

**AFFIDAVIT OF JEREMY D. FINN, Ph.D.**

**JEREMY D. FINN, Ph.D.**, being duly sworn, deposes and says:

1. I am Associate Dean for Research and a Professor in the Graduate School of Education at the University at Buffalo – SUNY. I have held the position of Professor since 1976. During the past 35 years, I have been a Visiting Scholar at the Graduate School of Education, Stanford University (2005), Visiting Scholar at the Center for Research in Human Development and Education at Temple University (1997-1998), National Assessment of Educational Progress (NAEP) Scholar at Educational Testing Service in Princeton, New Jersey (1996-1997), NSF/ASA Fellow at the National Center for Education Statistics in Washington, DC (1990-1992), Visiting Professor in the School of Education at Stanford University (1988-1989), Visiting Professor at Virginia Polytechnic Institute and State University (1982), and Senior Research Associate at the National Research Council/National Academy of Sciences in Washington, DC (1980-1981).

2. Among my professional affiliations, I am or have been a member of the American Educational Research Association, American Statistical Association, National Council on Measurement in Education, the Psychometric Society, and the Society for Research on Educational Effectiveness.

3. My major research interests are the study of the impact of classroom and school conditions on the academic success of students, student disengagement and dropping out, and factors that contribute to academic failure among students at risk.

4. I was retained by the Community Charter School in Buffalo, New York, to examine data regarding the recent conditions and student performance there. Community Charter is an elementary school serving approximately 300 students in grades K through 6. Specifically, I examined the School Report Cards for Community Charter and other schools in Buffalo, New

York, published online by the New York State Education Department; data contained in Community Charter's own data warehouse; data from the Erie County BOCES data warehouse; results of the administration of AIMSweb assessments during the 2012-2013 school year; and statistical comparisons of Community Charter School with the Buffalo Public Schools and other schools throughout New York State.

5. I am well qualified to render opinions on the matter of conditions and academic performance of students in grades K through 6. I received my Ph.D. from The University of Chicago in educational measurement, evaluation, and statistical analysis under the guidance of Professor Benjamin Bloom, a scholar known around the world for his research on school effectiveness. I have published extensively in top-rated journals on the topics of school and classroom conditions affiliated with student performance and dropping out. I have given invited addresses on these topics to educators, researchers, and policy makers in the United States and abroad and have been interviewed often by representatives of the public media. All of my research has involved the analysis and interpretation of quantitative educational data.

### **Findings**

6. The State Assessment results for Community Charter School are not high on an absolute basis or compared to all schools in the State. "All schools in the State" include urban, suburban, and rural schools, many of which serve children from middle and high income families living in educationally enriched conditions.

7. However, I identified 9 elementary schools in the Buffalo school district that were similar to Community in terms of the percentage of minority students enrolled (90% and above) and in terms of the percentage of students receiving free or reduced-price lunches (90% and

above), and compared them to Community Charter.<sup>1</sup> This served to level the playing field in terms of the “difficulty of the educational task.” Enrollments are shown in Exhibits A through C; note that Community has the highest minority enrollment of all (99%).

8. Conditions at Community Charter are excellent. The median class size is currently between 21 and 22 students and no class exceeds 23 students. The annual attendance rate has been between 91% and 93% over the past three years, as high or higher than any of the comparison schools (Exhibit E). Teacher turnover has been extremely low by absolute and comparative standards at 4% (just one teacher) for three out of the past four years (Exhibit D).

9. Student behavior, as indicated by the number of students suspended for one or more days, has been excellent. The 2009-2010 suspension rate was lower than all but one of the comparison schools (Exhibit F). Further, counts of suspensions during the 2011-2012 and 2012-2013 school years indicate small numbers to begin with and *even fewer suspensions – both in-school and out-of-school suspensions – in every month of the current school year* (Exhibits G and H).<sup>2</sup>

10. In sum, I could find no defining school condition that would contribute to grounds for closing Community Charter School. The school conditions at Community are conducive to a positive educational experience for the students.

11. I also examined the academic performance of students in Community Charter School in juxtaposition to the seven K-6 comparison schools with similar demographics. In terms of the mean on the New York State assessments in reading (the “ELAs”), Community was ranked sixth out of eight schools (Exhibit I). However, Exhibits I1-I4 show that this ranking is

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<sup>1</sup> Two of the nine are for grades K-4 only and are not included in K-6 comparisons.

<sup>2</sup> With the single exception of out-of-school suspensions in November 2012.

attributable to Community's poor sixth grade performance (Exhibit I4). When schools' reading performance is compared on proficiency in grades 3-5 only, Community is in the middle of the distribution of the schools with comparable demographics (Exhibit J).

12. In terms of mean performance on the State assessments in mathematics, Community Charter scores *near the top of the set of comparison schools*, whether the comparison is made for grades 3-6 or 3-5 (Exhibits K and L).

13. In my opinion, the reading performance of Community Charter School's sixth grade class, and perhaps the preceding grade, needs to be addressed. In itself, it certainly does not justify closing the school. That a quality intervention can help these students attain the State's proficiency threshold is likely. In addition to reporting proficiency levels (3 and 4 acceptable, 1 and 2 not acceptable), the State reports "high 2s," that is, students who would be able to attain proficiency with a moderate amount of additional instruction. Almost 22% of students at Community Charter are in the high 2 range in reading in grades 3—6 (right-hand bar of Exhibit M). If these students alone attain additional proficiency in reading, the school's total percentage of proficient readers would be raised from 15% to 37%.<sup>3</sup>

14. The staff of Community Charter School administered additional assessments (the AIMSweb) to all students in grades 2—6 in the fall (August 27 – September 7) and in the winter (December 10-21) of the current school year. The AIMSweb is a set of achievement tests for students in K-8 designed by Pearson Education, Inc., a highly regarded publisher of academic assessments. AIMSweb, grades K-8, was approved by the New York State Department of Education for the list of Approved Student Assessments for Use by School Districts and BOCES in Teacher and Principal Evaluations for the 2012-2013 school year. The school administered the tests in oral reading, math computations, and math concepts. The results are reported as

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<sup>3</sup> The percentage of high 2s in mathematics is even greater (Exhibit N).

numerical scale scores and as one of three “tiers.” Tier 1 indicates the student does not need supplementary reading or math instruction; tier 2 indicates the student is at risk of academic problems and should receive additional help; and tier 3 indicates that the student needs intensive and/or individualized instruction in that subject.

