

DOWNLOAD PDF THE LEGITIMACY OF THE POLICY AREA : RETHINKING THE PROCEDURAL LANDSCAPE.

Chapter 1 : Civil Procedure and EU law: a policy area uncovered

This chapter attempts to give a historic context to the emergence of the policy area by discussing the legal developments within the EU that preceded the development of the policy area of judicial cooperation in civil matters.

Charter schools operate with more autonomy and flexibility than traditional public schools, but at the expense of democratic accountability mechanisms. While this model has produced positive results, some charter schools deny access to or underenroll students with disabilities. The Individuals with Disabilities Education Act entitles all students with disabilities to a free and appropriate public education and establishes certain procedures by which students and their parents can vindicate this right, but these procedures are imperfect. This Note argues that the absence of democratic responsiveness in the charter model amplifies existing shortcomings of special education procedures, frustrating the purposes of both charter school authorization statutes and the Individuals with Disabilities Education Act. It concludes by offering suggestions for charter school authorizers and lawmakers to improve access to alternative, less-legalized mechanisms for protecting special education rights in the charter school context. Candidate, Columbia Law School. Introduction In the late s, Ray Budde imagined a radical solution for reforming public schoolsâ€”education by charter. See generally Ray Budde, Education by Charter: Restructuring School Districts 16â€”20 outlining the idea for a system allowing teachers to innovate in charter schools under the traditional district umbrella. It is worth noting that Budde did not support charter schools as alternatives to traditional districts. Times June 21, , http: Close Since then, public charter schools have become, at least to many, a beacon of hope to reform struggling districts and close the achievement gap that exists between racial and socioeconomic groups in American education. Close Over the course of the s and s, charter schools have grown rapidly in the United States. Grace Kena et al. Close Charter school operators voice a bold vision: Close This ostensible freedom to innovate comes with a cost: This defining principle has led to state-constitution-based language in several states, including Washington, where the state supreme court in League of Women Voters of Washington v. Close Public charter schools, in their current form, receive government funding to educate students without traditional district governance. Outcomes, National Charter School Study 9 , http: Ron Zimmer et al. Effects on Achievement, Attainment, Integrations, and Competition 84, 86 , http: But see Education Reforms: Exploring the Vital Role of Charter Schools: Hearing Before the Subcomm. Close commentators have argued other studentsâ€”particularly students with special education needsâ€”have been unable to take part in this vision proffered by charter schools. Close Concurrently, ensuring that students with special needs have access to a free and appropriate public education FAPE is a core commitment of federal special education law. Close The Individuals with Disabilities Education Act IDEA , which provides a detailed framework of the rights available to students with disabilities and their families, articulates two core purposes: B summarizing the federal special education law framework. Close When Congress enacted EACHA in , public education consisted of schools geographically organized into school districts governed by centralized, elected school boards. See supra note 1 and accompanying text. Close The emergence of the charter school model less than ten years later prompted questions about the coherence of the federal special education regime in its application to charter schools 16 16 See Robert A. Special Education in Charter Schools, 90 N. Heubert, Schools Without Rules? Close and whether charter schools were doing enough to educate students with special needs. Close While courts and scholars have for the most part agreed that charter schools must abide by federal special education laws, 18 18 E. Close students with disabilities and their families have struggled to access the promise of charter school education. Individual districts can exhibit even larger enrollment disparities. But see David Rostetter et al. Close these often time-consuming procedures sometimes fail to provide satisfaction to aggrieved students and parents. Students and their families can petition the school board, attend public meetings, support new candidates, or run for the school board themselves. Reform, Public Accountability for Charter Schools: Standards and Policy Recommendations for Effective Oversight 5 , http:

