

## THE REAL COSTS OF NEOLIBERAL EDUCATION REFORM: THE CASE OF PHILADELPHIA SCHOOL CLOSURES

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### INTRODUCTION

Over the last decade, the No Child Left Behind Act of 2001 (“NCLB” or “the Act”) has proven to be a boon to the charter school industry. The law enabled districts to turn over the responsibility for running a school to a charter provider if that school has gone five years without consistently raising the test scores of students in any one subgroup or demographic category for which there are more than forty students.<sup>1</sup> The student subgroups governed by this legislation include, among others, those with special needs, English language learners, low-income students, and students of a particular racial minority.<sup>2</sup> Many districts across the country have availed themselves of the charter conversion option, which the law intended as a sanction that would compel struggling schools to improve.<sup>3</sup> No additional support or resources were provided to these struggling schools under the law. Instead, in the years leading up to the possible charter school conversion or takeover, the school was subject to other costly and potentially disruptive penalties such as providing and paying for supplemental remedial tutoring, implementing a new

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The authors gratefully acknowledge Jason Hodge and Joseph Szesko for their technical assistance and Neil Horgan for sharing his expertise.

1. See NAOMI CHUDOWSKY & VICTOR CHUDOWSKY, CTR. ON EDUC. POLICY, IDENTIFYING SCHOOL DISTRICTS FOR IMPROVEMENT AND CORRECTIVE ACTION UNDER THE NO CHILD LEFT BEHIND ACT 5 (2005); James E. Ryan, *The Perverse Incentives of The No Child Left Behind Act*, 79 N.Y.U. L. REV. 932, 943 (2004).

2. See Ryan, *supra* note 1, at 933.

3. See *id.* at 934, 943.

curriculum, losing its principal, or replacing at least 50% of its teachers.<sup>4</sup>

Other policy developments have also proven beneficial to charter schools. States were encouraged through the 2009 Race to the Top program to lift charter school enrollment caps and to make it easier for high-performing charter schools to expand.<sup>5</sup> Additionally, even when NCLB waivers were first offered to states in 2011,<sup>6</sup> the advantaged position of charter schools in the educational landscape did not change. In order to qualify for a waiver, states were required to commit to turning around the lowest-achieving 5% of their Title I schools, using strategies such as outright closure or conversion to a charter.<sup>7</sup>

Given these federal policies, it comes as no surprise that over the last decade the number of charter schools in the country has grown exponentially. The annual growth rate in student enrollment in this sector over the last five years has averaged 12%, and charter schools are on track to serve 20–40% of the nation's students by 2035.<sup>8</sup> In three of the five largest cities in the United States, charter schools serve more than 20% of the student populations,<sup>9</sup> and in New Orleans and Detroit, they have become the largest provider of public education.<sup>10</sup>

Charter schools are often considered an innovation, insofar as they disrupt current governance models and education delivery

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4. See 20 U.S.C. §§ 6316(b)(7)(C), (b)(8)(B)(ii) (2012).

5. See U.S. DEP'T OF EDUC., RACE TO THE TOP PROGRAM EXECUTIVE SUMMARY 2–3, 11 (2009) (detailing incentives for charter school expansion).

6. Alyson Klein, *NCLB Waivers: The Twists, Turns, and Terms to Know*, EDUC. WK. (Aug. 18, 2014), <http://www.edweek.org/ew/section/multimedia/nclb-waivers-timeline-and-glossary-of-terms.html>.

7. See 20 U.S.C. § 6316(b)(8)(B); Alyson Klein, *No Child Left Behind: An Overview*, EDUC. WK. (Apr. 10, 2015), <http://www.edweek.org/ew/section/multimedia/no-child-left-behind-overview-definition-summary.html>; Michele McNeil & Alyson Klein, *Obama Offers Waivers from Key Provisions of NCLB*, EDUC. WK. (Sept. 27, 2011), [http://www.edweek.org/ew/articles/2011/09/28/05waiver\\_ep.h31.html](http://www.edweek.org/ew/articles/2011/09/28/05waiver_ep.h31.html).

8. See SARA MEAD ET AL., BELLWETHER EDUC. PARTNERS, THE STATE OF THE CHARTER SCHOOL MOVEMENT 9, 60 (2015), <http://bellwethereducation.org/sites/default/files/Charter%20Research%200908%20FINAL.pdf>; Sarah Mead, *Charter Schools Are Here to Stay*, U.S. NEWS & WORLD REP. (Sept. 17, 2015, 3:35 PM), <http://www.usnews.com/opinion/knowledge-bank/2015/09/17/7-key-facts-about-charter-school-quality>.

9. See MEAD ET AL., THE STATE OF THE CHARTER SCHOOL MOVEMENT, *supra* note 8, at 41–42 (indicating that charters serve 30% of the student population in Philadelphia and 21% of the student population in both Los Angeles and Houston).

10. See *id.* (indicating that charters serve 91% of the student population in New Orleans and 55% of the student population in Detroit).

approaches. They are frequently framed as a tool that can challenge the public education monopoly and its bureaucratic bloat, inject competitive pressures into the marketplace that will serve to motivate recalcitrant teachers and school leaders, and appeal directly to parents and students, who will make their preferences known with their feet.<sup>11</sup> Though charter schools were envisioned by those who first introduced the concept as laboratories of innovation that would pioneer new methods of education for traditionally underserved students and feed those lessons back into the traditional schools,<sup>12</sup> few charter schools have lived up to this ideal either on the front or back end. In fact, the “innovations” that most of the franchised charter schools use, such as extending the school day and the school year, are far from revolutionary.

Nonetheless, charter schools have started a revolution by creating a host of new problems—the most pernicious of which is the potential dismantlement of public education in this country—while not necessarily solving the problems they were intended to address. This article considers how the rise of charter schools in Philadelphia has further hampered the city school district’s efforts to offer a quality education for all students, how it has precipitated the closure of dozens of neighborhood schools, displacing thousands of students, and how it continues to portend financial adversity for the state of public education in the nation’s third poorest city.

This article proceeds in three parts. Part I introduces neoliberalism as a lens through which the interrelated issues of school closure and charter school ascendancy can be viewed. Part II outlines the financial considerations that factored into the decision to shutter twenty-four neighborhood schools in Philadelphia in 2013, and contrasts the expected financial outcomes with what we have been able to piece together about the actual costs, revenues, and cost-savings associated with these closures. Part III draws out the implications of this calculus not only for Philadelphia, but also for other cities in which charter schools are proliferating.

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11. See Leland Ware & Cara Robinson, *Charters, Choice, and Resegregation*, 11 DEL. L. REV. 1, 2 (2009).

12. See Matthew D. Bernstein, *Whose Choice Are We Talking About: The Exclusion of Students with Disabilities from For-Profit Online Charter Schools*, 16 RICH. J.L. & PUB. INT. 487, 496 (2013); see also Mark C. Weber, *Special Education from the (Damp) Ground Up: Children with Disabilities in a Charter School-Dependent Educational System*, 11 LOY. J. PUB. INT. L. 217, 218 (2010).

erating. This article concludes by arguing that in order for the democratic ideal of a public school system that serves all children equitably and effectively to flourish, alternatives to the neoliberal logic of choice and closure are needed.

## I. NEOLIBERALISM

Neoliberalism is a term that is used to describe both particular policies and a worldview premised on the idea that markets can solve social problems more efficiently and effectively than can governmental or public sector agencies. Those who embrace neoliberalism support the unfettered expansion and deregulation of markets, the application of business principles to knotty social problems, and a severely curtailed role for government.<sup>13</sup> Critical scholar Pauline Lipman has defined neoliberalism as “an ensemble of economic and social policies, forms of governance, and discourses and ideologies that promote individual self-interest, unrestricted flows of capital, deep reductions in the cost of labor, and sharp retrenchment of the public sphere.”<sup>14</sup>

In other words, neoliberalism is a policy approach and a mindset, a set of common understandings that legitimatizes a particular social order and helps define both social ills and their solutions. Neoliberalism privileges market solutions and seeks to create new competitive markets, while shrinking the role of government. It also serves to restructure both the economy and the state “in line with individual self-interest and at a cost to commitments to collective well-being.”<sup>15</sup>

Neoliberalism manifests itself through the application of business principles and practices such as “bottom line” metrics, “merit pay” programs, and edu-preneurism to education.<sup>16</sup> It is a driving

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13. See *What Is Neoliberalism?*, DAILY KOS (Aug. 16, 2011, 11:50 AM), <http://www.dailykos.com/story/2011/08/16/1007496/-UPDATED-What-is-Neoliberalism#>.

14. PAULINE LIPMAN, *THE NEW POLITICAL ECONOMY OF URBAN EDUCATION: NEOLIBERALISM, RACE, AND THE RIGHT TO THE CITY* 6 (2011). Lipman also notes that “[n]eoliberals champion privatization of social goods and withdrawal of government from provision for social welfare on the premise that competitive markets are more effective and efficient.” *Id.*

15. Wayne Au & Joseph J. Ferrare, *Neoliberalism, Social Networks, and the New Governance of Education*, in *MAPPING CORPORATE EDUCATION REFORM: POWER AND POLICY NETWORKS IN THE NEOLIBERAL STATE* 3 (Wayne Au & Joseph J. Ferrare eds., 2015).

16. See LIPMAN, *supra* note 14, at 46–47 (“Urban schools are wound up in privatization public-private partnership, demands for union ‘flexibility,’ teacher merit pay schemes, and mayoral takeovers, along with high stakes testing and restricted democra-

force behind accountability policies and high-stakes testing. Neoliberal reforms, which are typically justified by poor test scores, include: mayoral takeovers of school systems where democratically elected school board members are replaced by mayoral appointees,<sup>17</sup> development of teacher evaluation systems in which teachers are judged, ranked, and rewarded or punished based on their contributions to students' test scores,<sup>18</sup> and efforts to enervate or vilify teachers unions.<sup>19</sup> Other hallmarks of neoliberal education reform include the rise and expansion of charter schools, the closure of neighborhood schools, and the outsourcing of key contracts to private companies.