15. Growth in reading and mathematics on the AIMSweb is clear. Exhibit O gives the mean scores in reading in the fall and winter. The amount of growth is indicated by an effect size shown in the right-hand column. An effect size is a statistical measure used to characterize a difference between two means.<sup>4</sup> By convention, an effect size of about 0.2 is considered “small,” an effect size of about 0.4 to 0.5 is considered “moderate,” and an effect size of about 0.8 or greater is considered “large.”<sup>5</sup> In reading, the growth from fall to winter was very large in grade 2, large in grades 3 and 4, moderately large in grade 5, and moderate in grade 6. That is, growth in reading skill was substantial in every grade.

16. Growth in mathematics from fall to winter was even more noteworthy – increases of 1.1 to 2.1 standard deviations in math computations and 0.7 to 3.8 standard deviations in math concepts (Exhibit P). These changes are formidable!

17. The fall-to-winter growth on the AIMSweb assessments are also apparent in the percentages of students scoring at tier 1 (highest level) and/or tier 3 (lowest level) (Exhibits Q—U). In grade 2, for example, the percentage of tier-1 students in reading increased from 22.1% to 38.5% and the percentage of tier-3 students decreased from 42.1% to 31.7% (Exhibit Q). Gains were smaller for math. In grade 4, the percentage of tier-1 students increased substantially in every subject (Exhibit S). In fact the percentage of tier-3 students in math concepts was reduced

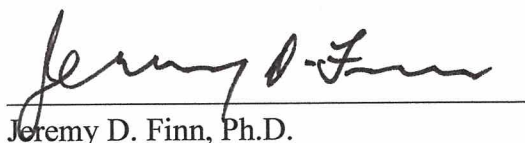
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<sup>4</sup> The effect size is the number of standard deviations that separate the two means. It is used commonly to present results of statistical analyses.

<sup>5</sup>See Cohen, J. (1988). *Statistical power analysis for the behavioral sciences* (2<sup>nd</sup> ed.). Hillsdale, NJ: Erlbaum.

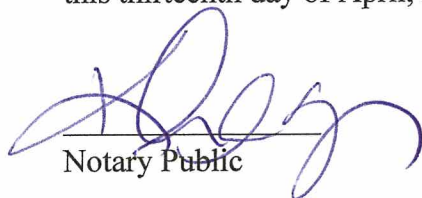
nearly to zero. Grade 6 presented more mixed results, but even in this grade there was one positive trend: the percentage of students needing intensive instruction in reading and math computations decreased noticeably over the fall term (Exhibit U).

18. In reviewing the analysis of data conducted by the State Education Department in its non-renewal recommendation, I found that the analysis presented as being central to the point—the multivariate analysis of reading and math discussed on pages 4-5 of Attachment A—is not described sufficiently to be understood. A reader cannot tell from the presentation how the effect sizes in the table entitled “Controlled Comparison” were produced or what they really mean. Nevertheless, for a truly unbiased analysis, the same approach (whatever it is) would need to be taken for a group of schools in Western New York with similar demographics,<sup>6</sup> not just for one school in isolation.



Jeremy D. Finn, Ph.D.

Sworn to before me  
this thirteenth day of April, 2013



Notary Public

**KIMBERLY A. GEORGER**  
NOTARY PUBLIC, STATE OF NEW YORK  
REGISTRATION No. 02GE8209221  
QUALIFIED IN ERIE COUNTY  
My Commission Expires March 30, 2017

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<sup>6</sup> As the present report has done.

## Exhibit A

### School Enrollment of Similar Schools

<b>School</b>	<b>2010-2011 Enrollment†</b>
39	676
30	658
91	574
59	470
31	455
19	405
17	366
Community	334*
97	299
61	268
Niagara	350

\*2011-2012: 309      2012-2013: 321

†Enrollment counts are as of Basic Educational Data System (BEDS) day, which is typically the first Wednesday of October of the school year.

Source: 2010-2011 New York State School Report Cards (Department of Education)

## Exhibit B

### Percentage of Students Eligible for Free or Reduced Lunch at Similar Schools

<b>School</b>	<b>2010-2011 Percent Free/Reduced Lunch†</b>
19	98%
91	96%
30	95%
31	94%
61	94%
97	94%
<b>Community</b>	<b>93%</b>
17	92%
39	92%
59	92%
Niagara	97%

†Determined by dividing the number of approved lunch applicants  
by the Basic Educational Data System (BEDS) enrollment

Source: 2010-2011 New York State School Report Cards (Department of Education)



## Exhibit C

### Percentage of Minority Students at Similar Schools

<b>School</b>	<b>2010-2011 Percent Minority†</b>
Community	99%
61	98%
39	97%
91	97%
31	95%
97	95%
19	94%
30	93%
59	93%
17	90%
Niagara	86%

†The number of students who are not white divided by the total student population  
Source: 2010-2011 New York State School Report Cards (Department of Education)

## Exhibit D

### Teacher Turnover Rate of Similar Schools

School	2009-2010 Turnover Rate†
61	36%
17	26%
59	24%
31	22%
39	22%
91	20%
19	14%
97	11%
30	10%
Community	4%*
Niagara	0%

\*2010-2011: 4%      2011-2012: 11%      2012-2013: 4%

†The number of teachers in that school year who were not teaching in the following school year divided by the number of teachers in the specified school year, expressed as a percentage.

Source: 2010-2011 New York State School Report Cards (Department of Education)

## Exhibit E

### Annual Attendance Rate of Similar Schools

School	2009-2010 Attendance Rate†
Community	91%*
59	91%
19	90%
91	90%
97	90%
30	89%
61	89%
17	88%
31	88%
39	88%
Niagara	92%

\*2010-2011: 91%      2011-2012: 91%      2012-2013: 93%

†Annual Attendance Rate is determined by dividing the school's total actual attendance by the total possible attendance for a school year. A school's actual attendance is the sum of the number of students in attendance on each day the school was open during the school year. Possible attendance is the sum of the number of enrolled students who should have been in attendance on each day the school was open during the school year.