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The Challenge of Closing Failing Schools 16¹⁷, [http: Close This Note](http://Close This Note) explores the extent to which the absence of democratic accountability in the charter school model amplifies the shortcomings of the litigation-based procedures mandated by federal law, arguing that disability-rights advocates should leverage the charter school accountability conversation to improve compliance with IDEA and promote access for students with disabilities. It further argues that improving access to charter schools for students with disabilities will, in turn, help charter schools better live up to one rationale for their existence—improving educational outcomes for the highest-needs students. Part I examines several representative state legal regimes that govern charter schools. It also provides background on the federal disability law framework that not only establishes access and education rights for students with disabilities but also creates procedures that attempt to secure those rights. Part II discusses the shortcomings of these procedures, particularly in the charter school context, in which market forces 24 24 This Note references the market forces argument in support of charter schools several times. See *infra* notes 36³⁷, 42, 54, and accompanying text. One justification for expanding the number of charter schools is that they will create a market for education that will produce higher quality opportunities for students and parents through competition for students. Heubert, *supra* note 16, at n. For helpful background on the history of the accountability and market view of education, see generally Robert A. Close and post-hoc charter withdrawal provide the only accountability mechanisms. Part III suggests a number of reforms that will leverage democratic accountability to provide alternative avenues for students with disabilities and their families to vindicate rights secured by federal law. Close provide access and education rights to students with disabilities and impose a number of requirements on charter schools. This Part discusses the origin and legal framework for charter schools and the application of federal disability law to them. A discusses representative legal regimes that govern charter schools. B examines the federal disability law structures, identifying specific rights and procedures guaranteed to students and their families. C analyzes the application of this framework to charter schools, concluding that charter schools must but sometimes fail to comply with the access principle established by the federal disability law framework. Legal Foundations of Charter Schools To fully understand the shortcomings of federal disability law as applied to charter schools, it is important to understand how charter schools are functionally and legally distinct from traditional school districts. While they have several definitions, 28 28 See, e. Distinctive characteristics of charter schools include: Close charter schools are publicly-funded, often privately-managed, schools. Close Charter schools secure public funding by organizing under state charter school authorization statutes that often mandate certain educational outcomes for charter school students. Close among students of varying demographics and income levels in the United States. Close Several state charter authorization statutes explicitly invoke this in their purposes sections. Close The spread of charter schools has provoked polarized debate among education academics and reformers with respect to their effectiveness, 35 35 Compare Angrist et al. Close accountability, 36 36 Compare Annenberg Inst. Reform, *supra* note 23 offering measures to improve perceived accountability shortfalls , with Bruno V. Problems and Prospects, 14 Educ. For more background on accountability-litigation failures, see *infra* sections II. Close While many studies demonstrate that charter schools can deliver improved outcomes for their students, 38 38 See, e. Next, Fall , at 63, 66⁶⁸ finding low-performing students left KIPP schools at higher rates and, unlike in traditional districts, were replaced by higher-performing students. Close Nevertheless, charter schools have proliferated quickly and have garnered support from across the national political spectrum. House, Huffington Post May 9, , 1: However, the nomination and confirmation of U. Secretary of Education Betsy DeVos thrust charter schools into the political arena once again. See Josh Mitchell et al. Charters, which reduce the role of teachers unions, have grown rapidly in recent years in urban school districts, while overall enrollment in traditional school districts has declined. About 80 percent of the charter schools in Michigan are operated by for-profit companies, far higher than anywhere else. Yet, some on the left have started to view all charter schools more skeptically. Close and the added burden of competing in the education market. Close This trade-off, proponents argue, facilitates innovation that would enable charter schools to outperform their traditional-district-school peers.

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Close Since Minnesota passed the first charter school authorization statute in 1992, forty-one states and the District of Columbia have followed its lead. Reform, supra note 44 providing state-by-state analysis of charter authorization statutes. This section examines state statutes that occupy different strata in the Center for Education Reform rankings. For the full rankings, see id. Close many contain a number of key components. The statutes typically enable authorization agencies—“including state boards of education, higher education institutions, school districts, or municipalities”—to issue charters to would-be school organizers. Several states empower only the state board of education or state commissioner of education to authorize charters. For examples, see Conn. Close The issuance of charters has the purpose and effect of freeing the schools from direct accountability to democratically elected school boards 47 47 This is true in most cases. Some statutes allow local school boards to issue charters. For an example, see N. Charter schools still enjoy operational autonomy. Close in return for increased accountability for student outcomes. Close Charter authorization statutes often require the charter to contain both simple logistical information and student-outcome goals. New York, for instance, mandates that the charter agreement provide a mission statement, a proposed budget, and descriptions of student-achievement goals, methods for evaluating student performance, and discipline policies, among other requirements. Other charter authorization statutes contain similar requirements.

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Abstract. This book examines a burgeoning policy area of the EU - the regulation of cross border civil and commercial litigation. The book analyses the EU's specific legislative measures regulating civil procedure and assesses their impact on litigation, particularly due process rights.

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The regulation of cross border civil and commercial litigation is a burgeoning EU policy area. Legislative measures and other initiatives now provide a framework for the regulation of cross-border service of documents, obtaining evidence, establishing jurisdiction and enforcement of judgments, enforcement orders, legal aid, alternative dispute resolution, payment orders, and small claims.