of FTCS students are from 'D' or 'F' public schools.

In 2016, due to changes in income eligibility, the enrollment increase doubled from the previous year. FTC scholarships no longer served only low-income families. The income qualifications based on a family of four were raised from 185% to 260% of poverty level or from about \$44,123 to approximately \$63,000 per year. The amount of the full scholarships was prorated for middle income families. By 2017-18, private school enrollment was 11.6% of Florida's total school enrollment. Less than a third of private school students, however, participate in the FTCS program.

FTCS Program Funding. FTC scholarships are funded from corporate tax rebates up to a designated funding cap. If enrollment exceeds 90% of the funding cap, the cap is raised the following year. Funding sources from corporations were expanded to include credits against the insurance premium tax, severance taxes on oil and gas production, sales tax liabilities of direct pay permit holders, and alcoholic beverages taxes. The largest corporate donors to the FTC scholarships are the beverage industry and United Health Care. *Step Up* has reported a 10,000-student decrease in 2018-19 FTCS enrollment due to a decline in corporate donations. New funding sources had to be found in order to expand the program in private schools.

In 2018, a sales tax 'donation' bill was passed to fund the *Hope Scholarships* to private schools for students with claims of being bullied. New lawsuits may be filed over the expansion of funding through 'donations' from new car purchases. The car dealer must inform customers of this option. Anecdotal comments about how this information is provided range from continuous reminders to simply including a consent form for signature with the purchase documents with no comment.

Qualifications for students with minor disabilities were updated for MacKay scholarships to private schools, and for Gardiner personal learning accounts for children with severe disabilities. Public statements by the new governor, the newly appointed Commissioner of Education, and the State Board of Education chair indicate that expansion of scholarships to private schools is a priority.

FTC Scholarship Funding. The scholarship was originally set at 72% of the Florida Education Finance Program's (FEFP) per student funding for public schools. In 2017, the percentage was increased from 82% to a range between 88-96% depending upon grade level. The maximum student award was \$5,886. In 2017-18, *Step Up* distributed \$689 million of the dollars to 108,000 students in over 1800 of the 2,650 private, mostly religious schools. These donations were about 10% below the allowable cap. The corporate pledges were \$687 million.

FTCS Program Exemption from State Standards. Private schools are exempt from state curriculum standards and state assessments. They are not required to have certified teachers. They are not even required to provide services for the students' disabilities, which is a stated purpose of the scholarships. Their curriculum varies from

religious to secular. The Huffington Post took on a Herculean task. It created a database of 8,000 schools across twenty-five of twenty-seven states with private school choice programs. They checked their religious affiliations and identified the curriculum. They found 25% were non-religious private schools. Of the 6,000 religious schools, 29% were Catholic and 42% were Christian non-Catholic. Other religions were also represented e.g. two percent Jewish and one percent Muslim.

The report focused on the 2,500 Christian non-Catholic schools. Many schools declined to respond to requests for text book information. Of those who did respond, about one third of the Christian non-Catholic schools used Abeka, Bob Jones or ACE textbooks, which are Bible-based, for at least part of their curriculum. Five years ago, Slate reported 164 Florida private schools taught creationism. The current count is unknown.

FTCS Program Management. Private schools that register for the FTC scholarship program are bound by few regulations. They must have been operating for at least three years or submit a surety bond. Schools conduct staff background screening and submit an independent audit if more than \$250,000 in scholarship funding is received, or if a majority of students receive FTCS funding. Audit findings in 2015-16 noted that *Step Up* failed to recover \$252,363 from private schools that received tuition warrants for students who did not enroll. Auditors also noted that *Step Up* failed to conduct required financial background checks on all private schools participating in the program.

The Florida House Innovation Subcommittee on Education hearing on December 6, 2017 focused on improvement of private school regulations. Representatives from the McKay Scholarship program, the Florida DOE, *Step Up for Students* and the AAA Scholarship Foundation testified. The theme was predictable, 'You can't regulate your way to quality'. Private schools do not want the testing and accountability system mandated for public schools. About one-third of the private schools do not choose to participate in the [FTCS](#) program in order to be free of regulation. Nevertheless, at least the Catholic Diocese representative differentiated regulation from quality standards. He reported that Catholic schools in Florida require accreditation and teacher certification, unlike many other private schools accepting FTC scholarships. They reported that Catholic (15%) and religious non-Christian school students (5% Jewish or Muslim) tend to enroll in a community college at a higher rate than similar students in district schools.

These regulations may not be more than cosmetic improvements. The FDOE would need an army of inspectors to visit nearly 2,000 private schools. Better paperwork will not create quality programs. Expanding FTCS enrollment in private high poverty schools, however, will make a bad problem worse. The difference between public and private high poverty schools is the lack of oversight and transparency that keeps parents in the dark. *Step Up for Students* which distributes the scholarships, was cited in its 2018 audit for not consistently verifying family income to ensure that scholarships were only awarded to eligible students. This was a problem noted in the very first evaluation report by David Figlio. Family income reports for some FTCS students were lower the year before they entered the program than they were their first year in private schools.

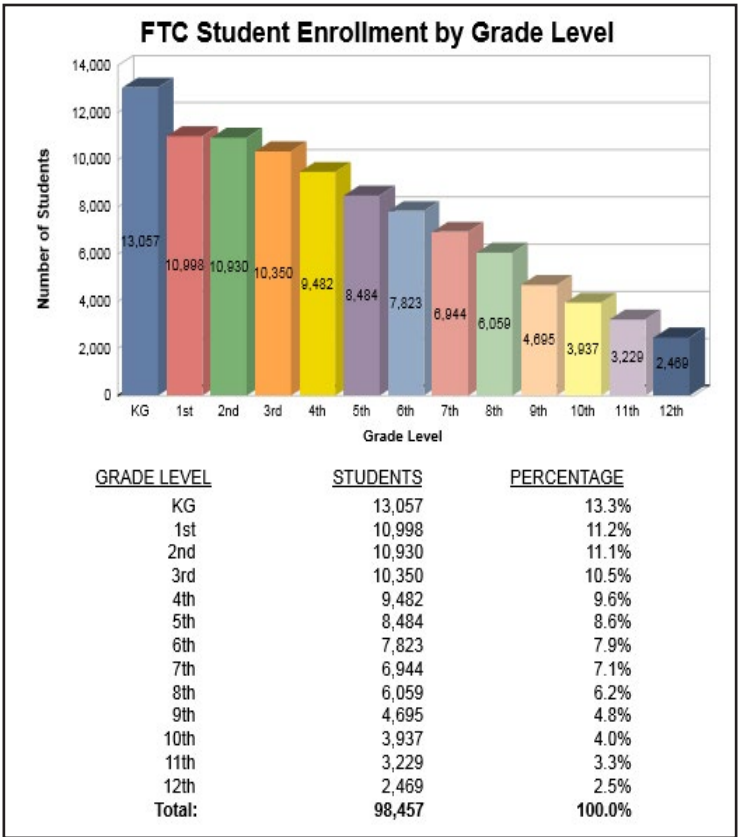
FTCS Student Achievement. FTCS students' progress is measured by a national achievement test, but the scores cannot be compared to Florida's state assessment scores. Norm referenced tests compare students' scores with others taking the same test. Most FTC students progress close to the same rate as others, but their scores are lower than the national average. According to a Florida Department of Education evaluation, ten percent of FTC students gained more than twenty percentile points from one year to the next, but fourteen percent lost more than twenty percentile points.

The FSA compares students' scores to the expected proficiency on the skills measured on the test. Therefore, comparing a norm referenced test to the FSA is meaningless. What is reported is a third of FTC students return to public schools in one year; over half return in two years. Students who struggle academically are the most likely to leave private schools, and they are further behind than before they left. Research reports have shown large differences in achievement gains across private schools. In some private schools, students do not make progress.

The future of the FTCS program is ominous for the well-being of its students. A higher percentage of FTCS scholarship students now are enrolling in private, high poverty schools according to a Brookings Institution [study](#). Their long-term success rate is decreasing. When there are more than 30% FTCS students in a school, they do less well than similar FTCS students in private schools that enroll fewer FTCS students. In other words, schools with a high percentage of very low-income, minority students do not succeed whether the schools are private or public. The FTCS program is recreating in the private sector, a problem that already exists in the public one. According to the study, the differences could be related to teacher certification, length of the school year, or the type of curricula.

An Urban Institute [study](#) found that the percentage of some students who started college was higher than similar students in public schools. These FTCS students had stayed in the FTCS program for more than four years and most frequently enrolled in Catholic or non-Christian private schools. Most students, however, leave the FTCS program within eighteen months, and very few attend for four years. See the FDOE enrollment graph below.

Figure 6: FTCS Scholarships: Student Enrollment by Grade Level



Source: Florida Department of Education FTC Quarterly Report 2017

Key Takeaways: Florida Tax Credit Scholarships to Private Schools Give Parents False Hope.

- Concentrated poverty in certain private schools is the trend as vouchers expand.
- Achievement gains decline in private schools with over 30% of FTCS students.
- Most FTCS private schools are not audited.
- FTCS students are not escaping poor schools. Seventy-five percent of FTCS students are from public schools with 'A – C' grades.
- Teachers in private schools are not required to be certified, and students do not have to take state assessments.
- In a year, one third of FTC students return to public schools. Two-thirds return in three years.
- Students who leave do less well than similar students in who stayed in public schools.
- Private schools take nearly one billion dollars from public schools.

2. Florida Charter Schools: The Opportunistic Revolution.

The story of charters in Florida is about money and politics leading to resegregation, or as some say the disintegration of public schools. There is no question that some individual charters serve students well. Some focus on specific student talents or an instructional strategy requiring a particular academic schedule. These charters are not different than many magnet schools. Magnet schools, however, have local oversight.

The concern is over the lack of oversight that permits charters to further the interests of adults, not the needs of children. Groups representing different ethnic, racial, religious and political interests have opened charters. The lack of transparency and regulation make the charter movement vulnerable to abuse. The public is largely unaware of how charters are owned and operated and many falsely assume that local school boards are responsible for charter management.

Charters are legally public schools and receive public tax dollar funding, but they are privately owned and operated. There are basically two types of charters in Florida. About one-half are organized by individuals who establish non-profit governing boards as required by law. The other half have a more complicated business model. They also create a non-profit governing board that receives the contract to operate the school. The board, however, subcontracts with a for-profit management company for a fee to run day to day operations, including hiring staff. The governing boards are not independent from the charter school management. If the board members disagree with the management policies, they can be replaced.