Source: 2010-2011 New York State School Report Cards (Department of Education)

## Exhibit F

### Out of School Suspension Rate of Similar Schools

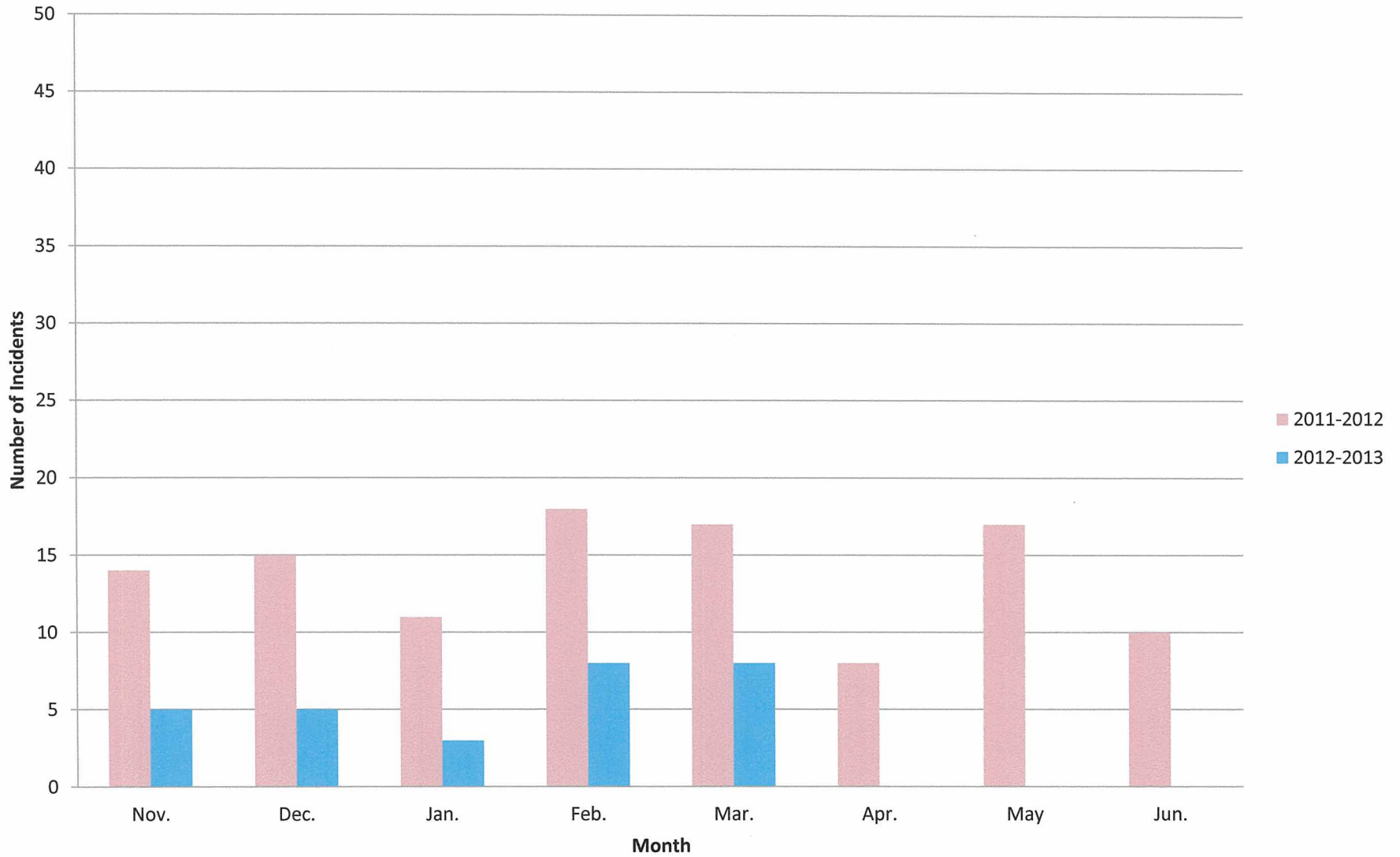
School	2009-2010 Suspension Rate†
31	40%
30	28%
97	28%
39	26%
91	25%
59	24%
61	20%
19	19%
Community	18%
17	12%
Niagara	13%

†The number of students who were suspended outside of school for 1+ full day(s) anytime during the school year divided by school population. A student is counted only once, regardless of whether the student was suspended one or more times during the school year.

Source: 2010-2011 New York State School Report Cards (Department of Education)

## Exhibit G

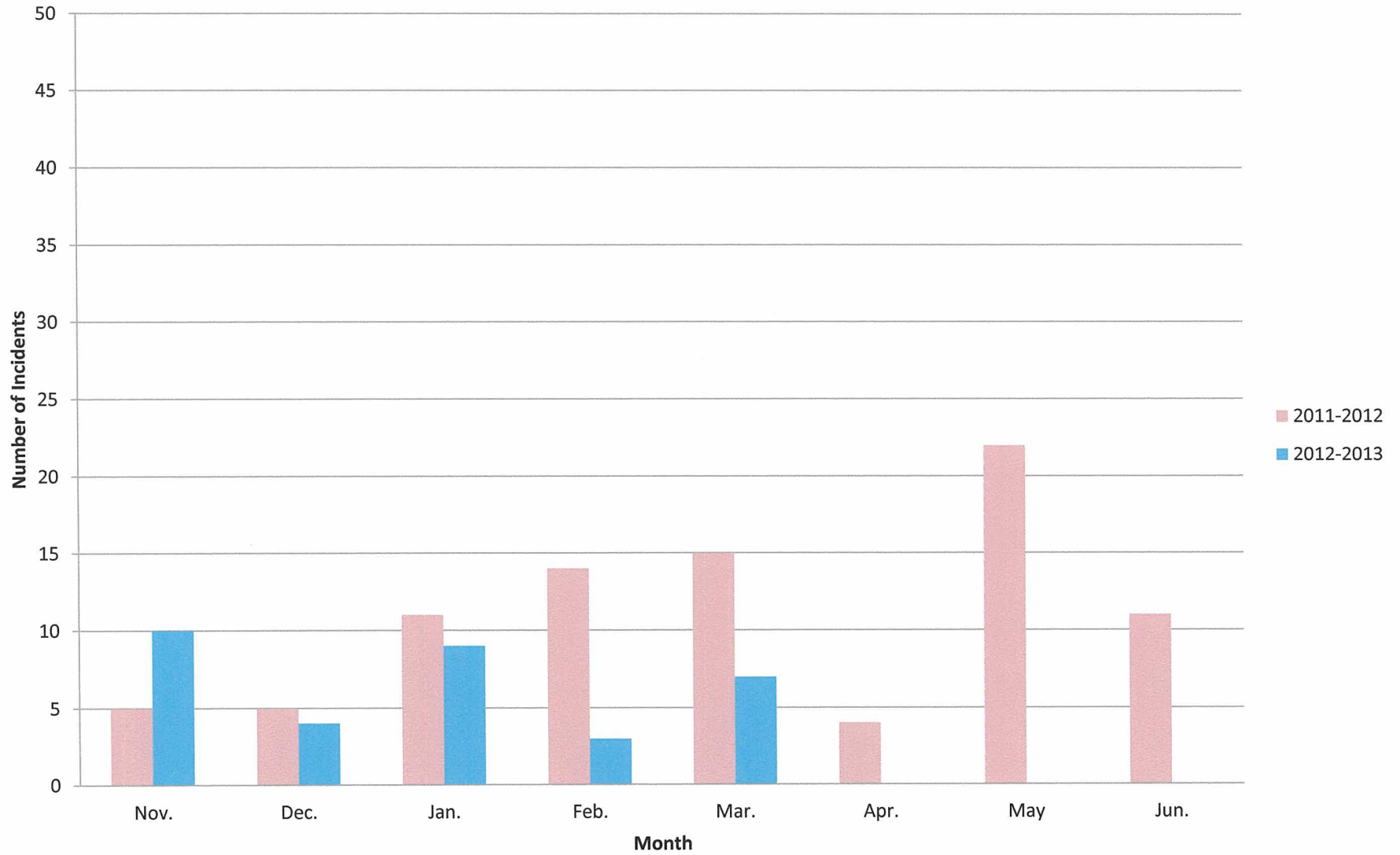
### Community Charter's Number of In School Suspensions (includes repeat offenders)



