

# Philosophy For Policy Makers? A Critique and a Proposal

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## INTRODUCTION

Although philosophers have long sought to guide policy-makers, especially in identifying the requirements of justice when resources are scarce, policy-makers have not paid much attention, and with good reason, as philosophers themselves are now beginning to recognize. The principles that apply to ideal conditions offer little guidance in the messy, non-ideal world we inhabit. Recently, some philosophers have sought to refine and contextualize their analyses to render them more useful to policy-makers. Recent articles by prominent educational philosophers try to reduce the gap between philosophical principles and empirical research on the one hand, and the needs of decision makers on the other. My focus here is on two of these, both co-authored by Harry Brighouse and Gina Schouten (one published in *Harvard Education Review*, one in *Social Philosophy and Policy*), and focused on the contested issue of charter school expansion.<sup>1</sup> While acknowledging that their analyses contain a key insight, I point out the weaknesses and, by extension, the limitations of their vision of policy scholarship; a vision shared, I believe, by other philosophers. I use an actual case to suggest an entirely different approach.

## THE CHARTER SCHOOL CONTROVERSY

Although evidence comparing the performance of charter schools to regular public schools is decidedly mixed, Brighouse and Schouten recognize that some charter schools, notably those requiring substantial student and parental commitment (referred to as High Commitment Charter Schools (HCCs)) appear to significantly outperform traditional public schools (TPSs).<sup>2</sup> Since entrance to HCCs is frequently by lottery and applicants outnumber places, randomized trials become feasible. The standard approach for evaluating HCCs simply compares the academic performance of lottery winners attending HCCs and lottery losers attending TPSs. If the former exceeds the latter, especially if the difference is substantial, we have all the information we need to advocate expansion of HCCs. Not so fast, say Brighouse and Schouten. The reason for hesitation lies in the possibility that the higher performance of the children in HCCs *may* come at the cost of the *lower* performance of the children who attend the TPSs, which Brighouse and Schouten claim (correctly in my view) is morally problematic.

The empirical evidence comparing the two kinds of schools masks the likelihood that, even in the case of randomized trials, there are very subtle selection effects that benefit the HCCs. I will mention two of several discussed by Brighouse and Schouten and one not mentioned by them: 1) The HCCs eliminate the hardest to teach kids – some need special education, which many HCCs are not equipped to provide, some quit because the regimen is too rigorous, and some are counseled out because they are disruptive or can't keep up. TPSs, on the other hand, are legally bound to accept all comers; 2) HCCs attended by lottery winners are more likely to support

norms of academic achievement than the TPSs attended by lottery losers. This is because the TPS classes are likely to include children of parents who did not apply for the lottery, perhaps because they had less invested in their children's academic success, or were less willing or able to undertake the substantial time commitments required; 3) Another advantage (not mentioned by Brighthouse and Schouten) is that HCCs often benefit from reduced class sizes in the upper elementary grades due to students dropping out along the way.

Among the overall disadvantaged population, then, more and less disadvantaged subgroups can be distinguished; therefore schools (or programs) that raise the *average* achievement within a coarsely defined group may achieve this gain while at the same time *lowering* the achievement of a more disadvantaged group, which seems to be unjust. The bottom line, here, is that such *distributional* effects must be considered in making a decision to expand charter schools.<sup>3</sup> This is a crucial insight.

Brighthouse and Schouten advance the discussion of the desirability of expanding charter schools in our nonideal world in the following way. First they describe a plausible practical decision facing Ms. Higgins, the putative member of a school chartering body: whether to support an HCC in a district that does not have one. Next they identify three interpretations of the ideal of justice within the educational sphere: 1) educational equality; 2) prioritarianism – according priority to the least advantaged group; and 3) educational adequacy. Then, they argue that each of the interpretations will either fail to provide a definitive answer to Ms. Higgins, or it will yield the wrong answer.<sup>4</sup> I will not go through the arguments, which I find entirely convincing, but focus briefly on the prioritarian interpretation.