### A. *Neoliberalism and Charter Schools*

In 1990, in a now classic essay titled “Choice *Is* a Panacea,” John Chubb and Terry Moe set out a neoliberal vision for K–12 education that called for a dramatically reduced role for state and local government in education and a deregulated marketplace of schools: “What we propose is a new system of public education that eliminates most political and bureaucratic control over the schools and relies instead on indirect control through markets and parental choice.”<sup>20</sup> Chubb and Moe contrast the efficiency of markets with the stagnation caused by democratic control, which they argue is constrained by bureaucratic pressures and beholden to unions with little interest in innovation.<sup>21</sup> Further, Chubb and

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cy.”); Au & Ferrare, *supra* note 15, at 8 (discussing the hallmarks of “corporate education reform,” such as evaluation of students and teachers through competitive metrics and “reshaping the vision and vocabulary of public schools along the lines of corporate businesses”).

17. See LIPMAN, *supra* note 14, at 60 (“Neoliberalism involves governance by appointed boards, ‘experts,’ and managers. Mayoral and other forms of state takeover of urban school systems typify the democratic deficits of neoliberal urban governance, allowing the state to fast track neoliberal initiatives without the ‘interference’ of democratic deliberation.”).

18. See Au & Ferrare, *supra* note 15, at 8 (discussing “corporate education reform” policies and practices such as “evaluation-through-comparison of public education students, teachers, administrators, and school communities through competitive metrics associated with high-stakes, standardized test scores”).

19. See, e.g., *Vergara v. California*, No. BC484642, 1, 16 (Aug. 27, 2014) (County of Los Angeles) (holding that plaintiffs, who were nine California public school students claiming that the challenged statutes resulted in “grossly ineffective teachers obtaining and retaining permanent employment,” met their burden of proof, making the challenged statutes unconstitutional).

20. John E. Chubb & Terry M. Moe, *America’s Public Schools: Choice Is a Panacea*, 8 BROOKINGS REV. 4, 5 (1990).

21. See *id.* at 5–6.

Moe suggest that rather than allowing the state to make schools answerable for student achievement, schools should be held accountable “from below, by parents and students who directly experience their services and are free to choose.”<sup>22</sup> Chubb and Moe trust that “[s]chools that operate in an environment of competition and choice [will] have strong incentives to move towards the kinds of ‘effective-school’ organizations that academics and reformers would like to impose on the public schools.”<sup>23</sup> Emphasizing the value of school autonomy and the dangers of government interference and intervention, Chubb and Moe seemingly call for an educational marketplace composed entirely of independently run charter schools and private schools.<sup>24</sup>

Perhaps the best test case of Chubb and Moe’s neoliberal vision of public education has come from New Orleans, a district composed almost entirely of charter schools.<sup>25</sup> In a recent research report, Huriya Jabbar writes that in all but one of the thirty randomly selected New Orleans charter schools that she studied, principals view other schools as competitors.<sup>26</sup> The principals understand competing for students as synonymous with competing for taxpayer money, as each student would bring additional money from local, state, and federal sources.<sup>27</sup> Although Chubb and Moe believe that these competitive pressures will motivate schools to become better organized and more appealing to parents, Jabbar finds that only one-third of the school leaders responded to competition by trying to improve academics or instruction.<sup>28</sup> In fact, Jabbar finds that principals in the “failing” schools were even less likely than those in the “non-failing” schools to focus on strengthening the academic program and student learning.<sup>29</sup> The most common response to competition reported by New Orleans charter school leaders in this study was to direct more

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22. *Id.* at 11.

23. *Id.* at 6 (emphasis omitted).

24. *See id.* at 5, 7–8.

25. *See* HURIYA JABBAR, EDUC. RESEARCH ALL. FOR NEW ORLEANS, HOW DO SCHOOL LEADERS RESPOND TO COMPETITION? MARKET-BASED COMPETITION AND SCHOOL LEADER STRATEGIES 3 (2015), <http://educationresearchalliancencola.org/files/publications/Tech-Report-Final-w-cover.pdf>.

26. *See id.* at 11.

27. *See id.*

28. *Compare* Chubb & Moe, *supra* note 20, at 6, *with* JABBAR, *supra* note 25, at 12.

29. *See* JABBAR, *supra* note 25, at 26.

money and resources into marketing efforts, including advertising campaigns and hiring brand consultants.<sup>30</sup>

This finding illustrates one of the ways in which neoliberalism reconfigures public education by creating access to new capital for entrepreneurs and corporations, such as advertising firms, often at the expense of students, especially those from low-income communities. Professors Wayne Au and Joseph Ferrare observe that “[t]he shrinking of the neoliberal state, combined with the neoliberal commitment [to] opening new markets through the accumulation by dispossession of public assets, has particularly profound implications for public education”<sup>31</sup> and serves to “redistribute resources, social and economic goods, wealth, and power ‘upwards’ towards those individuals, communities, and corporations already benefiting from high concentrations of wealth.”<sup>32</sup> Of course, the charter school entrepreneurs and management organizations are thus among the biggest profiteers in the “new ‘gold rush’ to capitalize the \$500 billion of public assets being redistributed from neighborhood K–12 public schooling to the marketplace.”<sup>33</sup>

### B. *Neoliberalism and School Closure*

While educational privatization through the proliferation of charter schools is one clear manifestation of neoliberal education reform, a corollary is the closure of public neighborhood schools. As competitive pressures mount in the marketplace of education, Chubb and Moe predict that “not all schools in the market will respond equally well . . . . But those that falter will find it more difficult to attract support, and they will tend to be weeded out . . . .”<sup>34</sup> In other words, as charter schools become more effective at appealing to parents, using the targeted, slick advertising campaigns Jabbar refers to as “glossification,”<sup>35</sup> neighborhood schools, which do not use taxpayer funds for advertising purposes, will inevitably see declines in their enrollments. These declines will ne-

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30. *See id.* at 19, 26–28.

31. Au & Ferrare, *supra* note 15, at 5.

32. *Id.* at 4.

33. MICHAEL FABRICANT & MICHELLE FINE, *THE CHANGING POLITICS OF EDUCATION: PRIVATIZATION AND THE DISPOSSESSED LIVES LEFT BEHIND* 25 (2013).

34. Chubb & Moe, *supra* note 20, at 6.

35. Huriya Jabbar, “Every Kid Is Money”: *Market-Like Competition and School Leader Strategies in New Orleans*, 37 *EDUC. EVALUATION & POL’Y ANALYSIS* 638, 649 (2015).

cessitate the “weeding out” or the shuttering of schools. Chubb and Moe refer to this trend as a “process of natural selection.”<sup>36</sup> Just as companies that sell an unpopular product need to adapt to demand or risk going out of business, so too will schools need to enter the business of catering to students and families, cultivating demand for their brand of education, or face closure. Under neoliberalism, students and parents are cast as consumers, and schools that do not have the resources or tools to compete for these customers risk becoming defunct.

Around the country, school closure has become an increasingly common strategy to address budget shortfalls and the problems of underutilized buildings, underperforming schools, and shifting student enrollments.<sup>37</sup> In a review of school closures, law professor Nicole Stelle Garnett reveals the exponential increase of shuttered public schools, which rose from 717 in 2000–01 to 1069 in the 2010–11 academic year alone.<sup>38</sup> Specifically, the Kansas City, Missouri, School District closed 50% of its public schools in 2010, New York City closed 164 public schools between 2002 and 2013, and Chicago closed 104 schools between 2001 and 2011, followed by an additional forty-nine closures in 2013.<sup>39</sup> At the same time, charter school enrollment in these districts grew dramatically. In the seven years between the 2005–06 academic year and the 2012–13 academic year, charter enrollments increased 428% in New York,<sup>40</sup> 219% in Chicago,<sup>41</sup> and 46% in Kansas City.<sup>42</sup>

The Journey for Justice Alliance, a national coalition of grassroots community organizing groups, argues that “[t]he real, underlying cause for these school closures is that there has been a

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36. Chubb & Moe, *supra* note 20, at 6.

37. See Nicole Stelle Garnett, *Disparate Impact, School Closures, and Parental Choice*, 2014 U. CHI. LEGAL F. 289, 290, 292 (2014).

38. *Id.* at 290–91.

39. *Id.* at 291–92.

40. JOURNEY FOR JUSTICE ALL., *DEATH BY A THOUSAND CUTS: RACISM, SCHOOL CLOSURES, AND PUBLIC SCHOOL SABOTAGE 3* (2014), [http://www.empowerdc.org/uploads/J4JReport-Death\\_by\\_a\\_Thousand\\_Cuts.pdf](http://www.empowerdc.org/uploads/J4JReport-Death_by_a_Thousand_Cuts.pdf).

41. *Id.*

42. See *Kansas City, Missouri School District: Total Number of Students*, PUB. CHARTER SCHS. DASHBOARD, <http://dashboard.publiccharters.org/dashboard/students/page/overview/district/MO-1/year/2014> (last visited Feb. 19, 2016) (indicating that during the 2005–06 school year, 6428 students were enrolled in charter schools in the Kansas City, Missouri School District, and that during the 2012–13 school year, 9376 students were enrolled in charter schools in the same district).



realignment of political forces,”<sup>43</sup> both Republican and Democrat, undergirded by private foundations, that favors steep cuts to education, union-busting, and privatization.<sup>44</sup> The data presented in Journey for Justice’s report shows a distinct pattern of skyrocketing charter school enrollments, shrinking neighborhood school enrollments, and increased reliance on school closure, particularly in districts serving high percentages of students of color.<sup>45</sup> In fact, in 2013, black students made up 87% of those affected by the closure of forty-nine schools in Chicago, even though they made up only 43% of the district’s population; 94% of those affected were low-income, even though low-income students comprised 76% of the district’s population.<sup>46</sup> Similar disproportionate effects of school closure on low-income students of color arose in New York and Philadelphia, where a combined total of forty-five schools also closed in 2013.<sup>47</sup>

Other evidence linking school closure, charter school expansion, and the neoliberal education reform agenda comes from prominent foundations and think tanks seeking to influence and make education policy. For example, in 2009, the Broad Foundation (“Broad”) released a comprehensive guide to school closure, meant to instruct districts on the effective use of this strategy.<sup>48</sup> Not only is Broad eager to support school closure, but it is also committed to expanding charter schools across the country.<sup>49</sup> In Los Angeles alone, Broad initiated a \$490 million plan that aims to enroll more than half of the city’s students in charter schools within the next eight years.<sup>50</sup> Broad is considered a key promulgator of the neoliberal education reform agenda in the United States.<sup>51</sup> Similarly, the Walton Foundation invested \$164 million

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43. JOURNEY FOR JUSTICE ALL., *supra* note 40, at 1–2.