Source: Community PowerSchool website

## Exhibit H

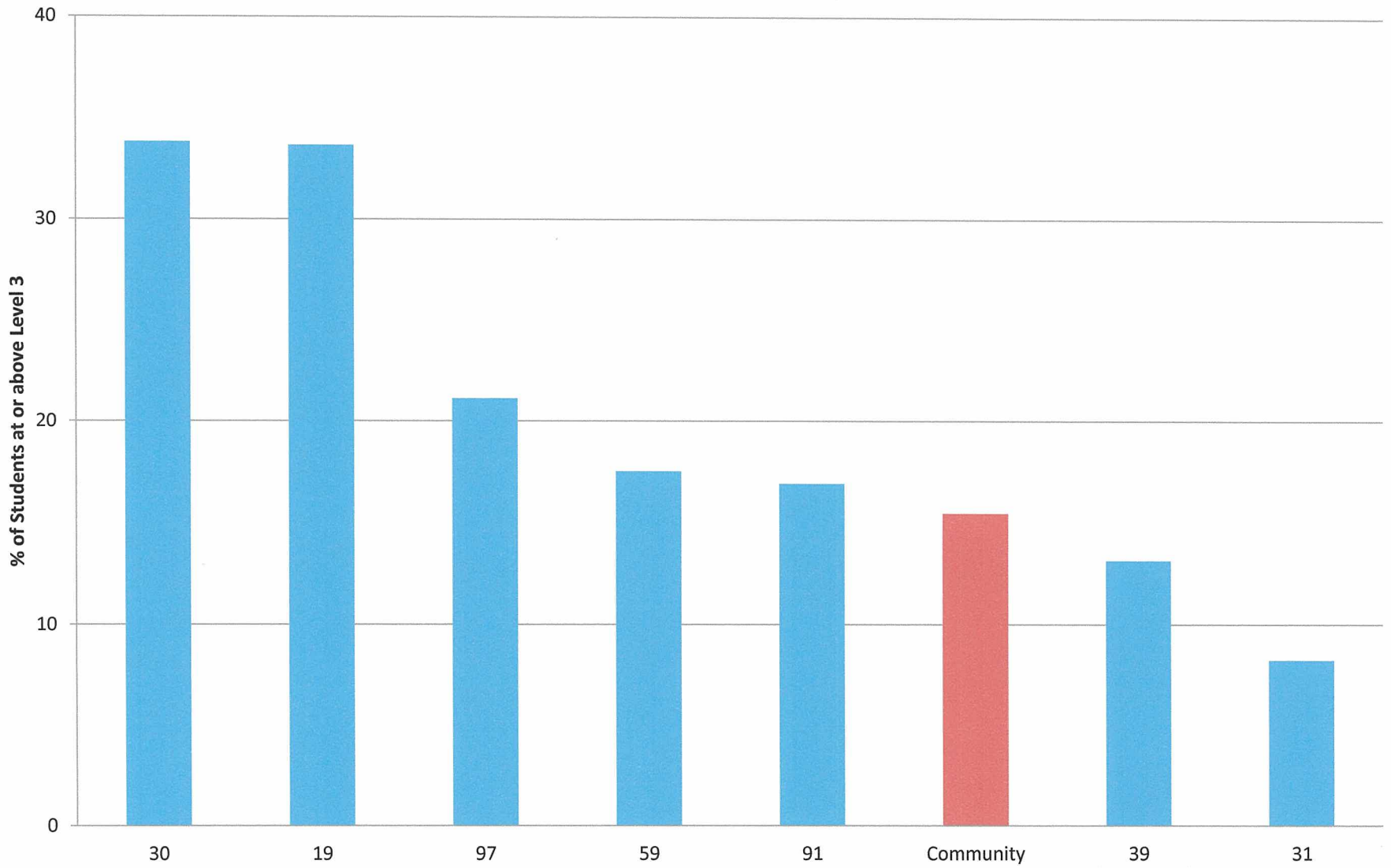
### Community Charter's Number of Out of School Suspensions (includes repeat offenders)