Abuse in individually run charters often results from poor fiscal oversight. Some operators earn exorbitant salaries and charge illegal fees masked as donations. For-profit management companies may own an interest in many subsidiary companies that provide food, uniforms, and school buildings. Their real estate firms buy or lease facilities for the management company who in turn may lease the buildings at exorbitant rates to the charter governing boards. If the charter fails, the company, not the district, retains the buildings. The business model is designed to make money. The law, however, does not require full disclosure of accrued profits.

The following section summarizes how Florida charters began and describes the manipulation of educational policy to support their expansion. The educational, financial and social consequences of this unregulated expansion are delineated.

Origins of Florida Charter Schools. Bush [hired](#) Jon Hage as a researcher for his Florida Future Foundation (FFT), but their interests were in real estate. Bush had been given a share of the Codina real estate development firm, and quickly amassed a small fortune. It was not long before Hage had his own firm. He founded CSUSA, a charter school management firm and created Red Hat Development. Red Hat bought or leased properties that Hage then leased to his string of CSUSA for-profit managed schools. Soon others with similar management operations entered the newly developing market.

Charter schools were viewed as an opportunity to advance personal interests that crossed political party lines. Former Vice President Biden's brother runs the for-profit Mavericks charters. A Bush family friend launched Imagine schools, Florida's third largest for-profit charter chain. Several Florida politicians including former Senate President, Joe Negron, and the former Speaker of the House, Richard Corcoran launched charter schools. The opportunity to promote personal interests using public school funding led to some questionable ethical behavior.

Florida Ethics and Conflicts of Interest. "Florida suits him" [said](#) Roger Stone, recently indicted by the Mueller investigation as reported in the New York Times article: *Stone Cold Loser*: "...it was a sunny place for shady people".

Criminal and civil cases against charters come in a variety of forms, and some mismanagement is simply ignored.

There is a lack of political will to correct profiteering and related abuses. A Florida Legislature's 2007 [report](#) stated that Florida law "does not regulate conflict of interest for charter schools board members or employees... but if nonprofits want tax exempt status, then federal conflict of interest must be observed". The Florida Auditor General uncovered continuing problems and recommended that charter board members be included under Florida's Code of Ethics as Public Officers. A 2008 follow-up [report](#) noted continuing problems with the application of conflict of interest laws.

In 2012, the Center for Public Integrity gave a poor [rating](#) to the Commission on Ethics' ability to impose penalties on legislators who violate ethics laws. The legislature responded by passing SB2 which gives the Commission on Ethics power to investigate violations referred by law enforcement agencies and the Governor. It also gives the agency greater power to collect fees for violations. Former legislators are banned from lobbying for two years. Even more important was the ban on law makers from voting on bills that would enhance their own personal finances. Personal interest, however, was redefined. If an economic benefit or harm was to a single officer or relative etc., then the conflict would be judged by several factors including the size of the 'class of interest' involved.

The new definition of a 'class of interest' was useful for charter school owners/legislators appointed to head education committees. If many charters would benefit, in addition to those of benefit to a legislator, then the bill would impact a class, not just an individual or single group. The law was tested by Senator John Legg who wanted to avoid using a lottery for admission to his charter school. He pushed through a change in law that allowed his preschoolers automatic admission without going through the required lottery. Since all charters could benefit from the law, it was not challenged except in the media.

Political Cronyism. The ability to build personal relationships is essential for politicians. It takes votes to get elected, and agreements to get bills passed in the legislature. Cronyism, however, crosses an ethical line. It relates to 'buying and selling' political favors. This type of activity may literally involve using campaign contributions to influence legislation, doing favors for friends, or forming alliances and distributing favors in the form of legislation or appointments to desirable committees. Some of this is simply the stuff of politics. Sometimes it is more than that. Richard Corcoran who was recently appointed Florida Commissioner of Education, was the former Speaker of the House. He advocated for a 2016 ethics bill targeting the influence of lobbyists and extended the lobbying ban to six years for former legislators. It was not a surprise it did not pass. The surprise was that it was offered at all.

Questions about conflict of interest claims have been made against current and former legislators involved in educational policy e.g. Richard Corcoran, Manny Diaz, Eric Fresen, Byron Donalds, former House Education Chair Michael Bileca, former Senate President Joe Negron, Anitere Flores and others. They all have personal ties to the charter industry and held or hold important education committee positions. Many of them have formed an alliance to create a chain of Classical Academy charter schools and advance an ideology marketed by Americans for Prosperity, a conservative advocacy group.

Classical Academies are sponsored by the Hillsdale College Barney Charter School [Initiative](#). This Michigan private college has a long religious, conservative/libertarian tradition. The DeVos immediate family includes several Hillsdale graduates. The Barney (SmithBarney) and Stanton Foundation fund the initiative. According to Salon, the Koch brothers are also contributors. There are at least 17 charters nationwide. In Florida, there are four: Mason in Naples, Pineapple Cove in Palm Bay, St. Johns in Fleming Island, and newly formed Pineapple Cove in West Melbourne.

Erika Donalds and her husband, Representative Byron Donalds, co-founded one of the Classical Academies in Collier County and were members of its governing board. Donalds formed an alliance with the wife of the 2017 Florida Senate president, Joe Negron, to open Treasure Coast Academy Classical Academy in Martin County. Donalds also filed paperwork for a nonprofit entity called 'Alpha'. Anne Corcoran, wife of the newly appointed

Florida Commissioner of Education, opened a classical academy in Pasco County and assisted with one in Tallahassee. Representative Michael Bileca's foundation donates to True North Classical Academy in Miami, according to the Miami Herald.

The interests of this group [extend](#) beyond charter schools. When Erika Donalds served on the Collier County school board, she spearheaded the formation of a separate Florida school board association called the Florida Coalition of School Board Members (FCSBM). It championed charter schools. Rebecca Negron, Joe Negron's wife, was part of this new organization. This splinter group is ideological and backed by dark money. Members were recruited from existing local school boards and their political allies who had ties to campaign fundraising groups. Donalds was appointed to the *Constitutional Revision Commission* in 2018. She spearheaded a vaguely worded constitutional amendment to create an 'independent' system of schools. The League of Women Voters filed suit claiming the wording was ambiguous and intended to deceive the voters. The court agreed, and the amendment was withdrawn.

Invasion of Dark Money. Millions of dollars in 'dark money' and some in plain sight support this religious based, ideological movement to dismantle traditional public schools. The most recent and complete documentation of in-state and out-of-state funding was published by Integrity Florida in its September 2018 [report: The Hidden Costs of Charter School Choice](#). Their detailed report cites \$13,666,531 in political campaign donations from 1998-2016 from the Florida charter school industry. Three organizations dominated the fundraising for school choice in Florida: All Children Matter, American Federation for Children, and the Alliance for School Choice. Together they raised over nineteen million dollars. All Children Matter was founded by Betsy DeVos. The Walton family (Walmart), John Kirtley, Gary Chartrand (member of the Florida State Board of Education), CSUSA and Academia are listed as major donors. This backdrop of self-dealing and advocacy for a political ideology permeate all aspects of the process of authorizing and expanding charter schools.

Authorization to Start a New Charter. Florida's charters open and [close](#) at the highest rate in the nation. Florida school boards, municipalities, or colleges and universities have the authority to authorize new charters. While these authorizers grant contracts to charter school providers, they have had little control over the final decision to accept proposals. If a charter proposal is rejected, the State Board of Education (SBE) will likely overrule. Prior to 2003, there were thirty-two denials appealed, and nearly half (18/32) were overruled by the SBE. Between 2005–7, five denials out of seventeen were overruled. In 2013, four of ten appeals were approved. In April of 2015, one denial was overruled of three appeals. The other two denials had been overruled by the SBE the previous year, and the two charters failed the following year. Their second appeals in 2015 were withdrawn.

Even though the charter enrollment continues to rise about ten thousand students per year, the rate of new proposals submitted over the past three years has declined by more than one-half. This may be due to more stringent guidelines for approving charter start-up grants and capital outlay funding. The total [number](#) of charters has changed very little during the same time span. Charters close as quickly as new ones open.

Strategies for removing all local district control of charters recur frequently. One was to create an institute at Florida State University to review charter proposals and conduct evaluation studies. The bill failed. Instead, the 2013 legislature passed a statewide standard authorizing contract for districts to use. Districts believed it tied their hands in adapting contracts to fit local needs. Charter advocates were concerned that guidelines in the contract went beyond specific legal, but lax, charter regulations. The resulting contract was to serve as a guide to districts, but it was not binding. The contract was amended in 2015 to require charter proposals to disclose affiliated charters and their records of academic achievement and financial status. Some charters had been closed in one location and reopened in another. Low performing charters were due to weak state requirements, not local school board decision making. The Sun-Sentinel [article](#), *Florida Charter Schools Unsupervised* describes the weak state requirements for authorizing charters. As of 2018, no improvements to local districts' responsibility for charter authorization or oversight have been made.

Charter Start Up Schemes. State and federal money is available to launch new charters, and some charter sponsors take the money and [disappear](#). Charters either failed to open or were quickly closed. Too often, charters that opened following a successful appeal to the SBE, closed the following year. Palm Beach lost two of those appeals in one year and four other charters closed, two on the first day of school. The district has not been able to reclaim the startup money the charters obtained. The court ruled against a district attempt to improve guidelines.

In 2012, the U.S. Department of Education Office of the Inspector General [report](#) indicated that Florida did not track how much funding charters drew and spent. After a flurry of these incidents, the legislature tightened the procedures. Most approved grants are now given after three years of operation. Federal SEA (State Education Agency) grants awarded for charter development in Florida reached \$67,644,267 over four years.

In 2015, Florida charters could receive up to \$350 thousand prior to opening, not including money from a 2011 state fund, with an additional \$30 million for charter expansion. By 2018, Florida was allocating \$550,000 per charter grant. Public Charters.org reports that between 2015 and 2018, ninety-one Florida charters closed and 100 opened. Annual audits find continuing mismanagement concerns. The Florida Auditor General’s 2019 [report](#) stated that 68 charters had deficit fund net asset balances. Three were in a state of financial emergency. Eighty-nine charters generated 629 audit reports. Twenty-nine percent were multi-year audit findings of the same problems.