In order to enact a policy favoring the most disadvantaged group, the prioritarian depends on prior identification of that group. Brighthouse and Schouten assert that the designation of groups is “merely a tool for implementing priority principles, and no particular delineation is specified by the principles themselves.”<sup>5</sup> This, claim Brighthouse and Schouten (correctly in my view), is problematic inasmuch as Ms. Higgins' decision is hostage to an arbitrary classification of student groups. Let me illustrate.

Suppose, as is likely the case, that within the population of below-average achievers, the HCC students constitute a *more* advantaged group. Suppose a new charter school designed expressly for the non-HCC students seeks approval. It offers intensive after-school tutoring by trained volunteers. While not as militaristic and highly regimented as the proposed HCC, it does have a stringent attendance policy. Students who are absent without excuse or are late more than twice a semester face stiff punishments. Suppose the average achievement in this school rises, but there is a small *subgroup* – those with a single parent suffering from drug addiction who often arrive late or even not at all – whose achievement is *lowered*? If Ms. Higgins is a prioritarian, she would be disposed to reject the new school on the basis of justice.

But, of course, even this latter group is not homogeneous. Among those without a parent able to get them ready for school, some children have above-average IQs, some have average, and some have below-average IQs. It is possible that a

school, or more likely a program within a school, could be designed for those who have trouble getting to school on time, say by phoning their homes when it's time to wake up and again when it's time to leave for school. Should this program receive approval? Suppose it will help this group, on average, but at the same time reduce the performance of those children with below average-IQ within that group, who cannot succeed even with the additional assistance. If these children are the designated least advantaged group, it seems that, as far as justice is concerned, Ms. Higgins must oppose this program as well.

The question of whether a group is to be designated *the* group of least advantaged children or simply one *subgroup* within a larger group of disadvantaged children does not admit of a principled answer. Yet, without a principled way of identifying the least advantaged group, Ms. Higgins' prioritarian principle cannot help but render an indeterminate verdict regarding whether to endorse or oppose a new school or program.

Given the limitations of each of the three principles of justice in yielding clear guidance to Ms. Higgins, what is the take-home lesson for Brighthouse and Schouten? They call for both further empirical research and deeper philosophical inquiry. In the *Harvard Education Review* article they concentrate on the needed empirical evidence.

If she [Ms. Higgins] is animated by the normative concerns we have elaborated . . . she will want to know how any academic benefits are distributed among the least advantaged group, how these benefits are likely to relate to life-course outcomes in the specific circumstances of these children, how effective the school will be in terms of educating students for good citizenship, and what effects the introduction of the school is likely to have on the daily, lived experience of both the children who attend and the children who remain in the kinds of school they leave.<sup>6</sup>

In the *Social Philosophy and Policy* article, Brighthouse and Schouten assert that "there may be particularly urgent obligations to benefit disadvantaged people up to certain morally important thresholds."<sup>7</sup> Here as well, empirical work, while not sufficient, will be necessary to establish just where those thresholds lie.

In the *Social Philosophy and Policy* article, where the focus is primarily philosophical, Brighthouse and Schouten maintain: "Much important philosophical work remains."<sup>8</sup> For instance: "We should develop more fine-grained versions of equality, priority, and adequacy principles that clearly specify the demands of those principles in nonideal circumstances."<sup>9</sup> Let's imagine what one such refined principle might look like, and see where it leads.

Here's a plausible candidate: "Invest in the education of the least advantaged group up to the point where the expected gains to that group come at the cost of driving the next higher group (among the disadvantaged) below the adequacy threshold required for effective citizenship." Assume, following Brighthouse and Schouten, that students receiving free lunch are identified as the least advantaged group, while those who receive reduced price lunches are the next least disadvantaged.<sup>10</sup> Does the new principle guide Ms. Higgins to a determinate conclusion? She might reason like this: Fewer parents of the least advantaged group are likely to apply for the charter school, and of those who do apply and win the lottery, a higher proportion of their children will drop out or be pushed out to the TPS, so it's likely that a high proportion

of the TPS kids will fail to reach the threshold for citizenship. This suggests that, from the point of view of justice, she should vote against the charter. On the other hand, she might reason that without the charter, very few of the children in *either* group are likely to attain the achievement level needed for “good citizenship.” The HCC, on the other hand, would enable most of its children to reach that level and, as adults, they would then be empowered to enhance the life prospects of the entire disadvantaged population. This line of reasoning favors *supporting* the charter application. Once again, the conclusion is indeterminate.