44. *See id.* at 2.

45. *See id.* at 1–4.

46. *You Can’t Improve a Closed School: Infographics to Stop Mass School Closures & Create Real Solutions*, NAT’L OPPORTUNITY TO LEARN CAMPAIGN (Feb. 26, 2014), <http://www.otlcampaign.org/sites/default/files/resources/closures-infographic-series.pdf>.

47. *Id.*

48. THE BROAD FOUND., *SCHOOL CLOSURE GUIDE: CLOSING SCHOOLS AS A MEANS FOR ADDRESSING BUDGETARY CHALLENGES 2* (2009), <http://www.schoolturnaroundsupport.org/sites/default/files/resources/1344-schoolclosureguide.pdf>.

49. *See* Howard Blume, *\$490-Million Plan Would Put Half of LAUSD Students in Charter Schools*, L.A. TIMES (Sept. 21, 2015), <http://www.latimes.com/local/education/la-me-laUSD-charter-20150922-story.html>.

50. *See id.*

51. *See* Wayne Au & Joseph J. Ferrare, *Other People’s Policy: Wealthy Elites and Charter School Reform in Washington State*, in MAPPING CORPORATE EDUCATION REFORM:

in 2013 alone to support charter school organizations such as the Knowledge Is Power Program (“KIPP”), and to advocate for parent trigger laws that enable parents to petition to close their school or convert it to a charter.<sup>52</sup>

## II. THE CASE OF PHILADELPHIA

For decades, the Philadelphia School District (“PSD” or “the District”) has been portrayed as being in a state of crisis.<sup>53</sup> Shifting student enrollments, high rates of teacher turnover, and chronic underfunding by the state have conspired over the years to destabilize the nation’s eighth largest school district.<sup>54</sup> Notable moments in PSD’s recent history include the state’s 2001 takeover of the District,<sup>55</sup> the 2002 hiring of Paul Vallas as the District’s CEO,<sup>56</sup> and the 2009 launch of *Imagine 2014*, the strategic plan developed by Vallas’s successor, Arlene Ackerman.<sup>57</sup> The state takeover, spurred by low test scores and rising deficits, resulted in the disbanding of the democratically elected school board and the formation of a new governance structure, a School Reform Commission (“SRC”) consisting of three commissioners

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POWER AND POLICY NETWORKS IN THE NEOLIBERAL STATE 147, 152 (Wayne Au & Joseph J. Ferrare eds., 2015).

52. See Motoko Rich, *A Walmart Fortune, Spreading Charter Schools*, N.Y. TIMES (Apr. 25, 2014), <http://www.nytimes.com/2014/04/26/us/a-walmart-fortune-spreading-charter-schools.html>; L. S. Hall, *Take a Look at the Biggest Winners of Walton Ed Money in 2013*, INSIDE PHILANTHROPY (Apr. 3, 2014), <http://www.insidephilanthropy.com/home/2014/4/3/take-a-look-at-the-biggest-winners-of-walton-ed-money-in-201.html>; Karla Scoon Reid, *After Divisive Start, Use of ‘Parent Trigger’ Law Matures*, EDUC. WK. (Mar. 17, 2015), <http://www.edweek.org/ew/articles/2015/03/18/after-divisive-start-use-of-parent-trigger.html>.

53. See Maia Bloomfield Cucchiara, *Cities Are Trying to Fix Their Schools by Luring the Middle Class: It Won’t Work*, THE ATLANTIC (Oct. 15, 2013), <http://www.theatlantic.com/education/archive/2013/10/cities-are-trying-to-fix-their-schools-by-luring-the-middle-class-it-wont-work/280390/>.

54. See John Caskey & Mark Kuperberg, *The Philadelphia School District’s Ongoing Financial Crisis*, 14 EDUC. NEXT 21, 21, 23–24, 26 (2014), [http://educationnext.org/files/ednext\\_XIV\\_4\\_caskey.pdf](http://educationnext.org/files/ednext_XIV_4_caskey.pdf).

55. See Jacques Steinberg, *In Largest Schools Takeover, State Will Run Philadelphia’s*, N.Y. TIMES (Dec. 22, 2001), <http://www.nytimes.com/2001/12/22/us/in-largest-schools-takeover-state-will-run-philadelphia-s.html>.

56. See Lori Olszewski & Stephanie Banchemo, *Vallas to Take over Philadelphia Schools*, CHI. TRIB. (July 10, 2002), [http://articles.chicagotribune.com/2002-07-10/news/0207100049\\_1\\_paul-vallas-philadelphia-schools-chicago-public-schools](http://articles.chicagotribune.com/2002-07-10/news/0207100049_1_paul-vallas-philadelphia-schools-chicago-public-schools).

57. See News Release, Sch. Dist. of Phila., School District of Philadelphia Launches Largest Summer School Program in Recent Years (July 1, 2009), <http://www.phila.k12.pa.us/announcements/SDP-Launches-Largest-Summer-School-Program-in-Recent-Years-07-01-09.pdf>.

appointed by the governor and two commissioners appointed by the mayor.<sup>58</sup> Vallas, the first CEO hired by the newly formed SRC, emphasized an approach to education reform already in place in Philadelphia known as the “diverse provider model” or the “contracting regime.”<sup>59</sup> This model entailed expanding charter schools and opportunities for school choice, while contracting out key services in the District at unprecedented levels. As Associate Professor of Urban Education Maia Bloomfield Cucchiara explains, “[u]nder Vallas and the SRC, the school district moved toward the creation of educational markets in the city. Charter schools—once resisted by the district as a drain on its resources—were embraced.”<sup>60</sup> After her appointment in 2008 as Vallas’s successor, Arlene Ackerman continued to expand charter schools, consistent with Race to the Top and the flexibility afforded under the Elementary and Secondary Education Act in the form of NCLB waivers, by turning over chronically low-performing schools to charter providers.<sup>61</sup> Between 2010 and 2014, twenty district-run schools had been converted or restarted as “Renaissance Charters.”<sup>62</sup>

#### A. *The Boston Consulting Group*

In 2012, in the face of mounting deficits and under the watch of an interim Superintendent, the SRC quietly contracted with a private consulting firm, the Boston Consulting Group (“BCG”), to

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58. See Eva Travers, *Philadelphia School Reform: Historical Roots and Reflections on the 2002-2003 School Year Under State Takeover*, 2 PENN GSE PERSP. ON URB. EDUC., Fall 2003, <http://www.urbanedjournal.org/archive/volume-2-issue-2-fall-2003/philadelphia-school-reform-historical-roots-and-reflections-2002-; Who Runs the School District of Philadelphia?>, EDUC. VOTERS PA., <http://educationvoterspa.org/wp-content/uploads/2015/10/Who-Runs-the-School-District-of-Philadelphia.pdf> (last visited Feb. 19, 2016).

59. See Katrina E. Bulkeley, *Bringing the Private into the Public: Changing the Rules of the Game and New Regime Politics in Philadelphia Public Education*, 21 EDUC. POL’Y 155, 173–79 (2007).

60. MAIA BLOOMFIELD CUCCHIARA, *MARKETING SCHOOLS MARKETING CITIES: WHO WINS AND WHO LOSES WHEN SCHOOLS BECOME URBAN AMENITIES* 53 (2013).

61. See Benjamin Herold, *Renaissance Schools to Expand*, PHILA. PUB. SCH. NOTEBOOK: BENJAMIN HEROLD’S BLOG (Jan. 4, 2012, 9:30 PM), <http://thenotebook.org/blog/124390/renaissance-schools-expand?page=1>; Dale Mezzacappa, *Special Report: Philadelphia After Decades of Effort, a Decade of Progress*, WASH. MONTHLY (2010), <http://www.washingtonmonthly.com/features/2010/1007.mezzacappa.html>; see also *supra* notes 5–7 and accompanying text (discussing the granting of NCLB waivers and Race to the Top).

62. See Kati Stratos et al., *Philadelphia’s Renaissance Schools Initiative after Four Years*, 12 PENN GSE PERSP. ON URB. EDUC., Spring 2015, <http://www.urbanedjournal.org/archive/volume-12-issue-1-spring-2015/philadelphia%E2%80%99s-renaissance-schools-initiative-after-four-years>.

advise the District on restructuring its finances to prevent an impending financial collapse.<sup>63</sup> The William Penn Foundation (“WPF”), whose President Jeremy Nowak praised the involvement of the BCG as “a defining moment for our schools,” originally approved funding for the five-week contract with the BCG totaling \$1.4 million.<sup>64</sup> Yet in the end, the BCG was actually paid a total of \$4.4 million through private donations, the majority of which came from the WPF.<sup>65</sup> Specifically, Nowak proclaimed that by helping to identify methods of securing additional funds for the classroom, the use of the BCG served as a necessary step to help reduce the disconcerting achievement gaps in the District.<sup>66</sup>

However, the BCG recommendations appeared to be in stark contrast to Nowak’s hopes for the District’s improvement plans. Instead of focusing on addressing the educational needs of underserved youth, the BCG identified strategies such as the closure of up to sixty Philadelphia schools, reductions in unionized school personnel, and new contracts with private vendors at a discounted cost.<sup>67</sup> In addition to school closures and staff cuts, the BCG also supported charter school expansion, despite having conducted a citywide analysis that indicated charter schools were not demonstrating significantly higher performance levels than public schools in the PSD.<sup>68</sup>

Notwithstanding the fact that these recommendations would have tremendous impact on the students, parents, and staff, as well as the surrounding school communities, the BCG operated behind the scenes. In formulating its recommendations, it did not solicit input from any of the key stakeholders and ultimately the BCG plan called for the closure of “40–50 schools in the near-

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63. Benjamin Herold, *Foundation to Pay for District Consultant*, PHILA. PUB. SCH. NOTEBOOK: BENJAMIN HEROLD’S BLOG (Feb. 22, 2012, 4:45 PM), <http://thenotebook.org/blog/124543/foundation-pay-district-consultant>.

