
Democracy & Education

Public and Counterpublics: Rereading the Case of Riverside through Critical Pragmatism

A Response to *Community Insurgency: Constituency, Choice, and the
Common Good*

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Abstract

An article of empirically informed philosophical analysis of charter schooling that features local histories, voices of stakeholders, and an optimistic view on the democratic potential of charter school policies, the original piece presents a compelling, if extreme, case of charter school formation. In this response, I offer an alternative theoretical framing to the case. I argue that the scholarship of constitutional scholars is much less relevant as an interpretive lens on the case than more critical, contemporary pragmatist thinkers. I hope to show in this response how Deweyan political philosophy might have been used throughout the argument to produce a more nuanced and less naïve reading of charter schooling as a venue for creating new public spheres in education beyond traditional public schools. The qualitative study featured in this paper produces a detailed reading of a local charter schooling initiative that is worthy of serious analysis. My response suggests new, more plausible ways to theoretically interpret the rich case offered here.

This article is in response to

Pendola, A., Mann, B., Marshall, D. T., Bryant, J. (2021). Community Insurgency: Constituency, School Choice, and the Common Good. *Democracy & Education*, 29(2), Article 1. Available at: <http://democracyeducationjournal.org/home/vol29/iss2/1>.

IT IS REFRESHING to read empirically informed philosophical analysis of charter schooling that features local histories and voices of stakeholders, as well as an optimistic view on the democratic potential of charter school policies. After a brief overview of the argument, case methods, and analysis used in the piece, I offer an alternative theoretical framing. I will argue that concepts in the work of constitutional scholar Bruce Ackerman and political theorist Carl Schmitt are much less useful and relevant as an interpretive lens on the case than more critical, contemporary pragmatist thinkers. Authors Pendola, Mann, Marshall, and Bryant (2021) end this informative piece with what could be read as a pro-forma use of a John Dewey quote in the conclusion. I hope to show in this response how Deweyan political philosophy might have been used throughout the argument to produce a more nuanced reading of charter schooling as a venue for creating new

public spheres in education beyond traditional public schools. The qualitative study featured in this paper produces a detailed reading of a local charter schooling initiative that is worthy of serious analysis. My response suggests new, more plausible ways to theoretically interpret the rich case offered here.

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A brief note on positionality, to begin. As a pragmatist philosopher of education, I was an early, cautious advocate of charter schools as a policy engine for democratic and educational renewal and justice (Knight Abowitz 2000, 2005; Knight Abowitz & Karaba, 2010). I posited that charter school policies, when written with aims of democratic justice in mind, can be used by citizens to create new educational institutions which would have transformative and egalitarian potential for civic and political life (Knight Abowitz & Karaba, 2010). As charter schooling policy in my own state of Ohio as well as many others were created by libertarian and market-based logics of consumer choice, rather than egalitarian values, the state politics of school choice in the last two decades have now taken on a life of their own. Ohio now has a full-blown voucher system that has been rapidly expanding over the last decade. Now, I am an elected school board member in our small district, composed of a rural-and-university mix of cultures not unlike the one featured in the case study discussed here. This new role now deeply informs my views on the cultural politics of choice, the ways it is changing the wider educational landscape, and how it is shaping education for democracy more broadly. I bring all these views and experiences to the reading of “Community Insurgency: Constituency, Choice, and the Common Good,” to which I now turn.

Choice, Populist Will, and Higher Lawmaking

The authors develop a political interpretation of events taking place in a rural Southern community characterized by histories of white supremacy, a force that helps create a contemporary public system still highly segregated by race. Their study investigates those events through a qualitative case study method that narrates the charter school initiative that more recently emerged as one response to that local history. They use the empirical case to inform the meaning-making regarding the local charter school initiative and charter school movements and politics more broadly. Empirically informed philosophy is an important though not common method in philosophy of education (Wilson & Santoro, 2015).

The overarching question of the paper is articulated in terms of a paradox. School choice is framed as individual choice in resistance to the greater public, allegedly served by public schools (or not served by so-called failing public schools). These authors understand, through their case study research, that school choice can present policy vehicles for interests other than individual consumption of parents to seek broader education visions. Their inquiry asks, “When can a school choice movement be the voice for the common good?” They use the case of a university-sponsored charter school to illustrate one response to this query. “We make the argument that this charter movement was able to embody motives beyond self-interest toward an expression of the vox populi, offering an instance of *higher lawmaking* centered around community benefit” (Pendola et al., 2021, p. 2; italics in original).