Source: Community PowerSchool website

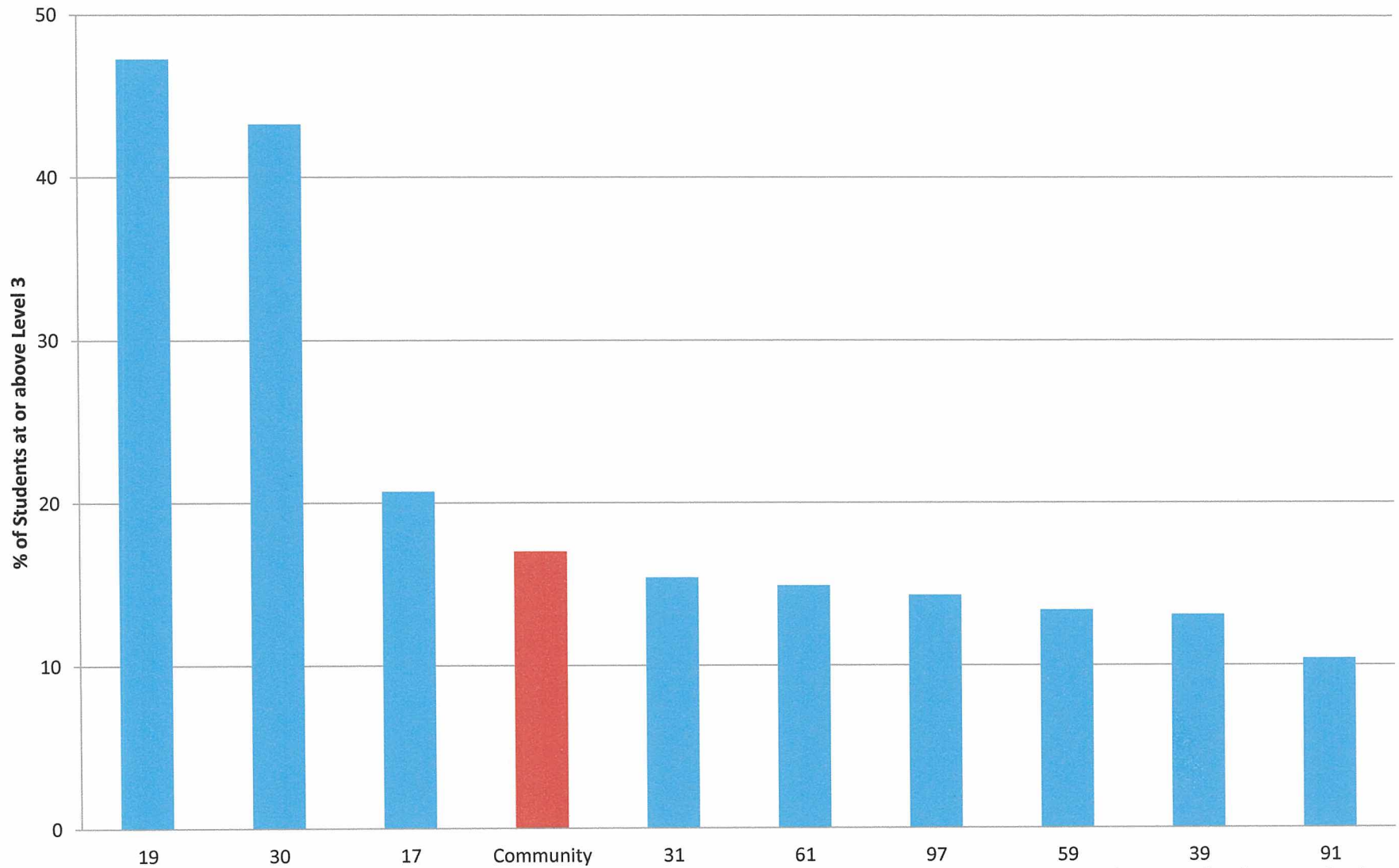
# Exhibit I

## 2011-2012 Grade 3-6 ELA Proficiency



Source: 2011-2012 New York State School Report Cards  
(Department of Education)

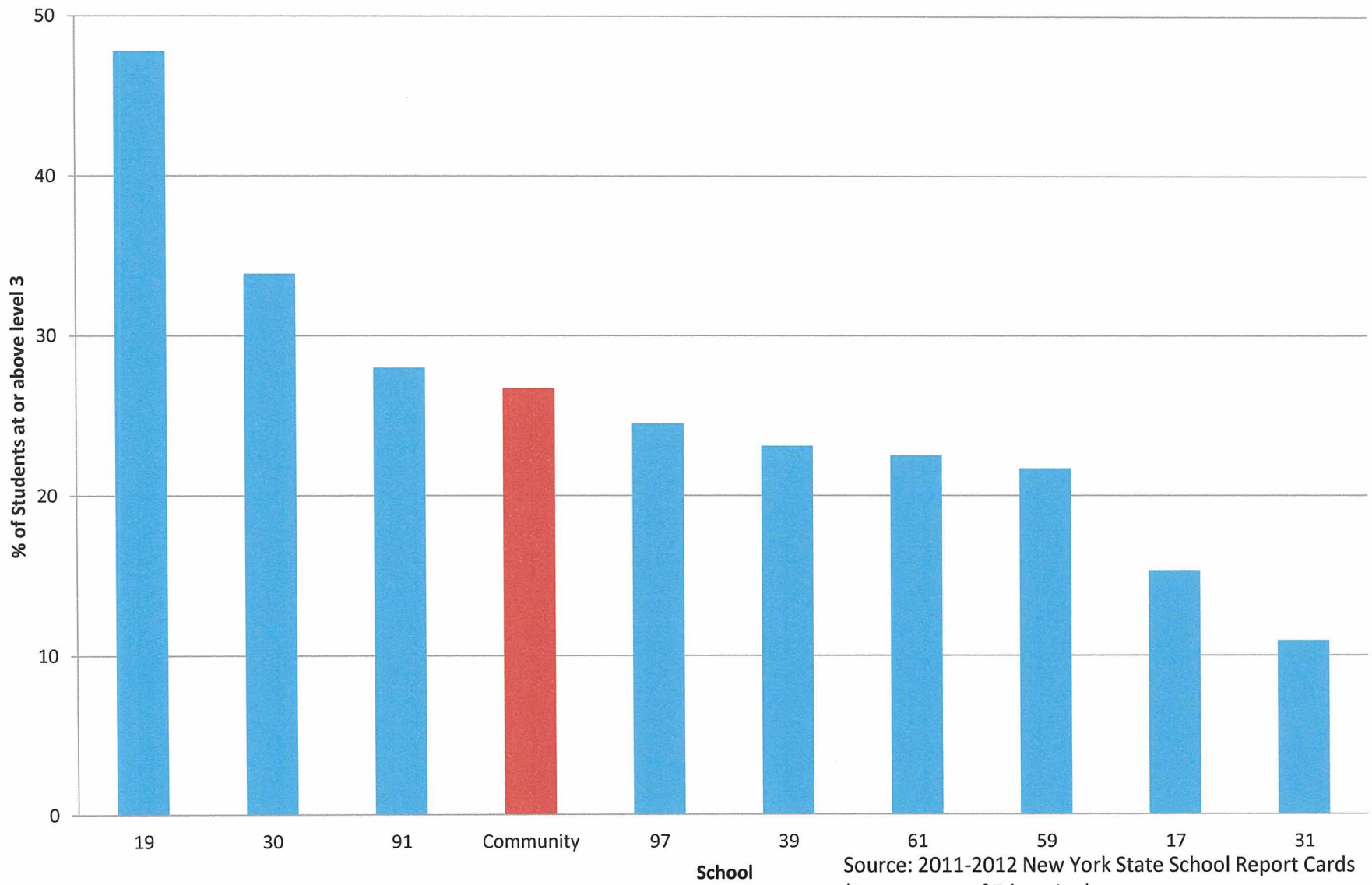
## Exhibit I1 2011-2012 Grade 3 ELA Proficiency



Source: 2011-2012 New York State School Report Cards  
(Department of Education)