Brighthouse and Schouten might reply: “Of course, the principle by itself will not be sufficient to guide the decision. It must be complemented by the necessary empirical evidence.” What evidence would we need? First, we would have to estimate the proportion of each disadvantaged group that would apply for the voucher and attend the charter school were it to exist. Second, we would have to estimate the academic achievement levels of each group if all went to the TPS, and if some proportion attended the charter school. Third, these levels of academic achievement would need to be correlated with “ultimately morally important outcomes,” especially with “good citizenship,” which must be defined and measured. Note that we would need a definition of good citizenship that would obtain a dozen years in the future (when first graders attained the age of majority) and a measure for the degree of school achievement in the elementary grades that would predict whether the threshold was likely to be reached. Fourth, we’ll need evidence of the “daily, lived experience” of all the children under the two conditions. (This last will be especially difficult to aggregate if, as seems likely, some of the children attending the HCC will be traumatized, and some attending the TPS will become bored and disaffected.<sup>11</sup>) Finally, we’ll need some way to aggregate all of the diverse sorts of evidence.

I submit that, even if Ms. Higgins had the resources to commission a superb team of social scientists and a substantial budget to gather all the needed evidence, the probability that they could provide her with the clear guidance she seeks within the time frame available is vanishingly small.

#### EVALUATING THE VISION BEHIND THE ANALYSIS

The example illustrates the limitations of Brighthouse and Schouten’s vision of policy scholarship in which philosophers and empirical investigators team up to develop usable guidelines for decision makers operating in the nonideal world. Indeed, I believe their vision is utterly utopian, for the following reasons, some of which have to do with obtaining the information needed to inform a judgment (A), and others have to do with the controversial nature of these judgments (B):

A1. Even if high quality research were to show that, *on average*, HCCs achieve superior results for all children, this would *not* imply that the proposed charter school *in Ms. Higgins neighborhood* would do so.<sup>12</sup>

A2. Brighthouse and Schouten’s program requires evaluation of HCCs’ effects on life-course outcomes correlated with educational achievement. This will require tracking students over several decades, if not longer. (Moreover, these correlations change over time as technology changes.) The decision to introduce the HCC must, however, be taken now.

B1. Due to the politicized nature of the debates over charter schools, the likelihood that the conclusions of empirical studies evaluating charter schools will be fiercely contested is extremely high.

B2. Regardless of how long and how well philosophers labor, no consensus can be expected regarding: i) which principles of justice to apply; ii) how to delineate groups within disadvantaged populations; iii) how to trade off the success of some students against the failure of others; iv) which constitute the morally important outcomes; v) how to rank and measure these; and vi) how to aggregate data from diverse kinds of empirical inquiry.

Finally, the hypothetical scenario confronting Ms. Higgins, though realistic to a point, is not realistic enough in two crucial respects. First, the decision is a one-time thing with no history of prior decisions or future decisions clouding the decision process. This means that there is no opportunity for strategic thinking about how Ms. Higgins decision today might be connected to future decisions. For example, she might deliberately select a second-best choice this year in hopes of being able to garner support for a best alternative next year. Second, but not unrelated, the decision is made in a political vacuum. Now, Brighthouse and Schouten might say that this is an advantage because the reasoning favoring one or the other alternative may be made perspicuous with no extraneous political “noise” intruding. Fair enough, but at the same time, the approach risks not being able to guide *actual* decision making because the current political circumstances impose feasibility constraints as well as opportunities that cannot be ignored. For Ms. Higgins, the problem may have to be framed not as “What should I do, if I want to serve justice,” but rather, “What decision will bring me closest to what I believe is just, given all the competing values and given the political forces that both support and constrain me.”