The authors labeled this charter initiative as a “movement” that helped articulate shared interests of what Ackerman calls “higher lawmaking.” Ackerman is a present absence in this paper.

That is, Ackerman’s concept of higher lawmaking is not well described in the essay yet significantly shapes how these authors interpret the small, rural, Southern school district and charter school initiatives. Ackerman, a theorist of constitutional change, uses *higher lawmaking* to refer to how constitutional changes and lawmaking over time can resolve and accommodate challenges by citizen movements aimed at reform yet still retain political legitimacy and stability. A “highly stylized and complicated set of interactions,” higher lawmaking involves both “popular mobilization in favor of constitutional change and ‘institutional jujitsu’ between the branches of the federal government” (Choudry, 2008, para. 20). I find the choice of a constitutional scholar to be a poor fit here, in part because educational federalism dictates a weak role for the federal government and Constitution in educational policy-making and in part because such scholarship is not especially useful to reveal the messy cultural politics of (global) school choice trends across recent decades. Insofar as school choice might represent a national “movement” as these authors assert, school choice is now a far more diverse civic and political effort across time and space than can be adequately captured by Ackerman’s constitutional theory. As one critic of Ackerman has noted, “The sole civic activity featured in Ackerman’s theory of constitutional transformation seems to be voting, and his notion of civic discourse is an imagined ‘prophetic voice’ from the ether” (Beaumont, 2014, p. 13). This imagined “prophetic voice” is a nice description of the phraseology of “higher law,” which tends to evoke a mystical quality in the paper, perhaps unintended by Ackerman or these authors but nonetheless (and unfortunately) present in its meanings here.

The authors of “Community Insurgency: Constituency, Choice, and the Common Good” (Pendola, 2021) argue that the case study reveals the ways that charter policies might be used for “higher lawmaking” when the people move together to will new institutions into existence. “We recognize that for school choice to be an instrument of the common good, it must be enacted by a public that exists more deeply than the institutions of their representation and be an expression of participatory individuality rather than a private exercise of consumption” (Pendola, 2021, p. 2). I understand this claim to mean that the charter initiative in the locale they study expresses the common good rather than private interests related to educational consumerism. An expression of the curiously phrased “participatory individuality,” the voice of the people becomes transformed from a “consumerist public will and in opposition to that which is public” (Pendola, 2021, p. 3).

The Case Study and Three Themes of Analysis

The case documents how parents and educators in this rural Southern community made use of their state’s charter policy mechanism that allows universities to sponsor charters for new schools. Importantly, the authors call the case “extreme,” meaning they chose it because it exemplifies something important in the political culture rather than being typical or the norm (Pendola, 2021, p. 4). The authors examine historical archives to understand the history of segregated schooling in the region and conduct

interviews with parents, administrators, and teachers from the newly formed charter school, all of whom were part of the development of the new charter school. They provide context for Riverside, the pseudonym for a small rural town that claims a roughly two-thirds Black and one-third white population and which is home to an unnamed university, which ends up being a powerful actor in the charter school's founding but about which hardly any specifics are shared in the article. The brief history of desegregation in the 1960s provided in the article recounts a courageous attempt by 12 students integrating the white high school. As these students faced violence and hatred, a segregation academy opened to enroll the white flight exiting the public school during this time. This school was part of the massive resistance to school desegregation of the time and was in fact the birth of school choice policies in U.S. education (Black, 2020).

In Riverside, the segregation academy leads to the impetus for the next chapter of school change. After 50 years, this school closed in 2017 due to financial problems. This school closure seems to have precipitated a challenge for the town and those in it who wanted an education institution in their community that was racially and ethnically integrated. While this part of the case is briefly sketched, we are told that most white parents “chose to enroll their students in neighboring districts, maintaining the segregated nature of the schools” (Pendola, 2021, p. 4).