64. *Id.*

65. Dale Mezzacappa & Benjamin Herold, *Report Detailing Boston Consulting Group Findings and Recommendations Released*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA’S BLOG (Aug. 2, 2012, 6:35 AM), <http://thenotebook.org/blog/125045/report-detailing-boston-consulting-group%E2%80%99s-findings-and-recommendations-released-district>.

66. See Herold, *supra* note 63.

67. See Benjamin Herold, *Behind the Scenes, Boston Consulting Group Has Been a Driving Force on Labor Talks, School Closings, and Charters*, PHILA. PUB. SCH. NOTEBOOK: BENJAMIN HEROLD’S BLOG (Jul. 9, 2012, 11:56 AM), <http://thenotebook.org/blog/124995/behind-scenes-boston-consulting-group-has-been-driving-force-labor-negotiations-school-c>.

68. See *id.*

term” and “an additional 15 to 20 schools over the next five years.”<sup>69</sup> The SRC had already voted to close eight neighborhood schools in 2012, but with a new superintendent at the helm who started a month after the BCG report was released, PSD moved swiftly to take up more of the BCG’s recommendations.<sup>70</sup> In 2013, after Superintendent William Hite’s initial plans to close thirty-seven schools were met with significant community outcry,<sup>71</sup> the SRC voted to approve the closure of twenty-three schools, displacing an additional 14,000 students.<sup>72</sup>

## B. *The Promises*

### 1. “Safer, Stronger Schools”

A major criterion for potential school closure involves academic performance as measured by students’ standardized test scores over time.<sup>73</sup> Champions of school closures and public-to-charter school conversions often argue that the closure of under-performing schools will afford students increased access to higher-performing schools.<sup>74</sup>

The BCG explained that “[o]ne of the goals of the planning process [of closing schools] should be to move students into better learning environments.”<sup>75</sup> The BCG said that following its recommended approach of right-sizing would lead to “[i]ncrease[d]

69. Damon C. Williams, *School Closure Study Draws Lawsuit*, PHILA. TRIB. (Dec. 7, 2012, 12:00 AM), [http://www.phillytrib.com/news/school-closure-study-draws-lawsuit/article\\_4cebc6a3-686d-5c62-b671-b6099ca32864.html](http://www.phillytrib.com/news/school-closure-study-draws-lawsuit/article_4cebc6a3-686d-5c62-b671-b6099ca32864.html).

70. *School Reform Commission Approves 8 Schools for Closure*, NBC 10 PHILA. (Mar. 29, 2012, 8:41 PM), <http://www.nbcphiladelphia.com/news/local/School-Reform-Commission-Approves-8-Schools-for-Closure-144998335.html>.

71. See Susan L. DeJarnatt, *Community Loses: The Costs of Education Reform*, 45 TOL. L. REV. 579, 584–85 (2014).

72. See Benjamin Herold, *School Reform Commission Votes to Close 23 Philadelphia Schools, Sparking Anger and Despair for Students, Parents, and Teachers*, NEWSWORKS (Mar. 8, 2013), <http://www.newsworks.org/index.php/local/item/52008-school-reform-commission-votes-to-close-23-philadelphia-schools>.

73. See THE BROAD FOUND., *supra* note 48, at 15–16; Dale Mezzacappa, *District Shares the Rationale Behind Each School-Closing Recommendation*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA’S BLOG (Jan. 16, 2013, 11:47 AM), <http://thenotebook.org/blog/135514/district-shares-rationale-behind-each-school-closing-recommendation>; Gail L. Sunderman & Alexander Payne, *Does Closing Schools Cause Educational Harm? A Review of the Research*, MID-ATLANTIC EQUITY CTR. (Dec. 2009), <http://eric.ed.gov/?id=ED543514>.

74. See Sunderman & Payne, *supra* note 73.

75. THE BOS. CONSULTING GRP., *TRANSFORMING PHILADELPHIA’S PUBLIC SCHOOLS: KEY FINDINGS AND RECOMMENDATIONS* 9 (2012).

overall academic performance of the portfolio. As low-quality buildings and programs are closed, lower-performing seats would be eliminated, strong programs would be preserved in better-quality buildings, and students would be reassigned to programs that provide better academic options.”<sup>76</sup>

In a December 2012 email to PSD personnel in which he first announced his intentions to shutter thirty-seven schools, Superintendent William Hite echoed the BCG’s promises:

[W]e must achieve two objectives: improve learning opportunities for all our students and overcome massive financial challenges. We are, as you know, facing tough times that require even tougher choices. On Thursday afternoon, I will release a plan detailing the steps that must be taken to put us on the road towards long-term academic success and financial stability. It is a plan that focuses on better harnessing our resources to provide safer, stronger schools for all our families. This will involve consolidating programs, expanding efforts to turn around chronically low-performing schools, and closing aging school buildings.<sup>77</sup>

Even after revising the Facilities Master Plan so that twenty-nine, rather than thirty-seven, schools would be recommended for closure, Hite continued to voice his belief that closing schools would improve opportunities for displaced students: “Although I wish we could have avoided closing any school, I do believe that the amended recommendations address the concerns from many parents, students and residents. I hope that we can move forward in minimizing disruption for our students and providing better options for families.”<sup>78</sup> The implication in this last phrase is that the receiving school would be “better” academically than the closed schools.

## 2. Expected Financial Gains from Building Sales

School districts experiencing financial crises often expect to find relief by closing schools, looking to the resulting profits from shuttering and/or consolidating public schools to ease their finan-

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76. *Id.* at 32–33.

77. Paul Socolar, *Philly School-Closing List Released by Superintendent*, NEWSWORKS (Dec. 13, 2012), <http://www.newsworks.org/index.php/local/the-latest/48303-hite-releases-school-closing-plan>.

78. Paul Socolar, *District Reduces Number of Planned School Closings from 37 to 29*, PHILA. PUB. SCH. NOTEBOOK: PAUL SOCOLAR’S BLOG (Feb. 19, 2013, 2:55 PM), <http://the-notebook.org/blog/135655/district-reduces-number-planned-school-closings>.

cial burden.<sup>79</sup> As evidenced in Hite's statement above, closing schools was seen as a key strategy in achieving the long-term financial stability and health of the District. Upon taking office in the summer of 2012, Hite's first action plan explained that

[t]he District has recurring expenses that exceed its revenues by over \$250 million per year, amounting to a \$1.35 billion dollar deficit over the next five years. (It is important to note that the budget crisis can quickly become a cash crisis if the structural deficit is not addressed in time for the 2013–2014 budget.) This deficit was created by a confluence of factors—reduced state funding, a broken system of local tax assessment, charter-driven growth in the total public school population without new revenue . . . .<sup>80</sup>

Facing a staggering projected deficit and a strict mandate to balance its budget, PSD officials turned to school closures as a means of “rightsizing” the District.<sup>81</sup> District leaders framed school closure as a necessary, albeit painful, way to generate much needed revenue and rein in costs.<sup>82</sup>

PSD's 2012–13 Budget in Brief Book notes that “the SRC recently voted to close several school buildings, which will ultimately result in savings due to lower operating costs and new revenues due to the sale of the properties.”<sup>83</sup> The budget projected earnings in 2012–13 of \$10,898,000 from the sale of shuttered schools.<sup>84</sup> Meanwhile, as additional schools closed the following year and new budgets were forecast, the 2013–14 budget book

79. PA. CLEARINGHOUSE FOR EDUC. RESEARCH, RESEARCH FOR ACTION, ISSUE BRIEF: SCHOOL CLOSINGS POLICY 1–2, 4 (2013), <http://www.researchforaction.org/wp-content/uploads/2013/03/RFA-PACER-School-Closing-Policy-Brief-March-2013.pdf>.

80. THE SCH. DIST. OF PHILA., ACTION PLAN v1.0, at 7 (2013), <http://www.philasd.org/announcements/actionplan/APv1.0.pdf> (containing a preface written by Superintendent William Hite); see also *Our Leadership*, THE SCH. DIST. OF PHILA., <http://www.phila.k12.pa.us/leadership/> (last updated Oct. 26, 2015) (explaining Dr. Hite's professional experience before being named Superintendent on June 29, 2012).

81. THE SCH. DIST. OF PHILA., FACILITIES MASTER PLAN, [http://webgui.phila.k12.pa.us/uploads/h1/yA/h1yARgKq\\_w6-\\_yeDQ\\_mVpw/FMPOne.pdf](http://webgui.phila.k12.pa.us/uploads/h1/yA/h1yARgKq_w6-_yeDQ_mVpw/FMPOne.pdf); see also Motoko Rich & Jon Hurdle, *Rational Decisions and Heartbreak on School Closings*, N.Y. TIMES (Mar. 8, 2013), [http://www.nytimes.com/2013/03/09/education/rational-decisions-and-heartbreak-on-school-closings.html?\\_r=0](http://www.nytimes.com/2013/03/09/education/rational-decisions-and-heartbreak-on-school-closings.html?_r=0).

82. See Press Release, The Sch. Dist. of Phila., School Reform Commission Approves Facilities Master Plan Recommendations (Mar. 7, 2013), <https://webapps.philasd.org/news/display/articles/1458>; see also Natalye Paquin et al., *Pain for Gain in School Plan*, PHILLY.COM (Jan. 16, 2013), [http://articles.philly.com/2013-01-16/news/36355406\\_1\\_list-of-school-closures-fewer-students-empty-classrooms](http://articles.philly.com/2013-01-16/news/36355406_1_list-of-school-closures-fewer-students-empty-classrooms).