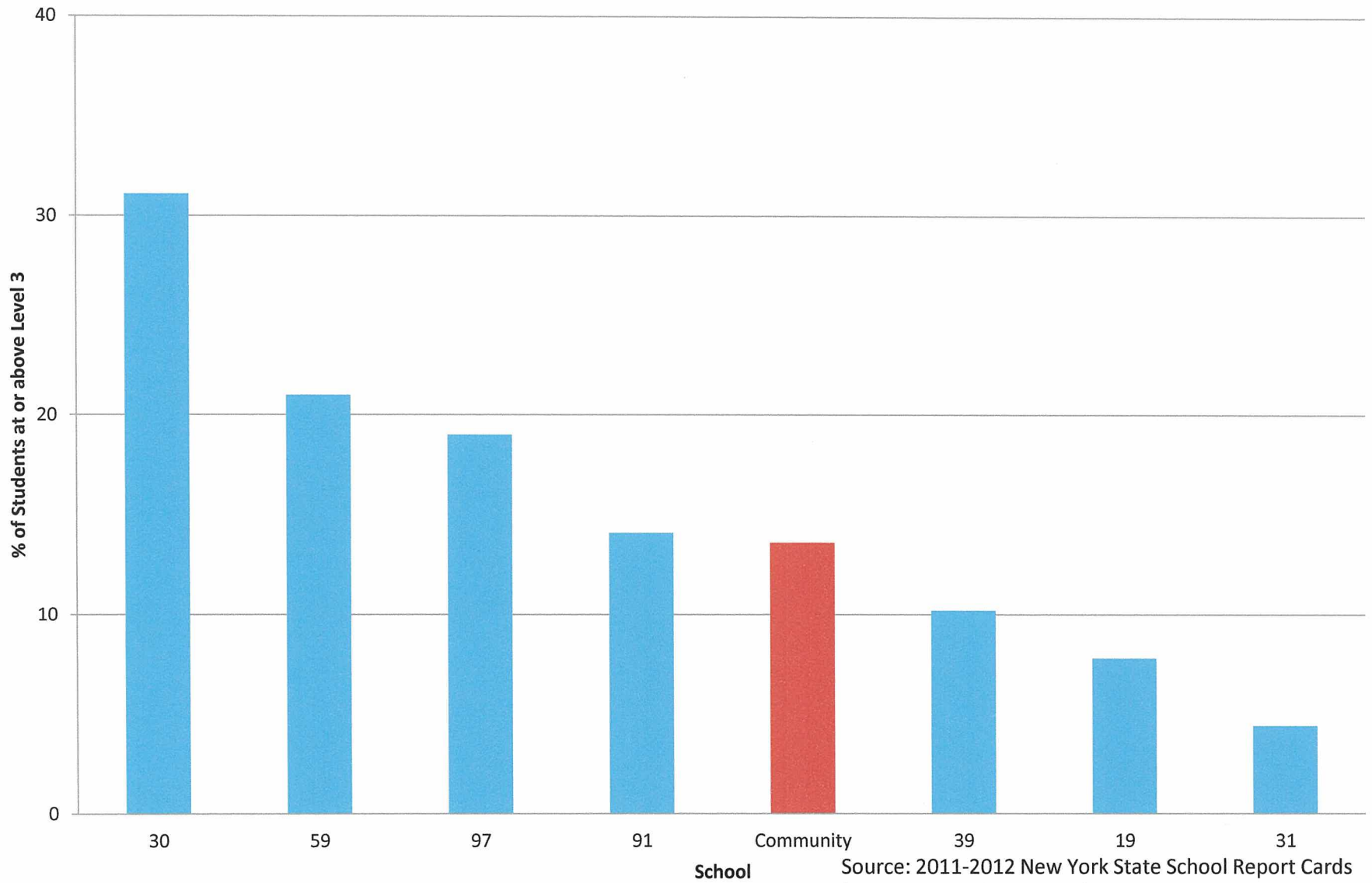


## Exhibit I2 2011-2012 Grade 4 ELA Proficiency

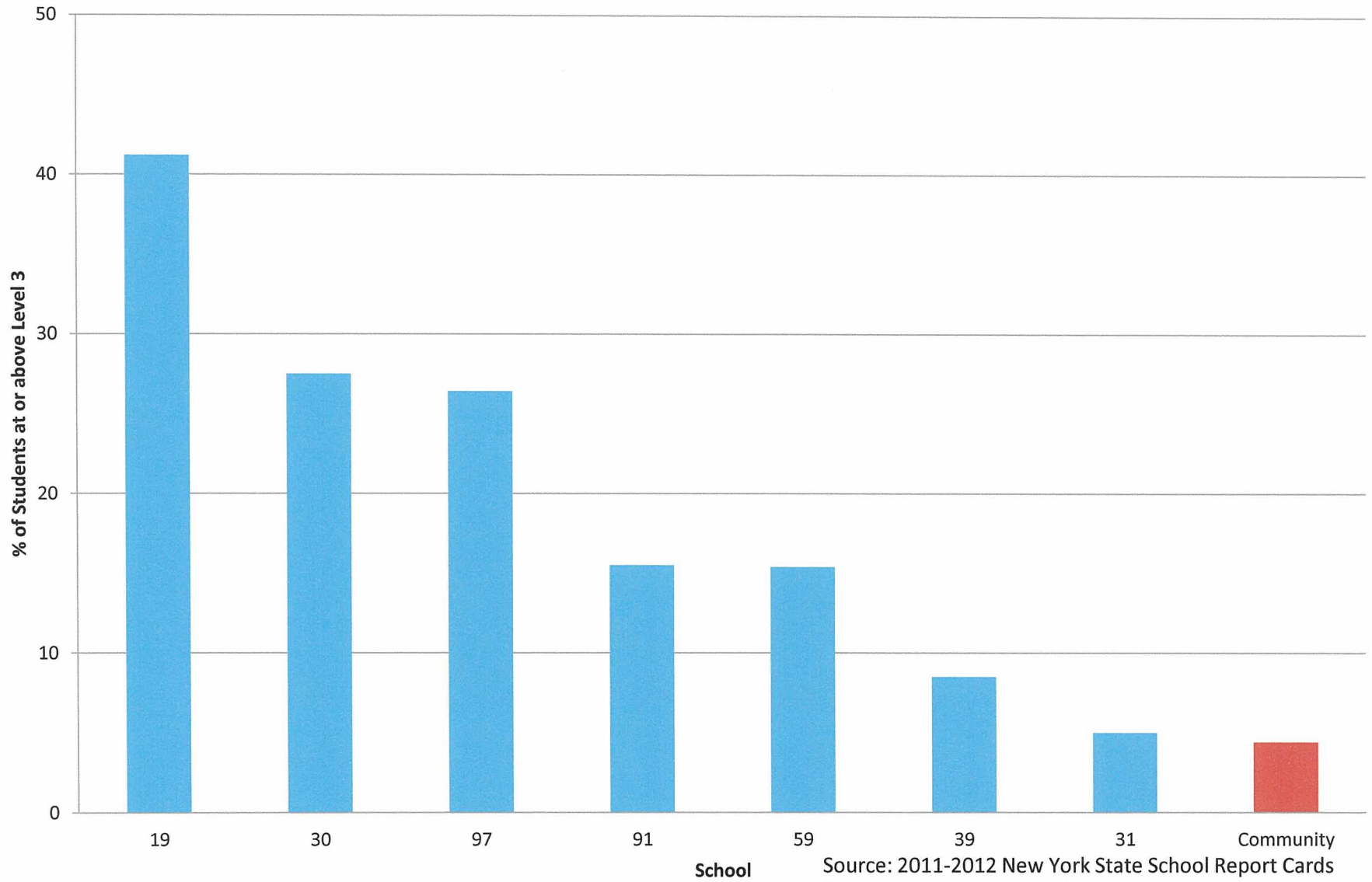


Source: 2011-2012 New York State School Report Cards  
(Department of Education)