The cost of failure is high. The Center for Media and Democracy’s (CMD) PR Watch [reported](#) in 2015 that the federal government allocated \$3.3 billion dollars to states for charter school development. Federal auditors estimated that \$200 million had been lost due to fraud and waste in the past decade. In the CMD state list of charter school failures, Florida ranked second (308) next to Arizona. One-third of the closed charters apparently never opened. An additional thirty-four closed after one year, and one-third of schools remained open for three or more years. Over a four-year period, the Florida DOE could not account for \$67 million.

Charter Governance is Ambiguous. Charter schools are included in state curriculum standards, testing, and teacher certification regulations unlike private schools. Principals are not required to be educators. Teacher attrition is high in charters in part because their salaries tend to be lower, and typically they do not receive paid health and retirement benefits. Teachers are usually hired on an ‘at will’ basis and fired without cause. The quality of charter management companies is seldom reviewed. A CREDO [study](#) of charter management found that students in schools run by for-profit firms were less successful academically. Reported reading gains by Academica’s students were better than those for CSUSA, but neither firm compared well with the best national charter companies. Both firms showed negative math gains. CSA students, primarily located in Hillsborough County, scored significantly lower in reading and slightly lower in math than other students. Academica’s students scored about the same as others in the comparison groups, but their readings scores were slightly higher. Online K12 Inc. charter schools performed even less well than charter in-school students (see Table 6).

Table 6: CREDO study on Charter Management Organizations

	Math	Reading
Academica	-.02	.04*
Charter School Associates	-.13**	-.01
Charter School USA	-.02	.01
Imagine Schools	-.03	-.02
K12 Inc. online schools	-.22**	-.11**

** statistically significant difference

It takes a serious violation of law or extreme financial problems before local districts can intervene. Florida requires audits, but auditors are allowed professional discretion about what to report unless there is a serious violation of law. An audit of a non-profit charter school account might find, as happened in Hillsborough County, that the [owner](#) and his ex wife drew over \$400,000 for administration of a school with fewer than 300 students. This is not a violation of law.

Charters are required to submit annual independent audits to the Florida Auditor General. The 2016-18 report included eighty-one charters with 161 audit reports. Twenty-nine percent of these audit findings were repeats from the previous year, and some were repeated for at least three years. One half of the reports found significant deficiencies and twelve included material weaknesses. Material deficiencies are a lack of internal control to detect a misstatement of the financial statements that would not be detected in a timely way. Sixty-eight of the 629 charters were spending more than they were taking in. Six charters were in bad financial shape; the report questioned their ability to remain open. Thirty-six charters had closed during this time. Improved oversight is needed.

Charter schools must now post information on their websites including: governing board members, meeting minutes, audits and budgets, academic performance, letter grade, and management company affiliation. The 2014 [report](#) on *Charter School Vulnerabilities to Fraud, Waste, and Abuse* by the Annenberg Foundation was triggered by the U.S. Inspector General's warning about mismanagement in charter schools. These are problems the report cited:

- Charter school operators use public funds for personal gain.
- School revenue is used illegally to support other charter operator businesses.
- Mismanagement puts children in actual or potential danger.
- Charters request public money for services not provided.
- Charters inflate enrollment to boost revenues.
- Charters mismanage public funds and schools.

A moratorium on charter expansion is needed. It would provide the opportunity to evaluate mechanisms for better management oversight and to consider alternatives to for-profit business models. The Annenberg Foundation management recommendations for Florida include:

Needed Improvements for Florida Charter Oversight and Management

- Require board members be approved by districts and be independent from school staff and management companies.
- Strengthen laws regulating transparency, conflict of interest, nepotism, admissions, and dismissals.
- Provide guidelines for controlling excessive salaries and facility payments.
- Require public disclosure of charter management companies' use of public funds.
- Provide charter authorization criteria to indicate required justification of need.

Students Served by Charter Schools. Charters select students using a lottery system, but they have admission procedures to prescreen students who meet their requirements. Given that charters close if they earn failing grades two years in a row, student selection is not random. Fewer students who qualify for Free or Reduced Lunch, Exceptional Student Education programs, and English Language Learners are selected than enroll in traditional public schools (TPS). Charters tend to represent higher income and Hispanic families (see Table 7).

Table 7: 2015-16 Charter and TPS enrollment by Race/Ethnicity and Gender

Race/Ethnicity/ Gender	Charter Schools		Traditional Public Schools (TPS)		All	
	Students	Percent	Students	Percent	Students	Percent
Total White	89,727	33.1%	1,006,514	39.9%	1,096,241	39.2%
Total Black	57,088	21.1%	571,494	22.6%	628,582	22.5%
Total Hispanic	108,496	40.0%	780,608	30.9%	889,104	31.8%
Other	15,609	5.8%	165,445	6.6%	181,054	6.5%
Male	135,613	50.1%	1,300,228	51.5%	1,435,841	51.4%
Female	135,307	49.9%	1,223,833	48.5%	1,359,140	48.6%
Total Enrollment	270,920	100.0%	2,524,061	100.0%	2,794,981	100.0%
Special Categories						
FRPL*	133,112	49.1%	1,553,407	61.5%	1,686,519	60.3%
ELL**	25,236	9.3%	254,512	10.1%	279,748	10.0%
SWD***	25,366	9.4%	353,309	14.0%	378,675	13.5%

* FRPL: Free and Reduced Priced Lunch
 ** ELL: English Language Learners
 *** SWD: Students with Disabilities

Source: Florida Department of Education

Charter and Traditional School Student Achievement. The differences in the admissions and dismissal policies of traditional public and charter sectors inhibit valid achievement comparisons. Evaluating differences in family backgrounds between parents who choose to remain in public schools and those who leave are very subjective. Despite limitations, many research studies have reported results of comparisons, albeit with reservations. Their results produce no clear advantage for charter schools.

The Florida Department of Education has responded to the concerns of the validity of comparisons by doing as many comparisons as they can, as if quantity assures quality. Their results find greater achievement gains for students enrolled in charters than for students in traditional public schools. Charters win, hands down in their reports but not on reports from national research studies. Why is that? The Florida DOE comparisons do not match students based on their initial test scores, so the comparisons are not valid.

In a 2009 [report](#), the Center for Research on Education Outcomes (CREDO) at Stanford found that 17% of charter schools outperformed their public-school equivalents, while 37% of charter schools performed worse than regular local schools. Performance of the rest was about the same. A 2010 [study](#) by Mathematica Policy Research reported that, on average, charter middle schools that held lotteries for enrollment were neither more nor less successful than regular middle schools in improving student achievement, behavior, or school progress. Among the charter schools considered in the study, more had statistically significant negative effects on student achievement than statistically significant positive effects. This is a common finding.

Achievement for Florida's large urban area charters is generally dismal when compared to TPS students with similar backgrounds and race. The CREDO Urban Area study included Fort Myers, Jacksonville, Miami, Orlando, St. Petersburg, Tampa and West Palm Beach. Students were compared on reading and math. Only in Miami did charters outscore traditional public schools in both reading and math. Orlando, West Palm and Ft. Myers outsourced charters in both subjects. Jacksonville and Tampa charters slightly outsourced TPS in math but not in reading. St Petersburg charter scores were lower in reading and the same in math.

Florida charters generally enroll a lower percentage of students in poverty or with learning disabilities in all cities except for Jacksonville and Miami. Miami's students from low income families tend to be Hispanic while in Jacksonville they are more often black. This is generally not the case in most of the urban areas studied in other states.

No matter how comparisons are viewed, something is lacking in Florida's charter sector. Charters in some cities do report significantly higher achievement gains than similar traditional public schools, but the reasons for the increased gains can be masked by selection and retention policies in the charter sector. Their gains are largest for low-income black students and Hispanic English language learners. While the data from these cities are disputed by reliable sources, it is important to look at the charter sectors in areas where they are succeeding to see if and how they differ from those in other cities. For example, Boston has a limited and tightly controlled charter group. New York City charters are known to have low retention rates which may explain their high average gains of the students who remain.

Charter Expansion. The expansion of Florida charter schools has slowed. Over the past three years, there has been a net growth of three charter schools. Almost as many charters close as open. In 2016, HB 2016 was passed to curb the closure rate. Charter proposals now must include names of board members and the management company's history of charter closures. It also mandated that charters begin immediately to provide financial reports so that districts can monitor deteriorating financial conditions in charter schools. This act was only a step in the right direction. A lack of transparency continues to facilitate the mismanagement of charters.

A federal grant to evaluate Florida charter expansion included a rural expansion project. At least fifty new high-quality Florida charters each year for disadvantaged and rural areas were anticipated. Neither the high-quality goal nor the goal for number of charters was met in the last two years of the five-year (2011-2016) study.

The Florida Department of Education's Office of Independent Learning and Parental Choice commissioned the study by the *Collaborative Assessment and Program Evaluation Services* (CAPES) at the University of Florida. The report indicated that there was no academic achievement advantage for the charters. Where differences occurred, they favored traditional public schools. There were, moreover, some serious problems. The study concluded that while progress had been made to improve the grant process for new charters, the target for increasing high quality charters for low income and especially rural areas had not been met. Most differences were not statistically significant but favored public schools. Specific findings were:

- Of the ten rural schools targeted to open in 2015, four did open but only one was a high performing charter.
- Eleven charter elementary/middle schools matched with public schools on demographic variables, performed the same or less well on state assessments at all grade levels over the five years studied. Grade six 2015 reading scores for charter students improved but were still 4.2 points lower than for similar students in traditional schools.
- Of the ten matched high schools, charter school students' 2013 reading scores were lower by about five points in ninth and tenth grade.

One project goal specified 75% of new charters receiving federal Charter Schools Program (CSP) grants would receive an 'A' or 'B' school grade. Less than half of these charters, rather than 75%, met the achievement goal. Of the 229 CSP school grants awarded over the five years, (not including thirty-two whose grants were rescinded, the sixteen on hold, and the eleven schools closed), only 156 schools remained. Of these, ninety-four charters had school grades in 2011, the base year of the study. Twenty-seven charters received an 'A' and eighteen earned a 'B'. A third goal of the study was to determine whether the authorizing practices and capacity of local district authorizers had improved. This goal was met with an important exception. The number of denials of charters by local school districts that were overturned by the SBE was 20%, which was higher than the targeted three percent over-

turn rate. In other words, the districts and the SBE continued to disagree over the quality of charter proposals. The study reported that a major difference between the charter and traditional schools was the teacher attrition rate. Charter school teachers resigned **during** the school year at a high rate. On average more than ten percent of charter teachers left before the end of the school year compared to an attrition rate of three percent for traditional public schools. Moreover, new hires at charter schools tended to have less experience than those teachers who resigned.