83. THE SCH. DIST. OF PHILA., FY 2012–13 BUDGET IN BRIEF 13 (2012), <http://webgui.phila.k12.pa.us/uploads/iJ/as/iJasxwamd3nLIsSAZ1SpIQ/SDP-FY2012-13-Budget-in-Brief-2012-4-24.pdf>.

84. See *id.* at 33.

projected that the sale of property would generate \$10,000,000 that year, with \$14,503,000 realized in the 2012–13 school year, even though Hite had imposed a two-year moratorium on further school closures for 2013–14 and 2014–15.<sup>85</sup> The 2014–15 budget was perhaps the most optimistic, in which “anticipated building sales and city funding [were] projected to yield approximately \$61.4 million in revenues.”<sup>86</sup>

### 3. Expected Cost Savings

In addition to generating revenues, school closures are expected to yield significant annual cost savings, as “stranded costs”—that is, the costs that cannot be reduced when a student leaves a district-run school for a charter school, taking his share of per-pupil dollars with him—can be shed.<sup>87</sup> The BCG calculated projected savings associated with closing forty to fifty schools at \$32 million to \$40 million annually, with expected savings of \$800,000 per school building.<sup>88</sup> PSD’s projections for costs savings in 2013 were estimated at \$28 million for the closure of thirty-seven schools.<sup>89</sup> As the number of planned school closures decreased, these estimated savings were later revised downwards by PSD officials, first to \$24.5 million a year,<sup>90</sup> and then later to \$21 million annually in the 2014–15 budget book.<sup>91</sup> Notably, the \$21 million estimate works out to \$875,000 saved per school per

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85. THE SCH. DIST. OF PHILA., FY 2013–14 CONSOLIDATED BUDGET 17, 19 (2013), [http://webgui.phila.k12.pa.us/uploads/lz/Yy/lzYyftm\\_PP96eMfLE8XQ/FY2013-14-Consolidated-Budget.pdf](http://webgui.phila.k12.pa.us/uploads/lz/Yy/lzYyftm_PP96eMfLE8XQ/FY2013-14-Consolidated-Budget.pdf); see Solomon Leach, *Philly Schools Chief: No School Closings Recommended for This Year*, PHILLY.COM (Jan. 10, 2014), [http://articles.philly.com/2014-01-10/news/46069610\\_1\\_philly-schools-chief-school-closings-hite](http://articles.philly.com/2014-01-10/news/46069610_1_philly-schools-chief-school-closings-hite); Trenae V. McDuffie, *Hite Addresses City Council’s Moratorium Resolution at MLK Public Meeting*, NEWSWORKS (Jan. 25, 2013), <http://www.newsworks.org/index.php/local/item/50093-mlk-school-closings-meeting-jan-24>.

86. THE SCH. DIST. OF PHILA., FY 2014–15 CONSOLIDATED BUDGET 17 (2014), <http://webgui.phila.k12.pa.us/uploads/d-/Gh/d-GhySH9C5EF4TBqOW7XKw/FY2014-15-Consolidated-Budget.pdf>.

87. See Tom Ferrick, *Ending the Hypocrisy on Charters*, 6 INDEP. VOICE 4 (2014), [http://www.germantownnewspapers.com/Welcome\\_to\\_Germantown\\_Newspapers\\_files/TIV.050114.all.pdf](http://www.germantownnewspapers.com/Welcome_to_Germantown_Newspapers_files/TIV.050114.all.pdf).

88. THE BOS. CONSULTING GRP., *supra* note 75, at 31.

89. See Bill Hangle, Jr., *Closure Savings Are Labor Savings*, PHILA. PUB. SCH. NOTEBOOK (Feb. 4, 2013, 2:21 PM), <http://thenotebook.org/february-2013/135574/closure-savings-are-labor-savings>.

90. See Socolar, *supra* note 78.

91. See FY 2014–15 CONSOLIDATED BUDGET, *supra* note 86, at 24.



year, which is a higher average than that anticipated in the BCG report.<sup>92</sup>

The BCG argued that of the \$800,000 per school building the district could expect to save from closure, “[r]oughly 45–50 percent of those savings [would come] from the consolidation of administrative and instructional staff that is possible with consolidating school programs; the remaining 50–55 percent of those savings results from the elimination of direct facilities and building support expenses, such as maintenance and utilities.”<sup>93</sup> Nonetheless, in-depth analyses of documents reporting on PSD’s expected savings from school closures revealed that the majority of the savings were expected to come from staff cuts.<sup>94</sup> Indeed, only 20% of the savings were expected to come from cutting costs associated with building maintenance, utility fees, and leases, while 80% of the savings would come from workforce reductions.<sup>95</sup> The District projected saving \$9.2 million from maintenance staff reductions, \$8.7 million from reduced operations (administrative staff), \$3.7 million from cuts in teaching staff, a half million from reductions in school health operations (i.e., school nurses), and about a quarter million from reductions in security staff.<sup>96</sup> Of course, the savings achieved from avoiding costly repairs or upgrades to old buildings are difficult to calculate, but PSD undoubtedly hoped to avoid significant cash outlay to modernize many of the buildings it selected to close.

### C. *The Reality*

#### 1. Transitioning Students to Less Safe, Similarly Performing Schools

While closures hope to provide students access to better quality education, research demonstrates that such an outcome does not always occur. For instance, one quantitative study from Chicago found that a staggering 82% of students were transferred to schools on probation or in the lowest quartile of performance on the Iowa Test of Basic Skills, while only 6% of students were

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92. See THE BOS. CONSULTING GRP., *supra* note 75, at 9.

93. *Id.* at 31.

94. See Hangley, Jr., *supra* note 89.

95. *Id.*

96. *Id.*

transferred to high-performing schools.<sup>97</sup> A study in Colorado indicated that students displaced by school closure showed declines on standardized tests and had a lower probability of graduating and a higher probability of dropping out than they would have had they continued at their shuttered school.<sup>98</sup> Furthermore, research shows that when schools close, parents do not always enroll their children in higher-performing alternatives, even when they are available, favoring instead such factors as close proximity to home and perceived safety.<sup>99</sup>

Drawing on data from the Philadelphia School District website<sup>100</sup> and the Pennsylvania Department of Education website, specifically the School Performance Profiles<sup>101</sup> and the School Progress Reports,<sup>102</sup> we analyzed differences in student achievement results between high schools that were closed at the end of the 2012–13 school year and those that became receiving schools at the start of the 2013–14 school year. We defined receiving schools as those which received fifty or more students, as that is the cut-off point used by the District in its analyses. This process identified nine receiver high schools for the eight high schools that were closed.

Independent sample t-tests revealed that no statistically significant differences existed between the closed schools and the receiving schools in 2013 average student outcomes according to the School Progress Reports. The two groups of schools had identical average rates of first-time Keystone Exam passing in Math (5.3%). Though the receiving schools performed better in terms of first-time Literature Keystone passing rates than the closed schools (18% versus 10%), this difference was not statistically significant.

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97. See MARISA DE LA TORRE & JULIA GWYNNE, *WHEN SCHOOLS CLOSE: EFFECTS ON DISPLACED STUDENTS IN CHICAGO PUBLIC SCHOOLS 2* (2009).

98. See Ben Kirshner, Matthew Gaertner & Kristen Pozzoboni, *Tracing Transitions: The Effect of High School Closure on Displaced Students*, 32 *EDUC. EVALUATION & POL'Y ANALYSIS* 407, 415 (2010).

99. MARISA DE LA TORRE ET AL., *SCHOOL CLOSINGS IN CHICAGO: UNDERSTANDING FAMILIES' CHOICES AND CONSTRAINTS FOR NEW SCHOOL ENROLLMENT 3* (2015).

100. THE SCH. DIST. OF PHILA., <http://www.phila.k12.pa.us> (last visited Feb. 19, 2016).

101. PA. DEP'T OF EDUC., *Pennsylvania School Performance Profile*, <http://paschoolperformance.org> (last visited Feb. 19, 2016).

102. THE SCH. DIST. OF PHILA., *School Progress Report (SPR)*, <http://webgui.phila.k12.pa.us/offices/d/district-performance/reports/school-progress-report> (last visited Feb. 19, 2016).

These findings of no statistically meaningful differences between the two groups of schools continued to hold when we compared student outcomes in receiving schools in 2014 to those of students from schools closed in 2013. Again, one year later, the receiving schools performed neither better nor worse, statistically speaking, than the closed schools did in 2013 with respect to rates of Keystone passing. And when compared to their own performance a year earlier, receiving schools suffered a significant decline in literature passing rates (down by 4% on average), while algebra passing rates remained stagnant.

Other analyses showed that receiving schools in Philadelphia were more dangerous than closed schools, both the year before the closure announcement and the year following the closure process, with significantly greater numbers of serious incidents of violence in the year following closure.<sup>103</sup> Therefore, the data suggest that at the high school level, Hite's vision of creating "safer, stronger schools" through a process of consolidation, turn-around, and closure has yet to be achieved.

## 2. Lower Than Expected Revenues

While school districts often estimate that schools will sell for anywhere from \$500,000 to upwards of \$15,000,000, the average sale prices in many cities range from \$200,000 to \$1,000,000, falling well below projected estimates.<sup>104</sup> Philadelphia is no exception to this trend, consistently selling properties for considerably less than the asking price, most notably among listings labeled as "not hot properties"<sup>105</sup> due to the dilapidated conditions of the building, urban decay of surrounding area, and lack of interested buyers

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103. Jerusha Conner & Katherine Cosner, *School Closure as Structural Violence and Stakeholder Resistance as Social Justice*, 24 J. FOR PEACE & JUST. STUD. 27, 42 (2014).

104. See PHILA. RESEARCH INITIATIVE, PEW CHARITABLE TRS., PHILADELPHIA AND OTHER BIG CITIES STRUGGLE TO FIND USES FOR CLOSED SCHOOLS (2013), <http://www.pewtrusts.org/en/research-and-analysis/reports/2013/02/11/philadelphia-and-other-big-cities-struggle-to-find-uses-for-closed-schools>; see also Dylan Scott, *Repurposing Schools Gives Life to Vacant Buildings*, GOVERNING (May 7, 2012), <http://www.governing.com/news/local/gov-repurposing-schools-offers-new-life-to-vacant-buildings.html> (describing the Kansas City, Missouri School District's expectation to receive \$15 million per property for closed schools, and the Tulsa School District's expectation to receive millions of dollars per property for its recently closed schools).