#### A CASE STUDY

To see this more clearly, it will be useful to take a brief look at a real-world situation that bears a striking resemblance to the more stylized dilemma facing Ms. Higgins. This was the decision facing New York City’s Panel for Educational Policy – a 13-member body, eight of whom are appointed by the mayor – over whether to approve the district’s plan to move three elementary grades of an expanding Success Academy (a prototypical HCC) into a building with three poorly performing middle schools in the South Bronx.<sup>13</sup> These TPSs were included in the citywide School Renewal program focused on turning around their performance. Under the proposal, these middle schools will have to give up space just as they begin to craft improvement plans, plans that might have included adding health clinics or counseling services to their program. According to an article reporting on the divisive issue, the co-location dispute encapsulates a number of tensions: a) the tension between the need to support schools in the Renewal program and the need to follow through on promises to support the Success Academy; b) the desire for schools sharing buildings to work together and the three middle schools’ vehement protest against Success Academy’s arrival; and c) the need for space-sharing proposals to earn panel members’ approval while giving members the independence mayor Bill de Blasio has promised them.<sup>14</sup>

A few words about Success Academy are in order: The network of 32 charter elementary and middle schools (and one high school) serving primarily poor, mostly black and Hispanic, students, received 22,000 applications for 2,700 open seats. Whereas 29% of students in New York City's TPSs passed the state reading test and 35% passed the math test, Success Academy's students' pass rates were 64% and 94% respectively. However, there is no dearth of skepticism about what these numbers mean, as hard-to-teach students often either drop out or are pushed out. There are horror stories about the way the schools treat students (and teachers), but also parental endorsements that claim their children's attendance at Success Academy rescued them from school failure.<sup>15</sup> Unlike the TPSs, Success Academy receives contributions from wealthy donors and has a strong lobbying arm. Moreover, it has the support of Andrew Cuomo, New York's governor. On the other hand, since it employs non-unionized teachers, it is opposed by the city's powerful teacher's union. De Blasio won the mayoral election with support of the union, based in part on his promise to limit the aggressive expansion of Success Academy.<sup>16</sup>

A member of the Panel for Educational Policy might well – and with good reason – have perceived the situation as one in which disadvantaged students gain at the expense of even more disadvantaged students. The issue has been raised in numerous news articles. Suppose that this panel member, call her Ms. Justice, adheres to the prioritarian interpretation of justice. Should she support the proposal? Probably not, according to Brighthouse and Schouten.

Note now the *additional* complexities confronting Ms. Justice. Success Academy schools are unusually successful at educating poor, minority children, and there is every reason to think their success would continue should they expand. On the other hand, it is far less clear that the three middle schools actually require the additional space to benefit their students. At the meeting to debate the co-location issue, New York City school chancellor Carmen Fariña asserted that they do not.<sup>17</sup> A second reason to approve the plan is that it is generally agreed that turning around weak academic performance is more likely, the younger the students are. A third reason is that if this proposal is voted down, the city will still have to find room for the expansion in either public or private space, at the city's expense, and there is little likelihood that Success Academy would receive a warmer welcome elsewhere. Finally, the co-location plan is supported by the School District and the mayor, frequent adversaries of Success Academy's CEO Eva Moskowitz.

One of the things Ms. Justice must ask herself is whether this is the battle to pick with Success Academy. Perhaps if she goes along with the mayor and chancellor on this occasion, she will have more credibility with the other panel members if she wishes to persuade the panel to oppose a future expansion move by Success Academy; one that could more clearly be shown to be detrimental to the least advantaged students. I am not saying that this kind of reasoning is decisive, only that it cannot be ruled out of court on either empirical or philosophical grounds. (In fact, the plan was approved 7-5 in an unusually divided vote.)<sup>18</sup>

The upshot of the foregoing is just the conclusion that Schouten and Brighthouse *reject* (though without giving an argument) in citing a putative respondent who argues

that “we are asking too much from principles of justice; that they should point us in a rough direction, but need not be so fine-grained as to guide decision-making in particular contexts.”<sup>19</sup> I claim the putative respondent has it exactly right, but if we abandon Brighthouse and Schouten’s vision, where does this leave us?