Public School Takeovers by the State. A charter expansion strategy is to target TPS with low achieving students for state takeover or to allow high performing charters to expand without local school board approval. How 'low performing' is defined is subject to political whims. HB 7069 passed by the Florida legislature in 2017 a *Schools of Hope* program in which the State would take over control of schools with three consecutive grades below a 'C'. The appropriation for the program was \$140 million dollars to be shared between charter and a maximum of 25 traditional public schools. Districts have three options: close the school, turn it into a privately managed charter or into a district managed charter with all new teachers and administrators.

Jefferson County schools in the Florida Panhandle became the first takeover charter district. A decade-long struggle had failed to overcome its problems. Jefferson County is a low-income rural area close to Leon County and Tallahassee, the state capital. Jefferson County has changed little since 2000. There are about one thousand more people living there now, and the percentage of the white population has risen slightly from 60 to 62%. The school age population declined by about 250 children, but the public school enrollments dramatically declined from 2,066 to 770 over the last sixteen years. The percentage of white students which was never high, 28% in 2002, dropped to 17% in 2016. So, Jefferson County schools predominately served poor, black students. As school enrollments dropped, the district was running out of money.

In 2009, the State declared the district a 'financial emergency.' The elementary and middle schools were closed and moved to relocatable classrooms at the high school. The district eliminated its budget deficit by cutting staff, bus routes, and salaries. Parents, however, left the district for the three private schools in the area and for schools in the adjacent county. (The three private schools report a seven percent minority enrollment.)

The State turned the district over to Somerset which is part of the for-profit Academica charter school chain, and one-half of the teachers lost their jobs for reasons that had little to do with their competence. The management firm, Academica, was the only charter chain that applied. (Academica was the subject of the Miami Herald's series on *Cashing in on Kids*.) It will receive the usual state funding plus an infusion of approximately \$1 million in additional funding. Where was that funding when Jefferson County schools needed it?

The legislature's intention to expand state control of charter schools is reflected in a 2019 proposal to automatically expand charters in any of the federally designated 'Opportunity Zones'. Florida has several hundred of these low-income areas. If the bill passes, charters could open without approval of local school boards.

Charter Profiteering. Profiteering may be the most sinister aspect of Florida's charters. Florida's for-profit management firms are dominated by two companies: Academica and Charter Schools USA (CSUSA). In 2016, *In the Public Interest* [reported](#) that Academica's real estate arm controls more than \$155 million in south Florida real estate. They essentially own the property for half of their schools and lease the property to themselves through their non-profit charter boards. The difference in the real estate cost and what is charged to the charter school boards is not disclosed. Some charters, moreover, pay exorbitant rent, averaging about one million dollars per year, to the Catholic church and other religious entities. Charters cannot be religious schools, but many are in church facilities.

A Miami Herald [series](#) titled *Cashing in on Kids* reported a list of land deals and conflicts of interest between charter board members and Academica. The firm has been the subject of investigations over questionable actions since 2003, but the State Attorney has not pressed charges. The federal government began an investigation in 2014. The stories below illustrate how interwoven and self-serving charter governing boards can be. The Mater and Doral charters are groups of charters managed by Academica.

- 2003.** The Mater schools [signed](#) a \$5.8 million deal whose contractor was serving on the governing board.
- 2006.** The Office of Management and Compliance Audits, functioning as the Inspector General, [found](#) undisclosed related party transactions for the capital outlay programs in Mater schools. A report: Poor Governance Results in Apparent Self Dealing cited past and present board members who were employed by and/or served on other Academica boards and had undisclosed interests in for-profit companies established to provide financing or to lease the facilities back to the schools.
- 2007.** The Mater board overcharged \$1.3 million for a warehouse in which a school was housed. The State Attorney declined to initiate a criminal [investigation](#).
- 2010.** Doral Academy's governing board [transferred](#) \$400,000 to Doral College, an unaccredited private college run by two Florida legislators, Anitere Flores and Manny Diaz, Jr. Luis Fuste, vice chairman of Doral Academy and Andreina Figuerora, chair of Somerset Academy (another Academica managed school and head of ADF lobbying firm), served on the board of Doral College when agreements with the charter high school were made. Principals of two Academica schools were also on the board.
- 2013.** A Miami Dade auditor [questioned](#) the Mater Academy board's independence from Academica because the board included principals of other Academica schools. The board dismissed the concerns.
- 2014.** The [Mater](#) board transferred \$7,405,000 to the Mater Foundation from some Mater charter schools. The two boards have the same membership. These transfers were long term non-interest advances. Another \$166,586 of public funds was transferred to other Mater entities.
- 2014.** [Academica](#) is under federal investigation for conflict of interest between it and the Mater schools it manages. The allegations go back to facility leases while the CEO, Fernando Zulueta was chair of the Mater governing board. In addition, the audit questioned the transfer of funds from Mater schools to the Mater foundation. Representative Erik Fresen, Zulueta's brother-in-law and former chair of the House Education Appropriations Subcommittee, was included in the case due to contracts issued to his employer, Civica.
- 2015.** A Miami Dade audit [questioned](#) the Mater board transfer of \$2,987,000 to a corporate account and to other schools from three Mater schools. The allegations included illegal transfer of funds and facility leases to board members.
- 2015.** A Miami Dade auditor [questioned](#) the \$600,000 earned by Doral College which gave worthless two-year degrees to Doral Charter students while they were still enrolled in high school. At the time, Doral College was an unaccredited private college operated by Academica. It was nearly bankrupt and had no faculty. Manny Diaz, chair of the Florida Senate Education Committee is CEO of the college.
- Doral College is now accredited by an agency licensed to accredit a few private online high schools and colleges in Florida. It is housed in Doral Charter High School while Academica is constructing a building on the same campus. The college serves 900 high school students in seven affiliated Academica charters.
- 2016.** Three Mater academies and Pinecrest Prep in Mami Dade signed a dual enrollment agreement with Florida National University (FNU). The contract was [illegal](#) because FNU is a for-profit private college. The schools improperly used the Miami Dade Community College and Florida Keys Community College codes to assign students' courses and grades.

2017. The second in command at Academica is the sister of former Representative Erik Fresen. He was charged with conflict of interest in his role with Academica and was investigated by the federal government in 2014. When Fresen term limited out of the House in 2017, he was [arrested](#) for failure to file his tax returns for the eight years he was a legislator.

Fresen was not alone in facing criminal charges. Marcus May, founder of the Newpoint charter chain was sentenced in 2018 to twenty years in jail and fined \$5 million for fraud and racketeering. The prosecuting attorney provided evidence that Marcus May's personal worth increased from \$200,000 in 2010 to nearly \$9 million in 2015 yet May owned no other businesses. May set up shell companies to launder purchases from legitimate companies and then resold furniture, computers and other supplies to his charter schools at inflated prices.

CSUSA also finds lucrative ways to profit. The Florida League of Women Voters [tracked](#) the history of one CSUSA school and found that CSUSA had purchased a former American Telephone and Telegraph (ATT) call center for about \$1.2 million. CSUSA flipped the building several times and had the property reappraised. They invested \$1.5 million in upgrades. A final appraisal was for \$9 million dollars. The charter board signed an escalating lease for over a million dollars per year that in time will surpass the school's budget. (The County Property Appraiser served a short term on the CSUSA board.) Other charter leases and management fees resulted in payments of at least 40% of their schools' budgets. Charter School Associates (CSA) is petitioning the Hillsborough County Commission to approve a thirty-million-dollar bond issue so it can buy out the loans on real estate properties in which its schools are located. Property owners are not clearly identified, and a debate ensued over who would benefit. The company states it will use the savings in real estate payments to support instruction. Yet, there is no transparency or any control over those transactions.

In 2016, the U.S. Office of the Inspector General [noted](#) similarities between charter financing and the subprime loan crisis that rocked the housing industry. An Indiana Law Review [article](#), "Are Charters the Second Coming of Enron?" listed the many threats to the public due to charter financing practices. Minimal real estate loans and/or bonds payments had escalating annual payments with large balloon payments when the loan becomes due. Annual audits of Florida's charters currently note many of these loan financing arrangements. In 2016, the legislature passed HB 7069 which gave an additional twenty-five percent in facility capital outlay funding for charters who enroll 75% Free and Reduced Lunch qualifiers and 25% students with disabilities. It enacted very few limits on the 'self-dealing' and profiteering. It did require:

- charter applicants to provide a financial and academic history.
- automatic closure of charters receiving two consecutive 'F' grades.
- that students not be dismissed for low academic achievement.

In 2016, the Independent Media Institute reported that transparency and controls are needed to thwart the continued profiteering. The [report](#) concluded:

"Despite myriad reports detailing many conflicts of interest and examples of profiteering state legislators and congress have imposed few additional transparency and accountability requirements in Florida, Texas and California".

In September 2018, Integrity-Florida [released](#) its report on needed reforms. Millions of dollars have been lost to both excessive profits and criminal misuse of funds.

Key takeaways. Charter schools:

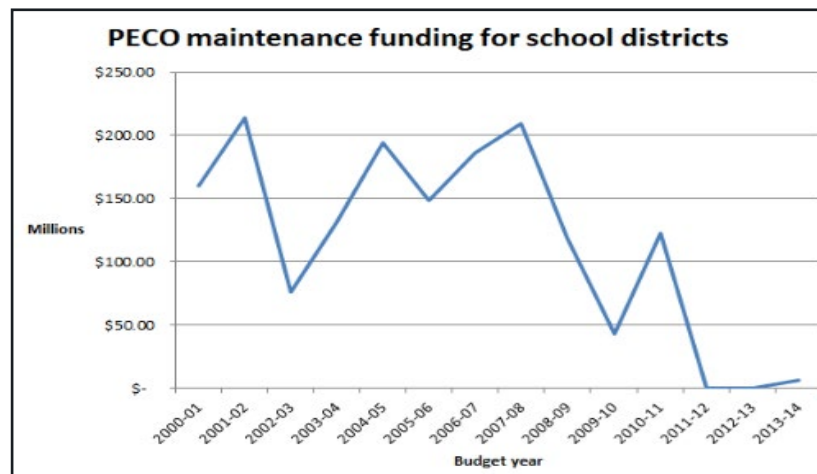
- do not improve academic achievement in Florida.
- increase segregation by race, student disabilities and English Language Learners.
- are privately owned and managed. Nearly ½ are run by for-profit management firms.
- have the highest closure rate in the nation. Owners keep the closed buildings.
- have extensive opportunity for mismanagement and corruption.
- divide scarce financial resources to create a financial crisis for all schools.
- create systems where parents lose voice and choice. Schools have different rules.
- are poorly supervised and erode local control of elected school boards.