Yet also around this time, Riverside's university launched an initiative related to local workforce challenges and educational reform, which proposed a new remedy to the educational segregation of the region. Collaboration sessions sponsored by the university and inclusive of diverse families and stakeholders in the district led to a diverse school board that sought to create a charter school that would reflect the local population demographics and have input from the community. Riverside's charter school initiative was known beyond the town: “Given the history and identity of the area, the opening of the school gained national attention and media coverage, seeking to undo five decades of racial segregation-by-tradition” (Pendola, 2021, p. 4). (I call the civic work of opening this new school an initiative here, preferring this more modest term to what the authors frequently call the “charter school movement” of Riverside. The use of *movement* seems hypberbolic, given that we are discussing one community and one school and that the university played a powerful role in founding the school.)

“With enrollment that closely matches the demographics of the town, the school has served as a counter narrative to public opinion on schooling—and community identity—in the Deep South” (Pendola, 2021, p. 4). What can we make of this new expression of the public, made possible through charter school policies and created through a group of university leaders and Riverside community members acting collaboratively? The authors argue there are three themes

determinative of what we consider an authentic community insurgency: the unifying enemy by which the community was delimited, the legitimizing body that authorized the community to

invoke, and the leadership that enacted the higher lawmaking of insurgent will. (Pendola, 2021, p. 5)

I summarize these themes now and then offer some commentary in the section that follows.

Tradition was the unifying enemy of the charter schooling group. The authors use the political theorist Carl Schmitt to argue that “the people” are created by symbolic use of an enemy and consensus around that enemy. The enemy that consolidated the charter school group in Riverside was tradition—the region's legacy of white supremacy and segregation in public schools despite generations of desegregation legal and political efforts. The organizers of the charter school wanted to separate from this history in their town and start anew. They did not see public schooling as a viable vehicle through which to continue desegregation efforts but saw (Southern) traditions of white supremacy as the enemy through which only a break with traditional public school systems could bring about.

The second theme is “university as foreigner.” The university was the institutional sponsor and organizer of the charter effort, and the university's social, political, and economic capital provided a tremendous source of power for the charter school initiative. It was also a stamp that would boost legitimacy and thus would help guarantee enrollment. “Parents chose this school just knowing how the university is backing it” (Pendola, 2021, p. 6). Evoking political theorist Bonnie Honig (2009), the authors argue that “the foreigner grants a temporary suspension of the rules of the existing order, offering a form of legitimacy to be drawn from as the community invokes its own will” (Pendola, 2021, p. 6).

The third theme focuses on Ackerman's higher lawmaking, making the argument that the charter initiative was one in pursuit of the common good of racial healing.

Many parents and teachers expressed an idea of being “part of something bigger” that would “heal the county.” Several described it as a “reset button,” noting that this was an opportunity to build a new narrative that would help keep people here and draw new business. . . . One parent noted: “I chose to put my children here [. . .] I knew that this would be the only way this community would embrace Black and whites working together” (Pendola, 2021, pp. 6, 8)

Breaking with the old order requires that a new order be established, and this is done by leadership. The third theme emphasizes that the common good is, somewhat ironically, seen in the trusted leadership of one person. This individual leader, the director of the school who was “highly familiar with the community and was a faculty member at the university” (Pendola, 2021, p. 6), was trusted by many interviewed in the case study. As someone who had been educated in segregated public schools, she was of the public but also alienated from it, like others in the charter initiative group. She was also a “foreigner,” as someone employed by the university. While her racial or ethnic identity as well as her regional or geographic community identities were not shared with the reader as part of the case—a strange omission, in a paper about leading a school focused on racial integration—Dr. Terrill's leadership is seen as a central theme of the “break” or

“insurgency” against public schooling’s segregated past and present.

Pragmatist Theory, Publics, and Counterpublics in Education

The authors of this study want to show that the charter initiative in Riverside was expressing an emerging will that was struggling to realize higher lawmaking. The authors utilize a very eclectic mix of democratic theorists—constitutionalist Ackerman, populist Frank, poststructuralist Honig, and conservative Schmitt—to build an argument about charter schooling and its democratic potential. They conclude the essay by stating that the case study shows how parents can “claim choice as expressing individual freedom through participation in a common future.” (Pendola 2021, p. 8). As an alternative to consider, in this last section of my response, I sketch a pragmatist take on this claim, and its larger meanings in the landscape of school choice and democratic possibility. Pragmatist political theories (Dewey, 1927, 1939; Glaude, 2017), informed by critical perspectives, offer a greater sense of the contingent political landscape rife with power struggles between nascent publics challenging the state’s sometimes hardened structures and conventions. The theoretical sense of contingency and struggle in these theories more persuasively captures the political landscape of charter schooling and public schooling in our time than do the present theories informing this work.