#### AN ALTERNATIVE FRAMEWORK

Let me begin by trying to characterize the problem facing Ms. Justice. Persuasive reasons can be found on either side of the issue, which helps explain the close vote. It is a decision for which trustworthy evidence concerning the long-term consequences of the two options is unavailable, and in which conjecture can point in opposite directions. Finally, the context is such that Ms. Justice must view her decision as but one in a series of decisions pitting Success Academy and its allies, including New York’s governor, against the Teachers’ Union and its allies, including the city’s mayor.

Given this, let’s not ask: What knowledge generated by social scientists, and what conceptual understanding generated by philosophers does Ms. Justice require? Rather, we should ask: “What *kind of person* do we want Ms. Justice to be?” What characteristics should she embody? I suggest the following:

1. She ought to have a strong sense of justice, by which I mean she should recognize that the deplorable situation of poor black and Latino children in what is surely one of the richest cities in the world cries out for remedy.
2. She ought to be steeped in local knowledge, gleaned through conversations, newspaper articles, blogs, etc. This will provide a keen grasp of the forces arrayed against her as well as potential allies she can cultivate.
3. She ought to be willing to spend time in Success Academy schools as well as TPSs, observing what kids’ are experiencing and learning that is *not* reflected in test scores. Here, the ability to observe keenly, to record accurately, and to convey the gist of her interpretation with the help of a vivid example or two, will be most valuable.
4. She ought to be receptive to and willing to listen to people she disagrees with, to understand “where they’re coming from.”
5. She ought to beware the simplifiers, but also understand that decisions need to be made even without reliable information.
6. She ought to be able to see through rhetoric and spin in order to anticipate the most likely impact of the alternatives. Even when reading research reports, she should recognize that most authors have a point of view and an agenda that may subtly influence the way they parse the evidence or articulate their conclusions.
7. Recognizing that politics is the art of the possible, she must sense when her intervention can really achieve something worthwhile, and when, though it might make her and her supporters feel good, such an intervention would accomplish nothing of durable value.

In short, what Ms. Justice needs is not more time to read scholarly journals, but abundant local knowledge and a passion for justice informed by sound judgment. I think a grasp of the three conceptions of educational justice would be helpful, but beyond that (*pace* Brighouse and Schouten), I see no role for philosophy, which can at most “point us in a rough direction.” Indeed, in Ms. Justice’s case, I would be surprised if she were not *already* pointed in that very direction. Is there any social science inquiry whose results could aid in either the cultivation of these dispositions and propensities, or in the selection of those who embody them? I don’t know, and will say only that if these questions are investigable, this is where social scientists should focus their energies.

What separates my approach from that of Brighouse and Schouten is not a difference of opinion over what would be needed to decide the case, but a different stance toward policy-making in real circumstances. While showing that existing knowledge – both philosophical and empirical – is insufficient, Brighouse and Schouten suggest that we redouble our efforts to secure more abundant and deeper knowledge. I believe this is a fool’s errand. I stake my own position on Aristotle’s concept of *phronesis*, practical wisdom. Deciding the particular case is all about *judgment*, not calculation. In commenting on Aristotle’s theory of deliberation in a well-known article, David Wiggins said of those who want a scientific decision theory that will guide them to choose rightly:

I entertain the unfriendly suspicion that those who feel they must seek more than this [a conceptual framework] want a scientific theory of rationality not so much from a passion for science, even where there can be no science, but because they hope and desire, by some conceptual alchemy, to turn such a theory into a regulative or normative discipline, or into a system of rules by which to spare themselves some of the agony of thinking and all the torment of feeling that is actually involved in reasoned deliberation.<sup>20</sup>