The 2007 recession hit Florida hard. The economy was devastated. Funding for school operations and facilities became a serious and contentious issue. Florida funding for operations and teacher salaries began a decline from \$10,000 to \$8,920 per student in 2016. Florida was ranked 43rd in the nation.

During this period, Florida's population continued to grow, and new schools were needed. Most facility maintenance funding for public schools comes from a 2.0 mill assessment on local property taxes. The state reduced this millage from 2 mills to 1.5 mills during the recession. As the economy improved, the legislature capped the local revenue at 1.5 mills to prevent districts from earning more money as property values began to increase.

Even though charters are exempt from the school facilities quality codes, many complain they are underfunded. Some are housed in strip malls or former business locations. Others have financed large, expensive school buildings, and they face high interest loan payments. Legislators differ over whether charters should have equitable funding or are supposed to be an inexpensive alternative to public schools. One tactic to help charters was to allocate state PECO funds derived from telephone landline taxes to charters instead of public schools. While charters were supposed to be less expensive, there was no agreement on how much less expensive. In the next several years, the legislature gave most of the state PECO funding to charter schools. Charter advocates wanted even more facility support, but the revenue from PECO funds was going down because people were relying solely on cell phones. The figure below shows the change in state facility funding to public schools. It nearly disappeared.

Figure 7: PECO Maintenance Money for Public School Districts 2000-2014



Source: RedefinED April 16, 2014

The 2015 Florida legislature tied state charter capital outlay funds to their school grades. The new rules would disallow facility funding not only for charters that have consecutive failing grades but also for those with consecutive 'D' school grades. The rule affected thirteen charters with consecutive 'D' grades. The charter owners protested, and an administrative judge agreed with them. They received \$408,500 in back payment. A million and a half dollars per year for thirteen schools was [paid](#) from public funds for thirteen privately owned schools likely to close.

As controversy escalated, claims and counter claims were made about appropriate funding for charter and traditional public-school facilities. Politifact rated the veracity of the complaints in 2016. Charters do receive proportionately less facilities funding (see Table 8). The differences in the funding allocations, however, did not include the federal government funding for charter school facilities over a five-year period through its *State Charter Schools Facilities Grant Program*. Nor did it factor in the cost of the local district facility bond payments

or the maintenance backlog public schools had accrued following the recession. A more fundamental issue that was not considered was that charters do not have to meet state building codes for public schools. Their facilities were intended to be less expensive, and they are if they use their option to eliminate the auditoriums, cafeterias, science and other facility requirements for traditional schools.

Table 8: Comparison of Funding Charter vs. Traditional Schools

	<i>Charter schools</i>	<i>Traditional schools</i>
PECO funding	\$50 million	\$50 million
School board levies	N/A*	\$2.3 billion
Other state and local revenues	N/A	\$850 million
Total capital outlay funding	\$50 million	\$3.2 billion
Full-time students	250,000	2.4 million
Capital funding per student	\$200	\$1,300

Sources: Florida Department of Education, Florida Department of Revenue, Florida House Appropriations Committee, Office of the Speaker of the House

Public School Funding Crisis. The school funding controversy turned into a crisis. Districts floated bonds to build schools, but much of the available capital outlay money from local millage went to pay off bond debt. Public schools were left to patching roofs and air conditioners in aging schools with what little facility money they had. The legislature added to the misery by passing HB 7069 in 2016 requiring districts to share the 1.5 mills generated from local property taxes for facilities with charters. Many school districts had already gone to the voters, due to previous cuts in operational costs, to support tax increases for the arts, guidance counselors and the technology needed to administer online state tests. Now, they were faced with going back to the voters locally to maintain their school buildings. In August 2018, the Tampa Bay Times reported that ten districts had school funding measures on the ballot, and all ten passed. Many of the more rural districts did not even try.

School districts turned to the courts. Three lawsuits against HB 7069 were unsuccessful. One case, Alachua et al vs. Corcoran, was based on the violation of the single subject law on legislation. HB 7069 rolled the capital outlay measure into a bill with many other proposals. A Palm Beach case focused solely on the legality of sharing local capital outlay with charters. A third unsuccessful lawsuit: Alachua et al v. Fl. DOE, included issues including:

1. Sharing local discretionary capital outlay funds with charters.
2. Schools of Hope that operate outside of local district control.
3. Charter systems operating as their own LEA (Local Education Agency).
4. A statewide standard charter contract with no local input.
5. Restricting district authority to allocate Title I funds.
6. Restricting district authority to allocate funds to meet needs of low performing students.

The January 4, 2019 court decision in the *Citizens for Strong Schools* sealed the districts' fate. School funding inequities would not be considered by the courts. The constitutional requirement for access to a free equitable high quality system for all children was robbed of meaning. The lack of equity is apparent when enrollments of charter and traditional schools are compared. Florida's funding for education ranked 43rd in the nation in 2016. Dividing such low levels of funding to support separate charter, private and public school system is inefficient. It ensures mediocrity and injustice. Yet, the pretense of saving money by diverting students to charters and private schools is gone. Last year, support for private school tuition was raised to 95% of the public school per student level. The legislative intent for 2019 is to equalize facility funding for charters.

The legislature is forging ahead by setting up mechanisms to undercut the constitutional requirement for a uniform system of public schools operated by locally elected school boards. There are continuous attempts to create separate school systems for charters, private schools and traditional schools. The 2019 legislature has framed a bill to fund private school vouchers from sales taxes and hide the funding by including it in the per student funding for public schools.

Charter School Districts. Some ideas never really go away, they evolve. Senator (then Representative Manny Diaz (R) Hialeah), filed a bill in 2015 to recreate charter school districts. This plan had surfaced at the beginning of the charter movement in Florida with the creation of charter districts, but it died. HB 357 called the Charter School District Pilot Program revived the idea. The bill would allow six districts to convert three middle and/or high schools into charters. Districts would create a charter district within the traditional school district. The charter district, however, would not report to the elected school board but to the SBE.

In these proposed charter districts, current teachers who remain at or transfer to the charters would retain their status as district employees. They would qualify for benefits. Newly hired charter teachers would not. If the charter wanted a longer school day and school year, it could finance it by hiring less experienced, less costly teachers on 'at-will' contracts.

The funding for charter districts would be different from the funding for other currently operating charters. More money would go to district charters, and it would come out of traditional public-school budgets. Traditional school district funds are allocated by the state using a per pupil formula. Districts can vary each individual school's allocation. If no school receives less than 80% of the funding it would generate based on its enrollment. The charter school districts, however, would be guaranteed 90% of the money individual charters generate.

Most districts currently do not share that locally generated revenue with charters. Thus, the new charter districts would have more flexibility at the expense of the public-school district. They would use public school buildings and have more money than traditional schools in the same district. The author of the bill stated that the charter system takeover amendment HJR 579 did not change the law; it just lets the citizens decide. The charter Pilot District bill became law. A bill has been filed in the 2019 legislative session to require districts to share revenue with charters that is generated by local referenda.

Public School District Flexibility. Another version of charter expansion was initially included in HB 7055 called 'district flexibility'. If approved, school systems would be either publicly or privately run or a combination of the two. In the House version, HB 7055, public schools could choose to be run by privately managed charter districts. In the Senate version, SB 2508, districts continued to be overseen by elected school boards, but individual public schools could be converted to charters managed by the district's school board. This was Part II of the Principal Autonomy Program where an individual principal could be given autonomy by the district to run a school.

Understanding how and why any school, traditional or charter is successful matters. Success may be real, or it may be an illusion based on exclusion. Are 'successful' charters weeding out students whom they cannot help? Should all public schools be the same? History is full of examples of injustice and inequity when certain groups are excluded. The cost of inclusion is also high. This is another one of those necessary tensions that can never be resolved on one side or the other.

Key Takeaways: Separate Systems for Public and 'Independent' Schools:

- are allowed substandard, cheaper charter facilities but advocate for equal funding.
- result in cost inefficiencies due to unregulated expansion of unneeded schools.
- divide funding among public and private schools creating a financial crisis for all.

1. Impact on Students.

Public schools offer the best opportunity for students to learn the skills needed to live and thrive in a diverse world. In Part IV of this report, the failure of the A+ Plan to foster a supportive school climate for students, communities and teachers is considered. The goals of the Florida education system as listed in 1008.31 Florida statutes are to: to obtain the highest student achievement, seamless and maximum access, skilled workforce and economic development, and quality services. Nowhere in this statement is a reference to the civic skills that Jonathan Cohen, of the National School Climate Center lists as critical, i.e. respecting others, working collaboratively, acting in a way that is fair and just, and being an active participant in the life of the community.

When schools are a welcoming, safe, supportive place, children can learn. Yet schools are a microcosm of the complex world outside of school. Creating a school environment where students can learn not only academic skills, but also how to function in a diverse world, is essential. It is as important for the child from privilege as it is for the child with fewer opportunities. The A+ Plan put traditional schools in the spotlight as if their diversity were something to escape rather than to celebrate. By grading schools on achievement scores, many were labeled as mediocre or worse because of the number of children who were struggling to learn. The label and the reality can become confused, as Noel Wilson, author of *Educational Standards and the Problem of Error* explains in the following [quote](#):

“So the mark [grade/test score] becomes part of the story about yourself and with sufficient repetitions becomes true: true because those who know, those in authority, say it is true; true because the society in which you live legitimates this authority; true because your cultural habitus makes it difficult for you to perceive, conceive and integrate those aspects of your experience that contradict the story; true because in acting out your story, which now includes the mark and its meaning, the social truth that created it is confirmed; true because if your mark is high you are consistently rewarded, so that your voice becomes a voice of authority in the power-knowledge discourses that reproduce the structure that helped to produce you; true because if your mark is low your voice becomes muted and confirms your lower position in the social hierarchy; true finally because that success or failure confirms that mark that implicitly predicted the now self-evident.”

The social problems of inner-city schools where schools experience ‘double segregation’ by race and economic level are seemingly intractable. The choice that policy makers propose is to allow students who are able, to shift to another school. This approach may be a practical solution for the few, but the consequence is to make a bad situation worse for the many children with no choice. There are no easy remedies unless the entire community makes a commitment to find a better approach to balancing schools so that problems are not over whelming and learning can take place.