105. *SRC Votes on Sale of Three Properties*, PHILA. PUB. SCH. NOTEBOOK: THE NOTEBOOK'S BLOG (Nov. 15, 2012, 5:35 PM), <http://thenotebook.org/blog/125337/src-consider-sale-three-properties>.

for large school properties not conducive to repurposing.<sup>106</sup> For example, Elizabeth Gillespie Middle School, closed in 2009, sold to Mastery Charter Schools in 2015 for \$250,000, despite an asking price of \$1,500,000.<sup>107</sup> In a particularly egregious example, in 2013, the district sold an Education Services Building on Monroe Street that was listed at \$1,200,000 for \$1.00, or one hundred pennies, to Queen Village Lofts LP.<sup>108</sup>

We drew on public records to determine the actual revenues, savings, and costs associated with the closure of thirty schools in Philadelphia between 2012 and 2013. These records included Philadelphia County property records and school district budgets, newspaper reports, press releases, and direct correspondence with various individuals, including PSD's Director of Real Property Management, the Real Property Management Specialist, and realtors who are identified as the contacts for listed school properties. However, it is important to note at the outset that several gaps and inconsistencies in the data remain. We have made every attempt to clarify and reconcile these gaps and inconsistencies through direct correspondence with officials. However, the challenge of discerning accurate data underscores the recurring lack of transparency within the PSD and an ongoing recalcitrance not only to include the community in decision-making processes, but also to report results to the public in a timely fashion.<sup>109</sup>

Of the thirty schools that closed during 2012 and 2013, the District has managed to sell half at the time of this writing. Five buildings are still on the market, with a combined total asking price of \$6.15 million. Nine buildings have been "repurposed" by the District, while one building sits vacant and unlisted as the

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106. See Benjamin Herold, *KIPP Backs out of Deal to Buy Vacant Philadelphia School*, PHILA. PUB. SCH. NOTEBOOK: THE NOTEBOOK'S BLOG (Mar. 22, 2013, 2:27 PM), <http://thenotebook.org/blog/135787/kipp-backs-out-deal-buy-vacant-philadelphia-school>.

107. *Watch Tonight's SRC Meeting*, PHILA. PUB. SCH. NOTEBOOK: THE NOTEBOOK'S BLOG (Oct. 16, 2014, 3:00 PM), <http://thenotebook.org/blog/147828/previewing-src-meeting>.

108. See Benjamin Herold, *District Sets \$6.5 Million Sale Price for Old West Philly High Building*, PHILA. PUB. SCH. NOTEBOOK: BENJAMIN HEROLD'S BLOG (Feb. 14, 2012, 6:34 PM), <http://thenotebook.org/blog/124530/district-lists-old-west-philly-high-building-sale-65m>; *Property, 427-37 Monroe St.*, CITY PHILA., <https://alpha.phila.gov/property/?p=881003350> (last visited Feb. 19, 2016).

109. See Kevin McCorry, *Philly School District Set to Sell Six of Its Recently Shuttered Buildings*, NEWSWORKS (Feb. 26, 2014), <http://www.newsworks.org/index.php/local/education/65330-philly-school-district-set-to-sell-four-of-its-recently-shuttered-buildings>; Dale Mezzacappa, *SRC Approves Building Sales, Ratifies Principals' Contract*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA'S BLOG (Mar. 20, 2014, 9:04 PM), <http://thenotebook.org/blog/147032/src-approves-building-sales-principals-contract>.

District waits to determine what to do with it. The repurposed schools have been reinvented in such ways as a K–8 school, an early childhood learning center, and three new “innovative” high schools. Though the costs of repurposing remain unclear, the three new innovative high schools, which were largely funded by private grants, were estimated to cost PSD an additional \$2.5 to \$3 million.<sup>110</sup> In short, of the thirty closed schools, one-third will not be generating revenue through sales, and any cost savings anticipated from their closure will not be realized by the District.

Of the fifteen schools that were sold, six were sold outright, while the remainder were sold as “package deals” in groups of three or more. The city estimated one of these packages consisting of four schools to be worth \$24,357,800; however, the group was sold for just \$3 million.<sup>111</sup> Another group consisting of five schools sold for \$6.8 million, though the asking price was nearly twice as much at \$12.15 million, and the value estimate was \$30,782,800.<sup>112</sup> A reporter commenting on the discrepancies between the estimated values of the closed buildings, the asking prices, and the final sales prices described the District as selling schools at “bargain-basement prices.”<sup>113</sup> He explained, “the quasi-public agency that handled the sales on the School District’s behalf, sold the 11 school buildings for less than 19 percent of what the city says they’re worth, even as the School District is struggling to close a multimillion-dollar budget deficit.”<sup>114</sup> Meanwhile, though the sale of these eleven buildings resulted in \$14.2 million, the district only netted \$2 million after adjusting for closing costs and other factors.<sup>115</sup> The data we collected show that sales for the buildings closed in 2013, which includes the sale of four additional school buildings closed in earlier years, have amounted to \$45.75 million *before* closing costs and other expenses are ac-

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110. See Dale Mezzacappa, *SRC Approves Creation of Three Small, Innovative High Schools*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA’S BLOG (Feb. 21, 2014, 11:27 PM), <http://thenotebook.org/blog/146958/src-approves-creation-three-new-small-innovative-high-schools>.

111. See Solomon Jones, *SRC Sells Schools for Pennies When the District Needs Millions*, NEWSWORKS (Sept. 22, 2014), <http://www.newsworks.org/index.php/local/the-phila-delphia-experiment/73024-schools-sold-for-pennies-when-the-district-needs-millions>.

112. See *id.*; Aaron Moselle, *SRC Approves Germantown High School Sale to Md. Developers*, NEWSWORKS (Sept. 19, 2014), <http://www.newsworks.org/index.php/local/nw-phila-delphia/72950-src-approves-germantown-high-school-to-md-developers>.

113. Jones, *supra* note 111.

114. *Id.*

115. See *id.*

counted for. Even without these adjustments, the profit is well short of the \$61 million anticipated in the 2014–15 budget book.<sup>116</sup> Furthermore, the budget books from 2014–15 and from 2015–16 show that actual revenues from the sale of property in the years 2012–13 and 2013–14 have only netted \$30,304,274 in revenues, a quarter of which was directed towards debt services rather than the general fund.<sup>117</sup> These budgets projected zero dollars in revenue from the sales of property in 2014–15 and 2015–16,<sup>118</sup> suggesting that at best the district has achieved half of what it had hoped from the sales of property since 2012.

### 3. Additional Costs of Closure

Although the District sold eleven schools within one year of their closing and an additional four the following year, the maintenance of shuttered schools that sit on the market is estimated to cost the district approximately \$5000 a month per building.<sup>119</sup> This means that since their closure in 2013, the five schools currently on the market could have cost the District approximately \$700,000. This figure includes neither the upkeep costs associated with the schools that sold after several months on the market, nor the costs associated with the surplus properties that are still on the market from earlier rounds of closure or decommissioning. For example, three properties currently listed for sale on the Philadelphia School Sales website have long sat vacant. Rudolph Walton Elementary School has been unused since 2003,<sup>120</sup> the Beeber-Wynnfield Annex since 2004,<sup>121</sup> and the Old Frances

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116. FY 2014–15 CONSOLIDATED BUDGET, *supra* note 86, at 17.

117. *Id.* at 42 (indicating actual revenue from sales of property in 2012–13 totaled \$343,500, all of which was directed towards the debt services fund); THE SCH. DIST. OF PHILA., FY 2015–16 CONSOLIDATED BUDGET 93 (2015), [http://webgui.phila.k12.pa.us/uploads/ZH/2f/ZH2fOGACmEKyUR3mwTKHXA/SDPBook\\_Web\\_v4.pdf](http://webgui.phila.k12.pa.us/uploads/ZH/2f/ZH2fOGACmEKyUR3mwTKHXA/SDPBook_Web_v4.pdf) (indicating actual revenue from the sale of property in 2013–14 totaled \$29,960,774, \$7,379,271 of which was directed towards the debt services fund, rather than the general fund).

118. *See* FY 2014–15 CONSOLIDATED BUDGET, *supra* note 86, at 42; FY 2015–16 CONSOLIDATED BUDGET, *supra* note 117, at 93.

119. JESSE BLITZSTEIN ET AL., UNIV. OF PA. SCH. OF DESIGN, NEW LIFE FOR OLD SCHOOLS 25 (2013), [http://issuu.com/pennpraxis/docs/new\\_life\\_for\\_old\\_schools\\_final\\_report\\_2013](http://issuu.com/pennpraxis/docs/new_life_for_old_schools_final_report_2013).

120. *See Available School District of Philadelphia Properties*, PHLSCHOOLSALLES.COM, <http://www.phlschoolsales.com/#properties> (last visited Feb. 19, 2016); Herold, *supra* note 106.

121. *See Available School District of Philadelphia Properties*, *supra* note 120; Benjamin Herold, *After Schools Are Closed, Who Decides Their Fate?*, PHILA. PUB. SCH. NOTEBOOK (June 2, 2011, 2:43 PM), <http://thenotebook.org/june-2011/113763/after-schools-are-closed->

Willard School since 2010.<sup>122</sup> Thus, it is clear that maintaining these vacant properties for such long periods is not without costs.