#### SUMMING UP

Brighouse and Schouten’s focus on the distributional impact of charter schools on *all* the children concerned is insightful and important. However, their call to fellow philosophers and to social scientists to develop principles and evidence that can spare Ms. Justice “some of the agony of thinking and all the torment of feeling” rests on an unrealistic and inflated notion of what philosophers and social scientists can offer decision makers. Back in the last century, philosophers of education thought they could take conceptions of justice, such as Rawls’, off the shelf, as it were, in order to supply practical guidance. Now, a younger generation of philosophers is trying to hone more “generic” concepts and principles in order to custom-fit them to real-world problems. The aspiration is noble, but the effort still presupposes an “ideal world,” one in which philosophers reach consensus, full information is available, and politics doesn’t exist. All that being said, Brighouse and Schouten could still mount the following objection: You mistake the aim of our analysis; it is not to provide guidance for what Ms. J should actually *do*, only to determine whether *considerations of justice* favor introducing the charter school. There are, of course, other values that compete with and may override that of justice in a particular case.<sup>21</sup> But this amounts to conceding the point made by the putative objector I quoted earlier, namely that “we are asking too much from principles of justice.” I contend that no

matter how well-crafted the principles, they *cannot* be sufficiently fine-grained to actually guide decision making in real contexts.

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1. Gina Schouten and Harry Brighthouse, "Redistributing Education Among the Less Advantaged: A Problem for Principles of Justice?," *Social Philosophy and Policy* 31, no. 1 (2014): 109-134; Harry Brighthouse and Gina Schouten, "To Charter Or Not to Charter: What Questions Should we Ask, and What Will the Answers Tell Us?," *Harvard Educational Review* 84, no. 3 (2014): 341-364. Other fine examples of the genre include Lawrence Blum, "Race and Class Categories and Subcategories in Educational Thought and Research," *Theory and Research in Education* 13, no. 1 (2015): 87-104; Meira Levinson and Victoria Theisen-Homer, "No Justice, no Teachers: Theorizing Less-unjust Teacher Firings in Los Angeles Unified," *Theory and Research in Education* 13, no. 3 (2015): 139-154.

2. Schouten and Brighthouse, "Redistributing Education," 113-114.

3. Brighthouse and Schouten, "To Charter Or Not to Charter," 6, 7.

4. Schouten and Brighthouse, "Redistributing Education," 116-130.

5. *Ibid.*, 127.

6. Brighthouse and Schouten, "To Charter Or Not to Charter," 11

7. Schouten and Brighthouse, "Redistributing Education," 132.

8. *Ibid.*

9. *Ibid.*

10. Brighthouse & Schouten, "To Charter Or Not to Charter," 6.

11. See Kate Taylor, "At Success Academy Charter Schools, High Scores and Polarizing Tactics," *The New York Times*, April 6, 2015; <https://www.nytimes.com/2015/04/07/nyregion/at-success-academy-charter-schools-polarizing-methods-and-superior-results.html?mcubz=0>

12. See Nancy Cartwright and Jeremy Hardie, *Evidence-Based Policy: A Practical Guide to Doing it Better* (Oxford: Oxford University Press, 2012).

13. Geoff Decker, "Success Academy co-location exposes fault lines among de Blasio's allies," *Chalk Beat*, April 30, 2015; <https://www.chalkbeat.org/posts/ny/2015/04/30/success-academy-co-location-exposes-fault-lines-among-de-blasios-allies/>

14. Decker, "Success Academy co-location exposes fault lines among de Blasio's allies."

15. Amy Zerba and Eva Hamid, "Stories From Current and Former Success Academy Parents," *The New York Times*, April 17, 2015; <https://www.nytimes.com/interactive/2015/04/17/nyregion/success-academy-parents-voices.html?mcubz=0> (Accessed 9/25/17).

16. Taylor, "At Success Academy Charter Schools, High Scores and Polarizing Tactics."

17. Decker, "Success Academy co-location exposes fault lines among de Blasio's allies."

18. *Ibid.*

19. Schouten and Brighthouse, "Redistributing Education," 133.

20. David Wiggins, "Deliberation and Practical Reason," *Proceedings of the Aristotelian Society, New Series* 76, no. 1 (1975-76): 29-52, 49.

21. Based on Gina Schouten, personal communication, May 13, 2015.

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