Balancing School Populations. When some schools get too high a percentage of disadvantaged students, school culture begins to change. Districts have responded by creating magnet programs to integrate these schools. Sometimes this works if all children have access to the magnet program courses. If children living in the community do not have the academic skills to succeed in these programs, a two-tiered system within schools is generated creating hostility between haves and have nots. How do districts balance under enrolled schools in low-income areas if parents are concerned about their children’s safety? No matter how appealing a specific academic program may be, the entire school culture must be one that supports access to high quality learning for all. Parents must support a diverse learning environment and avoid creating racially and economically segregated schools.

Student Safety and Discipline Concerns. Florida today is in the throes of a conundrum. The shootings at Stoneman Douglas high school was unexpected and tragic. The violence which many inner cities families experience regularly was shocking for those in the suburbs. Students demanded a public policy response, and the immediate response was constructive. The legislature funded a mental health program for schools--all schools. The secondary response is now being debated. How should schools be protected? Will teachers be armed? Can schools be 'hardened' by better electronic surveillance? Scientific American published an article covering the debate. They posed a question that reflects specifically on the change in school culture created by the threat of violence. Do teachers and staff view students as potential threats or as people to nurture? The debate is essential.

Schools across Florida are engaged in training protocols on responding to violence. Many are also turning to programs designed to counteract what may be an increased level of antagonistic behavior. While the level and incidence of behavioral problems may be increasing in all schools, it has caused some schools to become dysfunctional. The choice system promotes the theory that 'escape' is the solution. One example was the 'bullying' bill in 2018 to give students who document bullying, a tax credit scholarship to private schools. It will not stop bullying as an article in Psychology Today explains. Private schools have an equally big problem with bullies.

One recurring theme is that inequities exist in the application of discipline policies to students from different racial and socio-economic backgrounds. Schools are required to report student referrals and as well as in-school and out-of-school suspensions. Programs are being implemented to reduce not only the inequities but also the number of referrals and suspensions. Racial sensitivity training and alternative classroom management strategies are under consideration. Student codes of conduct are being reviewed. The practice of using school suspensions as a discipline tool is questioned except for those for whom there is no better recourse. Even then, the needs of these most difficult students cannot be ignored.

Perhaps the healthiest response to the perceived increase in behavioral problems is when the juvenile justice system, mental health agencies, law enforcement and local organizations commit to a community-wide approach. Housing policies, minimum wage, and emergency responses all interact to increase or reduce tension. One example is the Restorative Justice approach where perpetrators and victims as well as teachers and community members participate in small group sessions to find out why a problem occurred and assess the impact of the incident. This is a much different approach than the traditional reward and punishment solution. The hope is that it will be long lasting.

Yet, even these programs have political and ideological overtones. The Fordham Institute [criticized](#) a new report by the Rand Institute claiming that RAND's evaluation of Restorative Justice programs was based on the presumption that reducing student suspension rates was a positive goal. Fordham criticizes this goal as reflecting a liberal bias. Instead it is argued, charter and private schools should simply dismiss disruptive students.

Promoting Online Learning. When schools are no longer a place where students learn how to work together and build a sense of community, learning becomes something to endure. The impersonalization of learning which is one of the ironies of 'personalized learning strategies' has advantages but also consequences that may not lead to improved achievement. Computers provide flexible access to knowledge, but not to the socialization that helps students understand its use. Florida promotes the use of technology in part because of population growth and limited resources. Jeb Bush is another promoter of technology-driven instruction. Digital Learning Now! Is part of the Excelsior Foundation which promotes legislation for expanding 'college and career pathways' i.e. accelerated courses in high school to earn college credit. Computer based instruction is most attractive for those educational reformers who are bent on finding less expensive alternatives to the traditional teacher who guides student learning.

The Florida Virtual School ([FLVS](#)) was established as an independent entity in 2000, and by 2003 had 24,000 half credit enrollments. Florida governor Rick Scott pushed the digital initiative in Florida to new levels. The FLVS has

become the largest online course in the country with over 240,000 course enrollments. FLVS was a testimony to the belief that the lack of regulation promotes innovation. Nevertheless, it also encouraged abuse. During the early years, only one percent of FLVS courses were deemed rigorous. Internal and external administrative problems quickly surfaced.

K-12 Inc., a for-profit online education company operated Florida Virtual Academies in 2012. An investigation of the company found that uncertified teachers were assigned to students under the name of a certified teacher, unbeknown to the teacher. Many districts responded by managing their own online school programs and contracting for course material with FLVS and/or K-12. Nevertheless, tracking student participation was not always reliable. Some students participated fewer hours than required, and others took more courses than were feasible to complete. Rules were revised to allow students to take only three online courses after school while enrolled full time in a physical school.

The legislature responded to the FLVS controversy by changing the funding formula. FLVS had received a fixed supplement to the district per student allocation. After the formula changed, the district and the FLVS shared the state per student allocation, thus reducing funding for both the district and FLVS. There was also a move to expand online course offerings to other companies. The problems, however, continue to unfold. As eLearning Inside reports, FLVS has been beset by problems relating to a massive data breach, disputes with employees, and self-dealing by its long-time attorney.

Despite the mismanagement, the move toward digital education in Florida continues. State law SB 2120 enacted in 2011, required that schools spend half of their instructional budget on digital lessons and electronic textbooks. Beginning in 2015, instructional materials for students in K-12 had to be provided in electronic or digital format. Schools added bandwidth, upgraded networks and high-tech teaching tools to meet the implementation deadline. Florida students were required to take one online course before high school graduation. Online courses were to be available to all grade levels as well.

Collegiate high schools were created which allowed students to complete an Associate of Arts degree while enrolled in high school. Many community colleges and charter schools formed these schools, and students participated using different instructional strategies. For example, some students participated in dual enrollment classes at college campuses. Others took classes at their home school, but the courses were taught by college faculty. Once again, management problems ensued. There is a bill in the 2019 legislature to rename these schools as 'Early College Program' and to extend the program to home schools, charters, and private schools. They serve a real need for children if they are properly supervised and student support is provided.

All problems aside, online education in Florida continues to expand. FLVS has 1,937 unique full-time students in charters. Districts franchise courses from FLVS for their own online programs. Districts have taken control of the management of these courses locally to ensure that quality teachers can assist students in well-managed settings. FLVS reports that there are 420,604 course completions by several thousand students in their three optional programs: FLVS State Virtual School; District Virtual Schools, and the Charter Virtual Schools.

Public response to the technology infusion in schools has thus far been mild except for the technical disaster during the 2015 FSA administration. Some parent groups are concerned about the constant collection of data that is gathered about students' progress. Others welcome the flexibility of the online course option. There are concerns that many schools cannot support the expense related to a fully implemented technology infrastructure. There is also a growing concern that the opportunities for the private sector to focus on profit making will outweigh the incentives for improving student learning.

2. Impact on Communities.

Florida's dramatic growth and the shift to a more diverse population has in some ways furthered segregation. In time, new immigrants may intermingle with longer term residents, and cities, suburbs and rural areas will change yet again. At present, housing is more racially and economically segregated than in the past. School choice has exacerbated the problem, and it changed the tenor of discussion. There is a sense of empowerment of people who expect schools to reflect their political ideologies and religious preferences rather than to remain neutral. This expectation not only results in the occasional confrontation over text book selection, it also generates confrontations over the role of schools in acknowledging and even validating religious differences. Bills are being filed in the 2019 Florida legislative session that reflect these positions.

Increasing Segregation. In the 1960s and 70s, Florida was advertised as the 'New South'. It had achieved the highest rate of racial integration in the country. Its population was 70% white; its low-income population was 39%. The population, however, doubled over the next fifty years. Hispanics increased from eight to thirty-one percent, and the white population is now at forty percent. Students from low income families rose to 59%. When Jeb Bush was elected governor, he responded to the changes by promoting an educational choice policy that returned, apparently, to the principle of 'separate but equal.'

The LeRoy Collins Institute's 2017 [study](#), *Tough Choices*, explains much but not all the turmoil over educational policy since Bush's tenure in office. Florida schools are increasingly segregated. There are twice as many severely segregated schools (90% non-white students) than there were in 1994-5. About one-third of Florida public schools are multiracial with at least ten percent of students from three or more racial groups. Segregation in charter schools is even more profound.

In the 90s, some Florida districts used controlled choice regions to lessen the impact of segregated housing on school enrollments. Parents listed school preferences in an area within the district. Children were given their highest preference that would keep schools balanced. The 2007 U.S. Supreme Court decision in *Community Schools vs. Seattle School District No. 1* ended mandatory integration. Federal judges in Broward and Hillsborough initiated resegregation when there had been acceptance of integration. School districts abandoned a unitary district approach to integration.

Many Florida children in poverty are now doubly segregated by race and income. The pattern of double segregation is related to housing, and its impact is largely urban. The result is a concentration of failing schools. The Collins Institute report calls for a focus on integrated magnet programs, urban-suburban collaboration among teachers and support service providers, state support for improved housing options for low income families, and research to document the compelling interest of communities for inter-racial schooling.

The data underscore the magnitude of the challenge facing Florida's schools. If schools reflected the population, there would be 40% white, 31% Hispanic, 22% black, and the remainder would be predominately Asian. Schools in Florida are not balanced, and charter schools are even more segregated. For example,

1. Charter enrollment has doubled in Florida, but the enrollment has gone from majority white enrollment to a plurality of (40%) Hispanic students.
2. In 1994, ten percent of traditional public schools were ninety percent or more minority. Ten years later, the percentage was twenty percent (742 schools).
3. In 2014, thirty percent of charters were 90% or more minority. Segregated charters had a higher percentage of Hispanics (43% vs. blacks 39%). Eight percent of charters vs. four percent of TPS were apartheid schools with 99% minority enrollment. Most highly segregated charter schools are in Miami-Dade, Broward and Palm Beach counties.

4. White students typically attend middle income schools with seventy percent white enrollment. Black and Hispanics typically attend predominately low-income schools with about twenty percent white enrollment. Neither of these percentages reflect the state school population.

Black and Hispanic students are in schools where nearly two-thirds of their peers are from poor families. Whites attend schools where less than half of their classmates are living in poverty. Seventy percent of low-income children go to predominately low-income schools. The Collins report makes a strong statement about the imbalance in the schools: “It is evident that students of color living in poverty are facing higher educational barriers than any other student. This is a significant gap. This is not just a numerical gap, but a gap in school resources, education quality, academic achievement, and the environment around the school.”