In 1939, Dewey (2003) published *Creative Democracy: The Task Before Us* to remind a world mired in fascism, genocide, and violence that democracy isn’t a stable machine but an expression of our social and creative intelligence. “For a long period we acted as if our democracy were something that perpetuated itself automatically; as if our ancestors had succeeded in setting up a machine that solved the problem of perpetual motion in politics” (p. 227). Democracy as a way of life requires “faith in the capacity of human beings for intelligent judgment and action if proper conditions are furnished” (p. 227). One of the primary ways that human beings can exercise intelligent judgment and action is as a public, which “consists of all those who are affected by the indirect consequences of transactions to such an extent that it is deemed necessary to have those consequences systematically cared for” (Dewey, 1927, pp. 15–16).

The people of Riverside who had a vision of education prioritizing racial integration formed, through communication, a public. An organized public is what (originally) forms the state and the government institutions, but state and government institutions ossify and harden over time, while humans and social life changes and evolves, as do our shared problems and understandings. Public schools, as state institutions, can become entrenched and unresponsive to new ideas or values. New publics form to challenge those entrenched institutions and the political interests that can come to dominate them. In Riverside, a new public formed in response to both the conditions of racial segregation in the public schools and the absence of educational alternatives that prioritized integration.

Publics of public schooling are constituted within the realm of political activities designed to express and weigh shared interests and concerns,

for the purposes of (1) influencing the decision making of elected representatives and appointed school officials and (2) building greater educational capacity in schools and communities through collaborative work. (Knight Abowitz, 2014, p. 48)

The charter school initiative of Riverside used the charter mechanisms built into state law by elected officials to build greater educational capacity in their community. Charter school policies can enable the creation of education publics for these purposes. Like other nascent publics, this one emerged in civil society and became organized enough to communicate and push elected officials or representatives to make change—in their case, this was the change to sponsor a new school through charter policy mechanisms available in the state.

Civil society is a third sphere, a space between markets and the state in which private citizens become public actors. Like all other social spheres, it is one of unequal power relations and can spawn the creation of publics of various value orientations which run counter to dominant institutions. (At present, a counterpublic has formed against racial equity in some communities across the United States, for example, in the form of opposition to Critical Race Theory.) Educational publics can be understood, broadly, as counterpublics to the state institutions of schooling that can become entrenched with values or interests that can be undemocratic, narrow, or irrelevant to the present society. Importantly, these counterpublics may or may not have “higher” aims or agendas; pragmatist democratic contingency guarantees no outcomes and is deeply pluralistic. A counterpublic is not one whose purposes or views are necessarily just or inclusive. We ourselves, as policy-makers or citizens, must make judgments about the values of counterpublic claims. And indeed, there are a range of counterpublics that attempt to use charter mechanisms to create new schools for their educational values and visions.

Thankfully, there are various examples of counterpublics that, like those involved in the Riverside charter initiative, have formed to advance educational agendas related to equity, justice, or freedom. These examples include charter schools that form to serve distinct needs of racial or ethnic communities. “Indeed, one of the most compelling arguments for choice is that public schools, ostensibly open and accessible to all students and families, systematically exclude and marginalize the needs and perspectives of nondominant groups” (Wilson, 2016, 921). Wilson’s philosophical case study examined Bari Academy, a charter school focused on the Somali immigrant community in the Minneapolis–St. Paul metropolitan area. Her study shows how the Bari Academy helped created a new kind of public educational space that both created unique conditions for the Somali American families there and met substantive conditions to be understood as a public rather than a private educational institution. Noting that charter school policies have promoted racial and ethnic segregation across the U.S. (Orfield & Frankenberg, 2013), Wilson (2016) argued that race-neutral charter policies do not create conditions for race-conscious educational schools to be developed. She wrote:

In this sense, Bari—when put into interaction with the framework of the counterpublic—challenges the racially neutral focus on innovation

and differentiation woven into charter school reform. While many schools may create innovative spaces for particular communities, these communities occupy different positions of privilege and power. Authorizing distinctive schools requires that state and district officials consider the different moral and political claims made on behalf of specific, situated school communities. In effect, this is an argument for race-conscious charter school policy, attentive to structural inequality. (p. 948)

The parents and educators who started the Riverside charter school were, by the account presented in the case study, using choice policies for race-conscious purposes. They were attempting to correct structural inequalities built into the ossified, traditional public system mired in white supremacist traditions by starting their own institution.