### Exhibit I3 2011-2012 Grade 5 ELA Proficiency

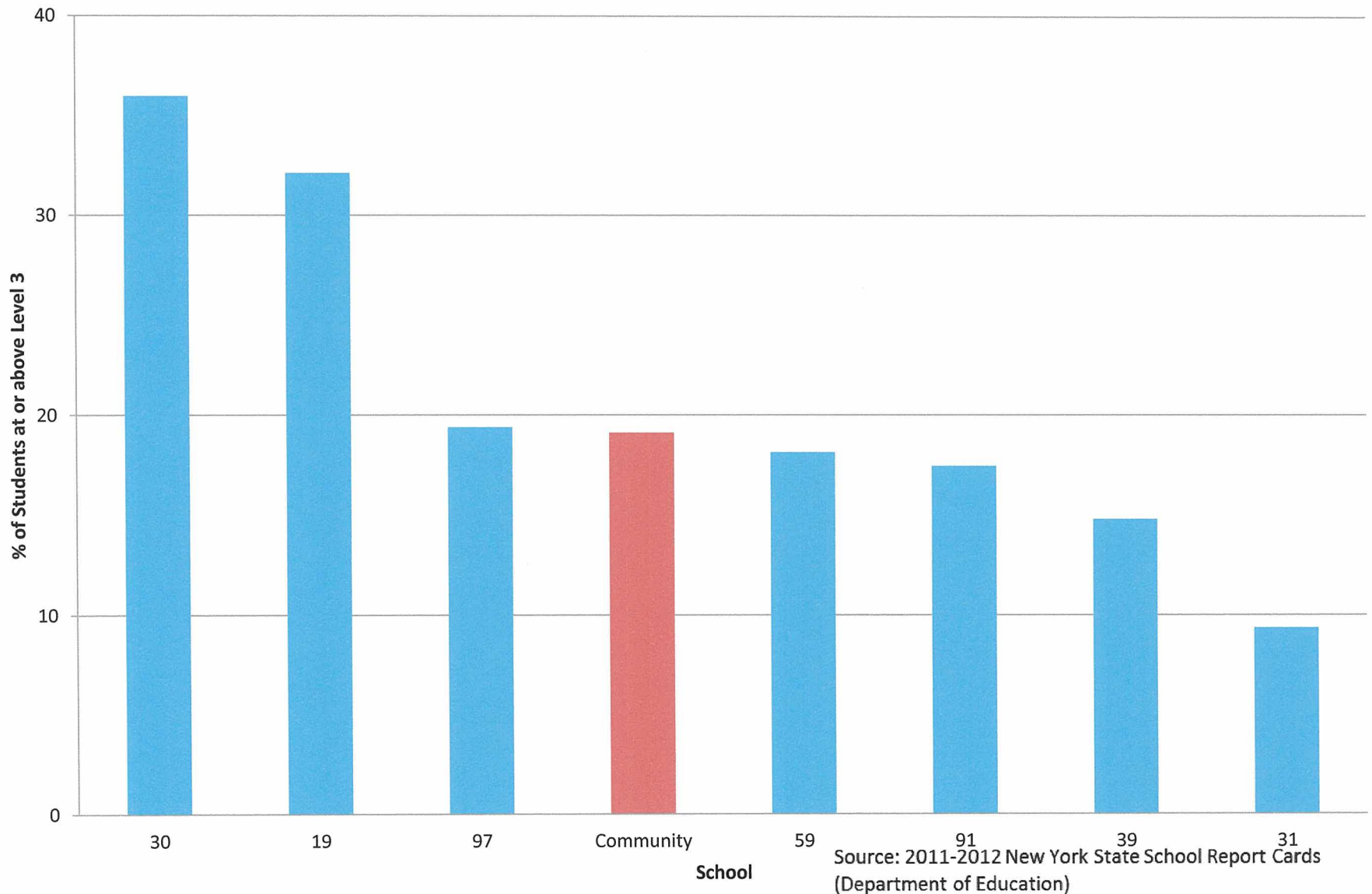


## Exhibit I4 2011-2012 Grade 6 ELA Proficiency

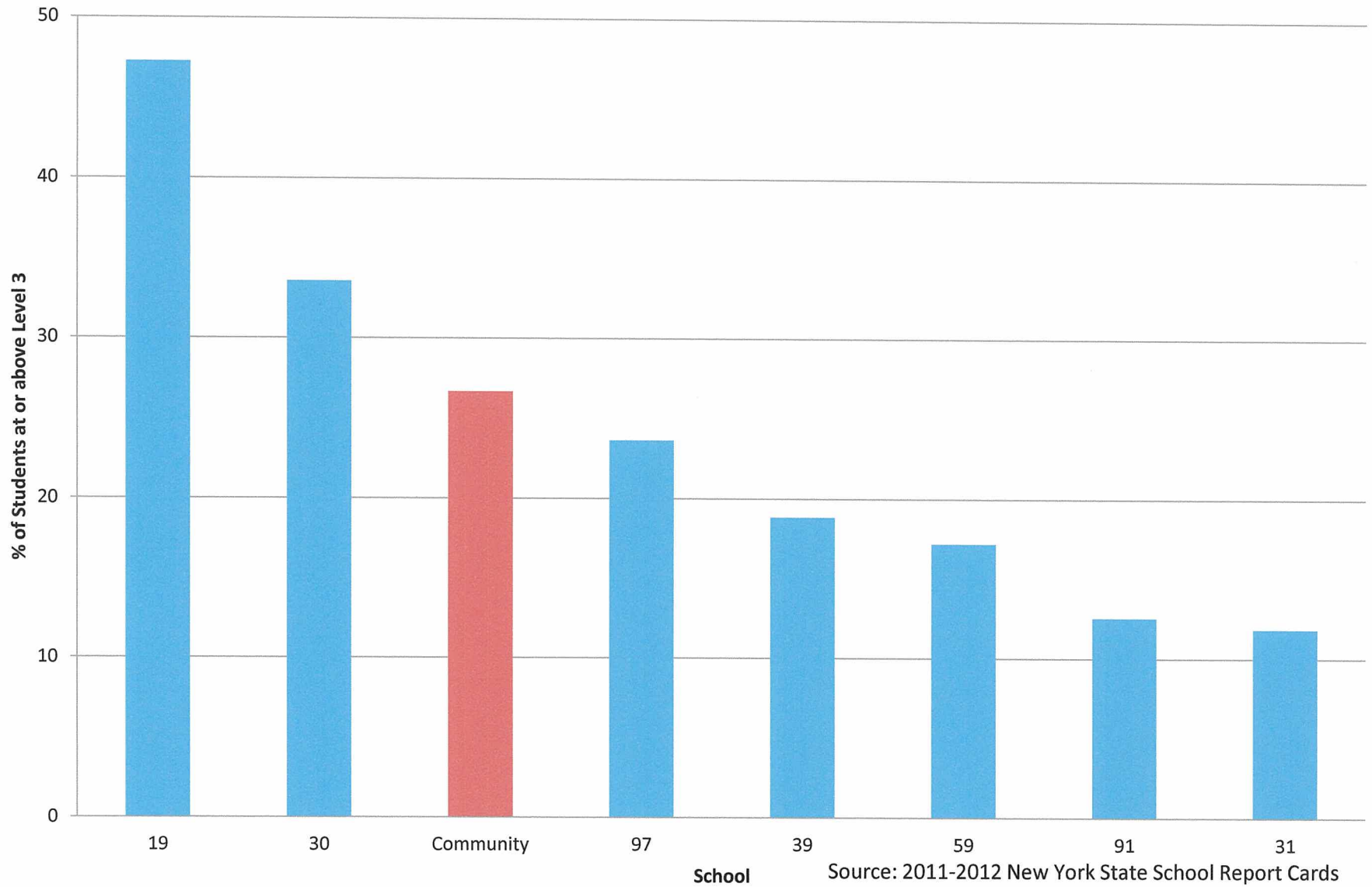


Source: 2011-2012 New York State School Report Cards  