Doubly segregated schools in Florida made national news and the Tampa Tribune won a Pulitzer Prize in 2015 with its ‘Failure Factories’ series. The stories followed the 2007 decision of their school board to end busing at the south edge of the district. Promises made for extra support were not kept. Achievement declined and chaos ensued. Following the media exposure, experts created a plan to improve the schools, and funding was found to implement support services. Some schools showed improvement in one or more grades but not in others. There were no quick fixes. The Collins Institute recommendations include:

Recommendations

- Expand the magnet school desegregation requirement to charters and integrate metropolitan-wide magnet schools. Expand two-way language immersion programs.
- Support Inter-district and urban suburban counseling teaching exchanges.
- Implement school and housing policies to avoid massive resegregation.
- Conduct research to support desegregation policy and the value of interracial experience.

Key Takeaways: Impact of School Choice on School Culture

- A ‘test and punish’ school system labels students and schools.
- The impact of school grades increases racial and economic segregation and makes schools more difficult to manage.
- Not only schools are selective, programs within schools are selective.
- The ‘test and punish’ system of school grades creates unhealthy stress and a test-prep learning environment.

Blurring the Separation of Church and State. Religion not only comes in many forms, it engenders strong emotions. In the mid nineteenth century, waves of immigration brought people together whose religious faiths differed. During the presidency of Ulysses S. Grant, the issue came to a head over teaching religion in schools. Senator Blaine proposed a solution. Keep schools and religion separate. A proposed constitutional amendment failed, but thirty-eight states, of which Florida was one, passed their own version of the Blaine amendment to separate church and state.

The issue once again reached the Florida legislature in 2017 when HB 303 (Rep. Daniels) and SB 436 (Sen. Baxley) were filed. These bills allow religious expression in schools. The bills were framed to prevent districts from penalizing parents, teachers or students who express religious beliefs in course work, artwork, or other assignments. The bill went on to authorize students to pray, organize prayer groups and religious events. It also ensured that districts may not prohibit teachers from participating in these religious activities. The combined bill became law.

U.S. and Florida Constitutions, of course, already protect religious freedom. It was argued, however, that schools can be arbitrary in their interpretation of what is permitted. One 2009 Alachua County example was troubling.

T-shirts promoting religious beliefs were banned. The ACLU filed suit to protect the rights of students to wear anti-Islamic t-shirts. Free speech, even hurtful free speech must be protected, the ACLU argued. Many school districts turned to dress codes to avoid inevitable conflict. Opponents of these freedom of religious expression bills were concerned about their impact. The increased visibility of religious expression by some groups could have a 'chilling effect' on others. Teachers might also experience heightened criticism when they teach evolution or other science concepts contrary to the teaching of some religions.

The new religious expression law may not have been accepted in the past. The behavior code districts previously used was intended to allow private religious expression, for example:

1. Students may pray at any time, only they may not conduct prayers in a public way.
2. Teachers can pray if it is not a public event that might be construed as affecting others.
3. School districts that make their facilities available for other users must be content neutral to its renters so long as they do not incite or foment social unrest.

In 2018, a bill was filed to allow school districts to exceed curriculum standards and introduce religious beliefs and opposing economic theories into schools (SB 966). This bill did not pass, but the idea took another form when a constitutional amendment was proposed for a civics requirement in the schools. Civics education is already required in Florida schools. A political action committee called '8 is Great' was formed to sway voters to support Amendment 8 to the Florida Constitution. According to the Vero Communique, Howard Rich, a wealthy New York real estate investor, donated \$100,000 to the '8 is Great' PAC. Rich serves on the Board of the CATO Institute which was founded by the billionaire Koch brothers who have a long and intensive interest in promoting school choice through their Americans for Prosperity organization. Their strategy is to move beyond choice to 'tailored individualized learning'. It sounds like there would be no schools at all, according to an [article](#) in Nonprofit Quarterly (NPQ).

Due to the vague wording of the amendment (Amendment 8), the Florida Supreme Court ordered it be withdrawn from the November 2018 ballot, but a similar bill has been filed in the 2019 legislative session. These potential violations of the non-sectarian clause in the Florida Constitution have already surfaced in proposed legislation in the 2019 session.

The Supreme Court decision to remove Amendment 8 from the ballot has redirected this movement. The same coalition reformed as a new political action [group](#) called the *School Choice Movement*. The group's agenda is to expand the personal learning accounts for private school vouchers, continue the attack on local district school boards, and expand the sectarian agenda.

Key Takeaways: Blurring the Constitutional Separation of Church and State

- FTCS private schools are not required to meet curriculum standards and can teach a specific religion, including creationism.
- Organized religious advocacy groups seek to expand religious activity in public schools, censor textbooks and introduce controversial topics into the curriculum.

3. Impact on Florida's Teachers.

There are those who argue that teaching in Florida is so undervalued that it is difficult to create an appropriate and respectful learning environment. Education reformers believe teachers could be replaced by machines as has happened in other economic sectors. This line of thought originated in the conflict between centralized top down

policies and local control. The call for 'efficiency' in education is translated as cost reduction, standardizing not only what is taught but how and when. If students are given structured lessons, some argue, monitors replace teachers.

The determination of quality of instruction in this policy approach is made by measuring 'outputs' i.e. test scores. One of the better explanations of the consequences of defining educational quality as 'outputs' scores is given by Steve Denning in a Forbes magazine [article](#), "*The system" grinds forward, at ever increasing cost and declining efficiency, dispiriting students, teachers and schools alike*". The factory model of management that means more top-down management, tighter controls, and more carrots and sticks. It is assumed to mean hammering the teachers who do not perform and ruthlessly weeding out the 'dead wood'. The thinking, he says, is embedded in the No Child Left Behind (NCLB) and Race to the Top. That legislation was replaced in 2018 by the *Every Student Succeeds Act* (ESSA). ESSA continues the same policy direction but shifted more control to state legislatures.

National Overview of Teaching in Florida. WalletHub [says](#) Florida is one of the worst states for teachers. It is a curious statement because its rating system also says it is above average in school system quality. The explanation is that while student achievement scores are at the national average, the state is below average on teacher salaries and pensions, protection for veteran teachers, public school per student funding, and the weakness of the teacher unions. As a result, Florida's combined rank is 47th of the 50 states. Legislative actions over the last twenty years explain the low rankings. According to the New Yorker article, Bush saw an opportunity to break the teacher's union because it was viewed as a stalwart of the Democratic Party.

Race to the Top, a federal initiative to spur student achievement also targeted teachers. If states were to receive federal funding, they would have to adhere to teacher evaluations based on gains in student test scores. The FEA unsuccessfully opposed *Race to the Top* in 2009. Florida's legislature and governor went much further by also attacking teachers' pensions. A series of what were perceived as attacks on teachers and their union followed:

- 2009: Reduced interest on savings teacher would receive on an early retirement program called DROP. The FEA filed suit--*Scott vs. Williams* and lost in a ruling by the Florida Supreme Court. Many teachers retired before the decision went into effect.
- In 2010: A teacher merit pay law was passed. It ended tenure and pay based on longevity. Test score gains now became fifty percent of the teacher evaluation rating. The Florida Education Association went to court and lost at the appeals level in 2015.
- 2010: SB 6, a bill to establish performance pay based 50% teacher evaluations on student achievement gains, ignored length of service in salaries and used seniority as primary focus for layoffs. The governor vetoed the bill.
- 2011: Public employees were required to contribute three percent of their salaries to pay for retirement. In the past, teachers were not required to contribute to the retirement system, so this was in essence, a pay cut.
- 2011: SB 736, a revised version of the 2010 bill required: student achievement gain scores to count fifty percent of annual teacher evaluations, a merit pay system, and no long-term teacher contracts. The FEA filed lawsuits and lost both at the state and federal levels.
- 2018: *FEA v. Donna Maggert Poole, et al.* was filed to oppose legislation to decertify any local union unless 50% of the district's teachers paid dues.

The settlement of a teacher walkout in 1968 precluded teachers from striking. Florida law chapter 447.505 states that public employees cannot strike, or they risk termination, decertification, and a monetary penalty of \$20,000 per day.

Teacher Retention/Teacher Shortage.

Teacher's morale is low in part because many teachers feel they lack respect; they are undervalued as individuals and as a profession. There is a tragic irony in a strategy of attacking a profession in order to improve it which makes highly qualified teaching candidates consider different careers.

The state is [short](#) over 4,000 teachers. Now another 1,000 beginning teachers who did not complete their certification requirements have been terminated. Many teachers are employed right out of college and within three years must complete three tests: general knowledge, subject area knowledge and professional education. Until 2014, between 80% and 93% of teachers passed each exam. After the tests were updated in 2015, the passing rate [dropped](#) about thirty points.

Filling vacancies is no longer automatic. In 2004-5, eighty-six percent of Florida's teachers were drawn from traditional college teacher preparation programs. Five years later less than one-half were. [According](#) to Cathy Boehme, of the Florida Education Association, the percentage of teachers from college teacher preparation programs dropped again between 2010-15 from 10,743 teachers to 6,199.

In response, Florida has turned to alternative certification programs for college-educated prospects. Two-thirds of all certification completers came into the profession from community college or district designed teacher preparation programs. These are programs that help recruits become effective teachers. One of the biggest concerns is that people who enter these programs are teaching full time while they try to complete their certification program requirements. Many simply cannot do both at the same time. Boehme reports that in 2012-13, more than one-half do not finish.

The Florida Education Association reported that there were 20,000 more students in Florida schools in 2018. Nearly three thousand vacancies were anticipated at the beginning of the school year, but an additional 1000 vacancies were reported. As late as January 2018, 1,482 of these positions were still not filled. Long term substitutes were needed, but they are not required to be certified or to teach in their field of study (see Table 9).

Table 9: Florida Teachers Working Out of Field

	2014-15	2015-16	2016-17	2017-18	2018-19
Vacancies	2,017	1,478	2,111	1,629	3,280
Out of field	4.35%	4.33%	5.65%	6%	6.3%

The shortage is due to the lack of new recruits and to experienced teachers who leave before normal retirement age. There is irony in that the A + Plan promotes choice, and so many teachers are choosing to leave. The reasons are straight-forward.