In many cases, shuttered schools may be purposely kept off the market for later reuse, a process referred to as “mothballing.”<sup>123</sup> Maintaining these schools can be costly for the District, but neglecting them and allowing them to fall into total disrepair imposes significant costs on the surrounding community, as abandoned buildings become sites for squatters, substance abuse, crime, and vandalism.<sup>124</sup> Shuttered schools also contribute to urban blight, serving as a constant reminder of abandonment, divestment, and decline to the community members.<sup>125</sup>

In addition to the difficulty of selling shuttered schools and the costs of maintaining vacant properties, there are significant transition costs associated with school closures that impact the bottom line financial projections. These costs are not always made transparent in district calculations, and they are not always projected accurately. For instance, an auditor’s report published in 2012 found that Washington, D.C., incurred upwards of \$40 million in transition costs, which were four times the original estimates.<sup>126</sup> Similarly, leaked documents from Chicago revealed that the school district underreported the transition costs from estimates of \$150 million to \$400 million.<sup>127</sup> While a full report detailing the total transition costs for Philadelphia in the wake of the closure of twenty-four schools and the displacement of 14,000 students has yet to be disseminated,<sup>128</sup> it remains evident that the

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who-decides-their-fates.

122. See *Available School District of Philadelphia Properties*, *supra* note 120; Kate Hartman & Ben Griffiths, *Plan Philly: Vacant School Buildings Affect Surrounding Communities*, PHILA. NEIGHBORHOODS (Dec. 6, 2012), <http://philadelphianeighborhoods.com/2012/12/06/plan-philly-vacant-school-buildings-impact-surrounding-communities/>.

123. See Courtney Lauren Anderson, *The Disparate Impact of Shuttered Schools*, 23 J. GENDER, SOC. POL’Y & L. 319, 330 n.76 (2015).

124. See Hartman & Griffiths, *supra* note 122.

125. Rachel Hildebrandt, *City Controller’s Plan to Demo Schools Short-Sighted and Uninformed*, HIDDEN CITY PHILA. (Dec. 12, 2011), <http://hiddencityphila.org/2011/12/vacant-schools-as-assets/>.

126. Hangle, Jr., *supra* note 89.

127. *Id.*

128. See Laura Benschhoff, *Philadelphia District Nets \$42 Million from Selling Former Schools*, NEWSWORKS (Mar. 2, 2015), <http://www.newsworks.org/index.php/local/education/79035-philadelphia-district-nets-42-million-from-selling-former-schools>; Wendy Harris, *Concerns Still Abound as District Nears School Closings*, PHILA. PUB. SCH. NOTEBOOK (May 22, 2013, 1:57 PM), <http://thenotebook.org/summer-2013/136023/concerns-still-about-district-nears-school-closings>.

District was expected to incur significant transition costs, with reported expenses at \$25.6 million after defeasance of bonds and closing costs.<sup>129</sup> The District acknowledged the potential magnitude of these transition costs in its 2012–13 Budget in Brief Book, stating that

moving teachers and students out of a building, assessing the building for sale, and actually going through the sales process require[s] time—nearly a year in most cases. This means that the full savings from the closure of the buildings will not be realized until a year or more after the original closure vote.<sup>130</sup>

However, it stopped short of specifying a projected figure. Assuming the accuracy of the estimate in the BCG report of “one-time costs projected at approximately \$70,000 per school, including costs to decommission the school and move equipment,”<sup>131</sup> the thirty school closures in 2012 and 2013 cost PSD around \$2,100,000.<sup>132</sup> In summary, transition costs, the costs of maintaining shuttered buildings while prospective buyers are sought, and closing costs quickly add up, reducing projected savings markedly.

#### D. *Who Buys Closed Schools' Buildings?*

A study by the Pew Charitable Trusts of twelve cities in which school closure strategies have been used found that the main purchaser of shuttered schools is charter management organizations.<sup>133</sup> In fact, slightly more than 40% of the properties sold, repurposed, or leased in these cities went to charter providers.<sup>134</sup> In Chicago, charter schools bought so many of the shuttered schools, propelling further enrollment shifts from district-run schools to these new charters, that the city adopted a policy of no longer selling its closed buildings to charter providers.<sup>135</sup>

In Philadelphia, despite superficial attempts to involve key stakeholders in final decisions, the SRC retains ultimate execu-

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129. See Benschhoff, *supra* note 128; McCorry, *supra* note 109.

130. FY 2012–13 BUDGET IN BRIEF, *supra* note 83, at 13.

131. THE BOS. CONSULTING GRP., *supra* note 75, at 31.

132. James Jack & John Sludden, *School Closings in Philadelphia*, 10 PENN GSE PERSP. ON URB. EDUC., Summer 2013, <http://www.urbanedjournal.org/archive/volume-10-issue-1-summer-2013/school-closings-philadelphia>.

133. See PHILA. RESEARCH INITIATIVE, *supra* note 104.

134. *Id.*

135. *See id.*



tive control over who buys each school and for how much.<sup>136</sup> To hasten the sale of shuttered schools and help ensure the buildings are repurposed for educational uses, many districts in major cities, including Philadelphia, have enacted formal reuse policies giving first priority to charter schools and other non-profit buyers to bid on properties.<sup>137</sup> Of the six schools that were sold outright between 2012–13, four were sold to charter schools, one was sold to a developer, and one was sold to the Archdiocese of Philadelphia.<sup>138</sup> The three other purchasers of the remaining properties, which were sold in package deals, include the Philadelphia Housing Authority, Drexel University, and the development company Concordia.<sup>139</sup>

### 1. Perpetuating the Financial Crisis

Given that two of the main reasons for school closures are financial debt and low student enrollment, it is difficult to understand how allowing more charter schools to open, with each new charter school student costing the District approximately \$7000<sup>140</sup> is expected to reverse the current financial crisis in Philadelphia. Additionally, a student transferring from a private school to charter schools is estimated to cost the District approximately \$10,000.<sup>141</sup> With the ongoing expansion of charter schools, families

136. PEW CHARITABLE TRS., SHUTTERED PUBLIC SCHOOLS: THE STRUGGLE TO BRING OLD BUILDINGS NEW LIFE 3, 11 (Feb. 11, 2013), [http://www.pewtrusts.org/~media/assets/2013/02/11/philadelphia\\_school\\_closings\\_report.pdf?la=en](http://www.pewtrusts.org/~media/assets/2013/02/11/philadelphia_school_closings_report.pdf?la=en).

137. *Id.* at 8 (“Laws in Ohio, Georgia and the District of Columbia require districts to let charter operators bid on a closed school before anyone else.”); *see also* ADVISORY COMM. FOR SCH. REPURPOSING AND CMTY. DEV., REPORT (Feb. 2014), <http://www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2014/January/02.07.14.CPSREPORT.pdf> (discussing plan for repurposing closed schools in Chicago); *KCPS Repurposing Initiative*, KAN. CITY PUB. SCHS., <http://www.kcpublicschools.org/repurposing> (last visited Feb. 19, 2016) (explaining reuse program in Kansas City); *Vacant Schools in Philadelphia a Cautionary Tale for Chicago*, WBEZ (Feb. 18, 2013), <http://www.wbez.org/news/vacant-schools-philadelphia-cautionary-tale-chicago-105570> (highlighting Philadelphia’s formal reuse policy).

138. *See, e.g.*, Laura Benschoff, *supra* note 128; Kristen A. Graham & Tony Graham, *School District Has Deals to Sell Several Schools*, PHILLY.COM (Feb. 28, 2014), [http://articles.philly.com/2014-02-28/news/47744060\\_1\\_building-sales-philadelphia-school-district-alexander-wilson-elementary](http://articles.philly.com/2014-02-28/news/47744060_1_building-sales-philadelphia-school-district-alexander-wilson-elementary); Martha Woodall, *Out of Nowhere a Network Emerged to Save Catholic Schools*, PHILLY.COM (June 24, 2014), [http://articles.philly.com/2014-06-24/news/50801065\\_1\\_independence-mission-schools-al-cavalli-network](http://articles.philly.com/2014-06-24/news/50801065_1_independence-mission-schools-al-cavalli-network).

139. Benschoff, *supra* note 128; Graham & Graham, *supra* note 138; Jones, *supra* note 111.

140. Hangley, Jr., *supra* note 89.

141. Joseph A. Dworetzky, *Analyzing the Role of Charter School Funding in the District’s Budget Problems*, PHILA. PUB. SCH. NOTEBOOK: THE NOTEBOOK’S BLOG (Sept. 19,

are increasingly turning to charters as an affordable alternative to public and parochial schools.<sup>142</sup> Yet, the District remains financially accountable for all students attending charter schools, regardless of their original school prior to their transfer.<sup>143</sup> In addition to its fiscal responsibility for students attending brick and mortar charter schools, the District is also responsible for funding students attending cyber charter schools, which are projected to increase enrollment numbers from 5900 in fiscal year 2013 to 10,750 in fiscal year 2017.<sup>144</sup> Overall, in the 2015 fiscal year, the cost of financing students to attend charter schools is estimated at approximately \$755.6 million and is projected to increase the following year to nearly \$800 million.<sup>145</sup>

Recognizing the significant costs of charter expansion to the District, the SRC has made several attempts to cap the enrollment numbers for charter schools in Philadelphia, hoping to mitigate the rate of expansion.<sup>146</sup> However, these attempts have been futile, as rejected charter applicants have successfully gone above the district level, appealing to the state charter authorizing body, which has found in favor of the charter schools in judicial hearings, thus preventing PSD from its prudent attempts to limit enrollment of charter schools.<sup>147</sup>

## 2. Perpetuating Community Disenfranchisement

The proliferation of charter schools in the District has political, as well as financial, consequences. As co-director of the Urban

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2013, 3:19 PM), <http://thenotebook.org/blog/136459/analyzing-role-charter-school-funding-districts-budget-problems>.

142. See Jon Marcus, *The Demise of Private Schools*, THE ATLANTIC (Sept. 2, 2015), <http://www.theatlantic.com/education/archive/2015/09/parochial-schools-demise/403369/>.

143. See Dworetzky, *supra* note 141 (demonstrating how the District must pay for students transferring from public, parochial, and independent schools).

144. See Damon C. Williams, *School District Files Five-Year Plan*, PHILA. TRIB. (Sept. 13, 2012, 12:00 AM), [http://www.phillytrib.com/news/school-district-files-five-year-plan/article\\_0f77f755-6670-5d86-9566-7d6f391a31be.html](http://www.phillytrib.com/news/school-district-files-five-year-plan/article_0f77f755-6670-5d86-9566-7d6f391a31be.html).