Contemporary pragmatists like Glaude (2017) argue that part of the reconstructive task of democracy before us is that of a revolutionary racial revaluing. Writing from the front lines of the Black Lives Matter but before the murder of George Floyd by Officer Derek Chauvin, Glaude (2017) argued that there is a fundamental value gap in the United States that must form the focus of reconstruction: the persistent fact that “white people in the country where I live are valued more than black people” (p. 38). Glaude used the pragmatist notion of social habit to show how white supremacy, racism and segregation must be undone through a confrontation of values.

In this sense, racial habits are our inheritance: they contain the history of white supremacy that has shaped and continues to shape this country. They are the millions of accumulated decisions that make racial inequality an inextricable part of what it means to be American. If we are to undo them (at least some of them), something dramatic must happen. And this is one reason the protests in Ferguson and Baltimore were so important. They force us to confront our racial habits. (p. 64)

The story of the Riverside charter school may indeed be one in which this racial re-valuing is taking place. In this reading, a counterpublic was created that used charter school mechanisms to help break old habits of white supremacy working in the public and private school systems of this region of the United States. This counterpublic could, significantly, use the institutional power of the university to help sponsor and run the school, thereby resisting the growing presence of for-profit charter school companies that in many cases undermine the democratic potential of charter schooling in communities (Robertson, 2015).

In my view, the democratic potential of charter schooling policy is not persuasively framed with populist political theory and concepts, as the authors of “Community Insurgency: Constituency, Choice, and the Common Good” seem to believe. Charter proponents like to claim that charter organizers are the underdogs acting against the elite of governing bodies of educational institutions of failing public schools. At times, the authors use this interpretation, calling the charter school initiative in this community a “movement” and an “insurgency.” This seems not to fit with the dynamics at play in Riverside (as I interpret them) nor the

larger politics of school choice, nationally. Reading the case, I see the university as a powerful actor in bringing together the interests of these parents and educators and clearing a path for enabling the successful creation of a new charter school in this community. The university uses its institutional elite status to help legitimize the claims of the counterpublic and to create the (financial, political, and social) conditions for establishing a new school. Singer (2021), in his analysis of school choice movements, stated that “in the contemporary educational reform era, the political discourse used to foster broad-based coalitional support for school choice and other reforms has not been strongly populist” (p. 2). Indeed, the school choice lobbying and think tank networks, as well as groups such as American Legislative Exchange Council, play a strong role in electing candidates who will serve their agenda and writing the actual legislation that state houses put into law regarding school choice. While grassroots movements may arise to pursue counterpublics in education, school choice policies, now powerfully entrenched in representative governments at the state level, are there to enable and facilitate these publics to pursue the development of schools. While the Riverside example is a promising case, many of these institutions have contributed to the racial-ethnic school segregation in many U.S. metropolitan areas (Orfield & Frankenberg, 2013). It should not be forgotten that school choice policies in the U.S. had their start in the deep south, in the white flight policies set up by state legislatures of the 1960s, the ones that birthed the very segregation academy in Riverside that helped (continue) segregation of the public school system there in the first place (Black, 2020; Suitts, 2020).

Empirically informed philosophy, such as that offered in “Community Insurgency: Constituency, Choice, and the Common Good,” provides scholars with rich vistas of potential meaning and interpretation. In my response to these authors, I have highlighted the theoretical benefits of reading the Riverside case through the lens of pragmatist political theory, as well as using presently untapped innovative scholarship in educational philosophy related to school choice, to inform their work. Despite my theoretical disagreements, I am grateful for their scholarship and hope others join in evaluating, discussing, and weighing its meanings for democratic and racial revolutions in educational sectors.

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