In a 2010-12 Title IIA Funds Report, the Florida DOE [listed](#) barriers for teachers in participating in professional education development activities. It is a long list. Lack of time was first and was closely followed by a lack of funding for substitutes for teachers participating in these workshops. Changes in system requirements e.g. differentiated accountability, Common Core and NGSSS standards made teachers question whether they could be successful in raising student achievement due to the need to jump from federal, state or local initiative to another.

The following [quote](#) from an NPR article describes the work of Bill McDiarmid, Dean of the North Carolina College of Education: {McDiarmid} "points to the strengthening U.S. economy and the erosion of teaching's image of a stable career. There's a growing sense, he says, that K-12 teachers simply have less control over their professional lives in an increasingly bitter, politicized environment. The list of potential headaches for new teachers is

long, starting with the ongoing, ideological fisticuffs over the Common Core State Standards, high-stakes testing and efforts to link test results to teacher evaluations. Throw in the erosion of tenure protections and a variety of recession-induced budget cuts, and you've got the makings of a crisis."

Once again, the quality of instruction is held hostage to policies that do not tackle difficult educational challenges.

Teacher Certification Concerns. The NCLB Act of 2001 required that all states receiving federal funds have highly qualified teachers defined as: one who has fulfilled the state's certification and licensure requirements, has earned a bachelor's degree, and demonstrated subject matter expertise. At the time, Florida required teachers to pass a general knowledge and a professional skills exam. Early in Bush's first term as governor, the legislature mandated over 40 new subject area tests. Not surprisingly, the administrative costs of the program soared.

Consequently, in 2009 the certification program became self-supporting. The cost to teacher candidates increased from a minimal registration fee to approximately \$500 per candidate. Failing candidates had to pay an additional \$200 to retake the test. When new Florida Standards were implemented, the teacher certification exams were made more rigorous. Passing rates fell from an average across all tests of 82% to 65%. In 2018, over 1,200 teachers were dismissed for failing the examinations. New teachers also leave at a high rate. They are hired on three-year temporary certificates and have difficulty completing their certification and professional education requirements on time. A 2017 [staff](#) report from Miami Dade Schools reports a Florida beginning teacher retention rate of 6.1% compared to a national average of 5.2%.

The Florida DOE provides alternative routes to teacher certification which do not include passing the teacher certification examination. Charter schools and charter management organizations, in addition to school districts, may offer a competency-based teacher certification program developed by the Florida DOE. A teacher mentorship and induction option for certification is added. Professional development for these new teachers is included in the program.

Teacher Evaluation Validity Concerns. Florida's legislature enacted the Student Success Act in 2011 (SB 736) which added fuel to the fire. It required that one half of teacher evaluations would be based on a statistical estimate of students' achievement gain over a three-year period, whether or not they had taught the students. It was called the Value-Added Model. An Alachua County teacher, Kim Cook, along with teachers from several other districts filed suit. Cook was the Teacher of the Year at a school serving grades K-2 that does participate in the FSA. Her VAM score was calculated from the average scores of students at the nearby school serving grades 3-5. This was not a trivial issue. Teachers who are rated unsatisfactory two consecutive years or twice in three years could be terminated. Transfers, promotions and layoffs were based on performance ratings. Beginning in 2014, salaries were also based on ratings. Two of the three evaluation components for Ms. Cook were high, but the VAM score was not. The U.S. District judge acknowledged the unfairness of the evaluation system. In his decision the judge [stated](#):

"Ratings affect a teacher's professional reputation as well because they are made public...Needless to say, this Court would be hard pressed to find anyone who would be willing to submit to a similar evaluation system." However, the teachers lost their case- *Cook et al vs. Chartrand*. The judge in the US Court of Appeals ruled that the state had a rational basis for using the evaluation system; fairness was not the issue.

Studies reported by *NPR StateImpact* questioned the [validity](#) of the evaluation system. A U.S. News study found contradictory results on assessing teacher effectiveness. A 2014 Brookings Institution report reported that teachers who started the year with higher scoring students had better scores than those starting with lower performing students. The consequences tied to these unreliable scores put teachers' careers at stake. The American Statistical Association [cautioned](#) against the use of VAM scores for individual teachers or schools.

In 2017, there were 143,383 teachers in Florida, and their union is viewed as a powerful and organized political influence. Jeb Bush saw teachers' unions as an impediment to the implementation of his plan. He said in his 2012 Republican National Conventions [speech](#): "I have a simple message for these masters of delay and deferral: Choose. You can either help the politically powerful unions. Or you can you can help the kids. Now, I know it's hard to take on the unions. They fund campaigns. But you and I know who deserves a choice."

Jeb Bush's approach to improving teacher quality must be judged by its resulting teacher shortages. The A+ Plan for teacher quality depends upon the rewards and punish premise e.g. high standards and merit pay. The implementation of higher certification standards required replacing tenure with annual contracts and implementing merit pay instead of pay based on longevity. Both goals were met. The impact of this policy change is now being felt. Florida's ranking for the average teacher salary fell from 30th in 1999 to 45th in 2017 according to the annual NEA Rankings and Estimates report, and teachers are choosing to leave the profession.

Key Takeaways: Attacks on the Teaching Profession Create:

- an escalating shortage of teachers. This will result in lower teacher qualifications and an increased reliance on technology.
- a time sink on useless documentation when teachers need time for professional development and group planning.

CONCLUSION. FLORIDA'S FUTURE: IN THE COURT OF PUBLIC OPINION

Change in Florida's educational policy will be determined by the voters, not the judicial system. In his dissenting opinion in the Citizens for Strong Schools case, Justice Lewis said: "...justiciability is an excuse here to avoid a tough case in these education adequacy challenges, rather than the sound legal reasoning based on a valid separation of powers analysis." Translated this means that the courts will not interfere with the legislature's role in policy making even though Justice Lewis believes it is the court's responsibility.

In other states, most recently New Mexico, the judiciary took responsibility for examining the adequacy of the legislature's educational policies. In *Yazzie vs. the State of New Mexico*, the court stated:

"[T]his Court, like courts across the country, must exercise its constitutional authority and enforce judiciable manageable standards to ensure that Defendants are meeting their constitutional duty to ensure that all school age children in New Mexico receive a sufficient and uniform education."

The A+ Plan is a failed attempt at a solution to the wrong problem. The problem is not low test scores. It is whether we value the children we have with all their diversity. It is common to hear the lament..."but what can be done to help children succeed?" There may be no single right answer. There are, however, better choices than those offered over the last twenty years. Local communities can insist on a balance between choice for the individual and access to a quality education for all children. As John Dewey said a hundred years ago, "What the best and wisest parent wants for his own child, that must the community want for all of its children. Any other ideal for our schools is narrow and unlovely; acted upon, it destroys our democracy."

The trappings of school choice: test driven curriculum, school grades, and bonus systems should be replaced. Options for schools must be based on inclusion, not exclusion if all children are to thrive. Educational policy must ensure that public schools have public oversight. And finally, the A+ Plan has shown that there are no 'cheap' choices. The assertion that high quality can be achieved with 'little monies' is false. If Floridians want more from their schools, they must do more for their schools.

There are seeds for constructive changes in public schools everywhere. Take for example, magnet programs that are selecting students not on test scores but on talents and interests. Consider schools based on collaborative learning strategies where teachers work together in teams to build hands-on experiences for student teams. Community schools are being created to bring into the schools the social services children and their families need. Adapting to change can be energizing if Floridians chose to work together.

Parents have the right to expect that the schools they choose represent high quality with good management oversight. Consider the alternative offered by the A+ Plan. First, student achievement can be increased not by appropriate funding of services, but by rising expectations and the consequences for failure. This view demoralizes teachers and students and creates more social inequities. The conclusion on the success of the A+ Plan to boost student achievement is:

Florida's average student achievement is no better and no worse than in 2002. Retained fourth grade students lost their initial gains over time. Eighth graders were at the national average then and are now. The achievement gap for twelfth grade black and white students is wider than in 2002. Florida's graduation rate is below the national average and one half of its graduates do not read at grade level.

The second assumption that the system of rewards and punishments will create competition and motivate teachers and students to meet higher academic standards is false. The conclusion on the effectiveness of this strategy is:

Bonus plans, school grades, and teacher evaluations based on student test scores are so unstable that they are not only ineffective, they are invalid and harmful. They reward those who are already successful. They create 'choice churn' in schools and communities.

Finally, the A+ Plan supposedly promotes choice to create competition. The lack of regulation and variable quality standards, which are integral to this view of school choice, promotes exploitation, self-interest and corruption. The conclusion regarding the impact of choice on raising student achievement is:

Proliferating cheap, low-quality private and charter schools spreads funding too thinly. It is creating serious problems that threaten to undermine all schools.

Reforming the neglect and abuse in the private sector alone will not solve basic inequities in our educational system. Funding to support additional services for low performing students and reasonable salaries for teachers is essential. Florida's funding effort was [ranked](#) 43rd in the nation based on U.S. 2016 federal data. Improvements in funding will be hampered by the 2018 constitutional amendment that requires a super majority vote of 60% in both houses of the legislature to increase state revenue, taxes and fees. Early signals from the 2019 legislative session point to an effort to increase funding for the charter and private sectors and to continue the attack on public schools. It is a route to bankrupt our schools and rob our students of opportunity. Florida has some choices to make.

ACKNOWLEDGMENTS

This report began as a catharsis, a purging of the flow over the past decade of the claims and counter claims besetting public education. The debate was brought to a climax with the Supreme Court's decision on the Citizens for Strong Schools lawsuit.

Jodi Siegel and her colleagues at the Southern Legal Counsel led the charge to support Florida's children and their public schools. The resolution of the argument over the role of public education, however, will not be decided by the courts but by the voters. Jodi galvanized the arguments. I acknowledge and admire her perseverance and leadership over the past decade. It is up to the voters to use those arguments to support public schools.

The court decision was a gut punch, but not unexpected or a final judgment on the value of public education. In fact, the court punted the question back to the legislature. It is time to take stock of what has been and what can be going forward.

It is important to make two other acknowledgments. First to my tenth grade English composition teacher, Mrs. Weatherby, whose face kept popping up in my brain as I thought through the issues. She would say "Write, support what you write. Then, think about what you have said and rewrite." I followed her advice from long ago. A computer should never replace that voice.

The other strong voices I keep hearing are from the Florida League of Women Voters Education Team. This is a group of clear minded people who are dedicated to finding the facts to support their positions. It serves them and the country well.

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