145. See FY 2015–16 CONSOLIDATED BUDGET, *supra* note 116, at 77.

146. See Dale Mezzacappa, *State Has Paid Millions to Charter Schools Since SRC Suspended the Code*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA'S BLOG (Dec. 13, 2013, 5:11 PM), <http://thenotebook.org/blog/136750/state-has-paid-millions-charter-schools-src-suspended-code>.

147. See Dale Mezzacappa, *Commonwealth Court Rules District Can't Force Charters to Cap Enrollment*, PHILA. PUB. SCH. NOTEBOOK: DALE MEZZACAPPA'S BLOG (Aug. 27, 2015, 6:06 PM), <http://thenotebook.org/blog/158909/commonwealth-court-rules-district-cant-impose-charter-enrollment-caps>.

Studies Program at the University of Pennsylvania Elaine Simon contends:

[E]lected and policy officials—with business elites at every level leading behind the scenes—plan to replace these [shuttered] public schools with charter schools. But charter schools deflect responsibility and accountability by fragmenting the system, shattering it into too many pieces for the public to keep track of. They are not the city’s responsibility. Their performance is not as transparent, and they do not have to take all students.<sup>148</sup>

Indeed, there have been several concerns raised regarding the lack of transparency among the charter schools.<sup>149</sup> Many of these concerns eventually led to the discovery of a multitude of serious infractions in Philadelphia and several other states including, but not limited to, personal embezzlement of funds, charges for “ghost students” (i.e., students who intended to enroll but never did), and use of school funds to support other charter businesses.<sup>150</sup> Despite these scandals, the state continues to hold the District responsible for funding charter schools, while the issue of lack of transparency remains clear.<sup>151</sup>

In addition, notwithstanding attempts made by the SRC to curtail the expansion of charter schools in Philadelphia, there is a notable enmeshment between the SRC and charter providers, which compromises the integrity of district dealings and further erodes public trust in the SRC. For example, SRC member Farah Jimenez has abstained from several, but not all, votes on policies that would directly impact charter schools ostensibly because her husband is employed by a law firm that regularly defends a number of charter companies, including Mastery and KIPP, both of which have a strong and growing presence in Philadelphia.<sup>152</sup>

148. Elaine Simon, *Are School Closings the New Urban Renewal?*, PHILA. PUB. SCH. NOTEBOOK: THE NOTEBOOK’S BLOG (Mar. 4, 2013, 6:37 PM), <http://thenotebook.org/blog/135696/school-closings-new-urban-renewal>.

149. See Valerie Strauss, *A Dozen Problems with Charter Schools*, WASH. POST (May 20, 2014), <https://www.washingtonpost.com/news/answer-sheet/wp/2014/05/20/a-dozen-problems-with-charter-schools/>.

150. See CTR. FOR POPULAR DEMOCRACY & ALL. TO RECLAIM OUR SCHS., *THE TIP OF THE ICEBERG CHARTER SCHOOL VULNERABILITIES TO WASTE, FRAUD, AND ABUSE* 9 (Apr. 27, 2015), [http://populardemocracy.org/sites/default/files/Charter-Schools-National-Report\\_rev\\_2.pdf](http://populardemocracy.org/sites/default/files/Charter-Schools-National-Report_rev_2.pdf); see also *Public Schools Starve as Charter Schools Get Funded for “Ghost Students,”* SAVE OUR SCHS. NZ (Oct. 22, 2015), <http://saveourschoolsnz.com/2015/10/22/public-schools-starve-as-charter-schools-get-funded-for-ghost-students-nzei/>.

151. See DeJarnatt, *supra* note 71, at 592–96.

152. See Regina Medina, *Advocacy Group to Gov. Wolf: Get Rid of SRC Member*, PHILLY.COM (Oct. 15, 2015), [http://articles.philly.com/2015-10-15/news/67417807\\_1\\_farah](http://articles.philly.com/2015-10-15/news/67417807_1_farah).

### III. IMPLICATIONS AND CONCLUSION

In summary, our analysis of school closings in Philadelphia adds to the growing literature that exposes fundamental flaws in the logic of school closure. First, displacing students and sending them to schools with similar or worse track records of safety and achievement does not help students to access better educational opportunities. Furthermore, when these disruptions and mergers are accompanied by significant reductions in teachers, administrators, and support staff, as was the case in Philadelphia, and are compounded by further budget cuts that eliminate after-school programs, art and music classes, and many basic school supplies, students quickly receive the message that society sees their education, as well as their futures, as expendable. This message imposes psychological costs that are difficult to quantify. However, it is clear that the overcrowded and under-resourced conditions that both displaced and receiver students now experience are far from educationally ideal.

Second, even those costs that can be calculated and weighed alongside projected savings and revenues suggest that school closure is not necessarily better for the books. PSD has yet to achieve fiscal stability or health, and with more charter schools opening on the sites of former district-run schools, it is unlikely to be able to do so anytime soon. After closing twenty-four schools in 2013, PSD faced such massive budget shortfalls that it was forced to pass a “doomsday budget” for 2013–14 and an “empty shell” budget the following year.<sup>153</sup> Superintendent Hite decried both budgets as woefully insufficient.<sup>154</sup> Although PSD has sold several shuttered properties, it has racked up many expenses associated with closure that have eaten into those profits.<sup>155</sup> Furthermore,

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jimenez-charter-schools-office-discussions.

153. See Ken Derstine, *The 2013-14 “Doomsday Budget” of the School District of Philadelphia: How Did It Come to This?*, DEFEND PUB. EDUC.! (June 3, 2013), <http://www.defendpubliceducation.net/psd-doomsday-budget/>; Kevin McCorry, *Beyond ‘Doomsday’: Philadelphia School District Unveils Its ‘Empty Shell’ Budget*, NEWSWORKS (Apr. 26, 2014), <http://www.newsworks.org/index.php/local/the-latest/67322-beyond-doomsday-philadelphia-school-district-unveils-its-empty-shell-budget>; *Saying Goodbye to 24 Philadelphia Schools*, PHILA. PUB. SCH. NOTEBOOK (Sept. 20, 2013, 1:31 PM), <http://thenotebook.org/october-2013/136420/saying-goodbye-24-philadelphia-schools>.

154. See Press Release, Sch. Dist. of Phila., Statements from Superintendent Hite and SRC Chairman Green on Delayed Adoption of FY2015 Budget (May 29, 2014), <https://webapps.philasd.org/news/display/articles/2156>.

155. See BLITZSTEIN ET AL., *supra* note 119 (stating that operating costs of permanently closed schools can run as high as \$5000 per building); Benschhoff, *supra* note 128 (noting

the total amassed from the sales of former school buildings still falls far short of the \$61 million projected for fiscal year 2015.<sup>156</sup> Indeed, actual revenues from the sale of property fell \$1.4 million short of the District's estimates in 2012–13 and \$31.4 million short in 2013–14.<sup>157</sup>

Third, school closure renders holes in the very fabric of civic life. It erodes communities by divesting them of a key public institution, a site that binds generations and instills a sense of community pride and identity.<sup>158</sup> Closure processes also undermine community trust in the education system by further disenfranchising affected stakeholders, who feel their voices are neither heard nor respected.<sup>159</sup> This lack of trust can propel the cycle of divestment, as more parents leave the public system for private charter schools, leading to more enrollment shifts, more underutilized district-run schools, greater financial strain on the District, and the resulting need for more school closures.<sup>160</sup> This neoliberal encroachment threatens not just to dismantle public education, but to compromise one of the basic building blocks of United States democracy.

It has become commonplace for proponents of school choice to describe students in struggling district-run schools as “trapped.”<sup>161</sup> Such imagery effectively sets up the neoliberal solution of school choice. Students who are trapped should be freed to choose schools in the educational marketplace. That way, the onus falls on them to select “good” schools and make their own lives better, and not on society to ensure that *all* children have the opportunities they deserve.

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that associate expenses have eaten into the profits gained from the sales of school buildings).

156. See Benschoff, *supra* note 128.

157. See *supra* notes 111–17 and accompanying text.

158. See Simon, *supra* note 148.

159. See, e.g., Clarece Polke, *Parents Feel Voices Unheard in Wilksburg-Pittsburg Partnership*, PITTSBURGH POST-GAZETTE (Oct. 23, 2015, 12:00 AM), <http://www.post-gazette.com/news/education/2015/10/23/Parents-feel-voices-unheard-in-Wilksburg-partnership/stories/201510230151>.

160. See NAT'L ALL. FOR PUB. CHARTER SCHS., ESTIMATED NUMBER OF PUBLIC CHARTER SCHOOLS & STUDENTS, 2014–2015 (2015) (discussing the increase in charter school enrollment and reasons for school closings); Simon, *supra* note 148.

161. See Kate Casas, *St. Louis Students Still Trapped in a Failing School District*, ST. LOUIS POST-DISPATCH (Sept. 12, 2013, 12:00 AM), [http://www.stltoday.com/news/opinion/columns/st-louis-students-still-trapped-in-a-failing-school-district/article\\_3f68f294-4ea2-51a8-8ca5-2cf5d23c3e6b.html](http://www.stltoday.com/news/opinion/columns/st-louis-students-still-trapped-in-a-failing-school-district/article_3f68f294-4ea2-51a8-8ca5-2cf5d23c3e6b.html).

If instead of seeing students as trapped by the system we saw them as shunned by society, as betrayed by a government willing to turn its back on them and simply “outsource” the problem they represent, then we might begin to recognize our own complicity in this situation. Only then might we be capable of generating the collective capacity necessary to create the political will to invest in the students who attend district-run neighborhood schools and to reclaim our nation’s long-held commitment to public schooling. The students in public neighborhood schools have dreams—dreams of becoming productive, contributing members of society, citizens, and change agents—dreams that for many years our society has sabotaged by neglecting, starving, threatening, punishing the schools they attend, and then throwing up our hands and asking why they are not improving. It is time to realize that if we truly want different outcomes, we need different inputs. It is time to rework our calculus so that we see that it is the costs of derailling the hopes and dreams of our youth—not the costs of improving their schools—that are truly unsupportable for the long-term health and well-being of our economy and our democratic society.