(Department of Education)

## Exhibit J 2011-2012 Grade 3-5 ELA Proficiency



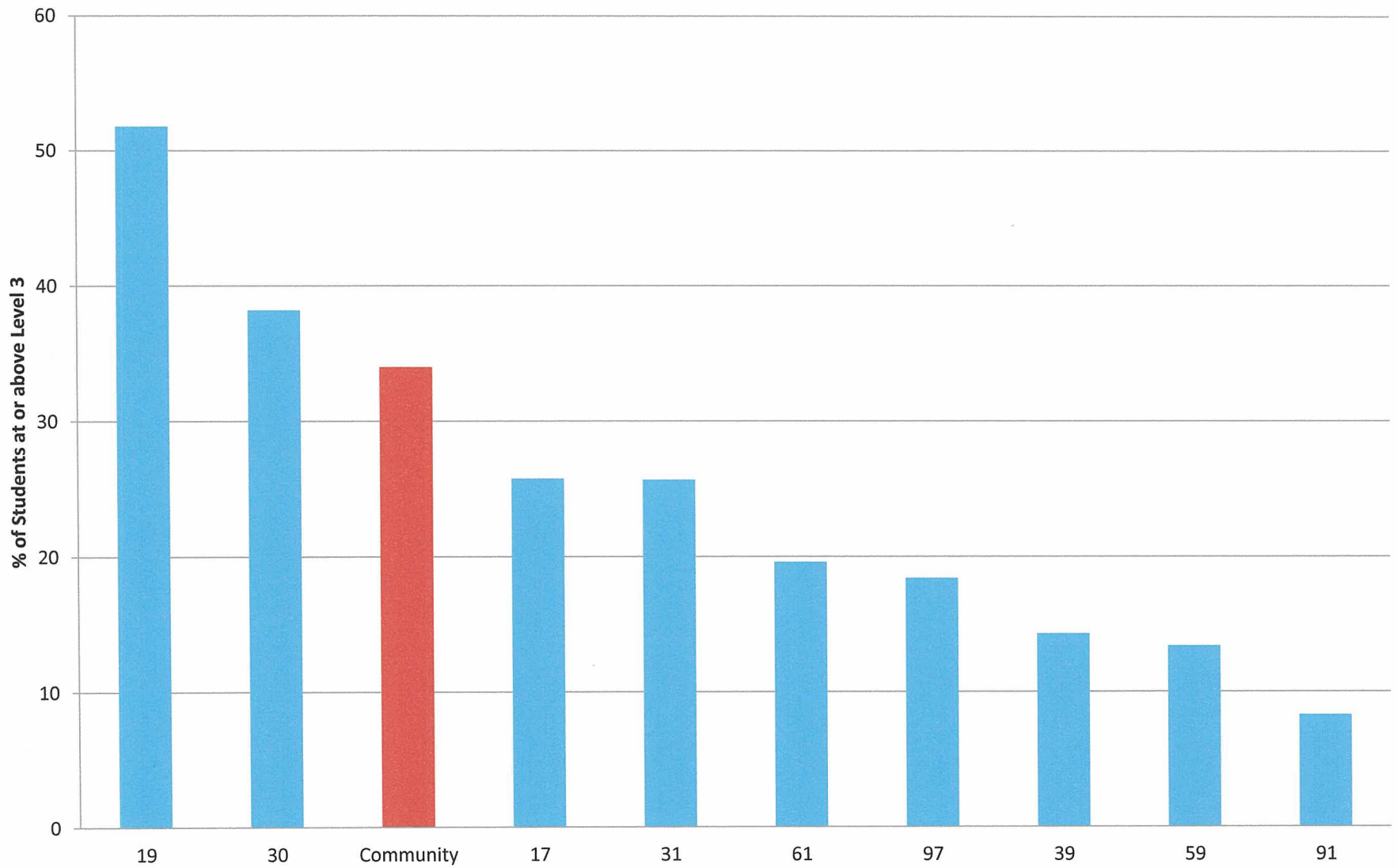
## Exhibit K 2011-2012 Grade 3-6 Math Proficiency



Source: 2011-2012 New York State School Report Cards  
(Department of Education)

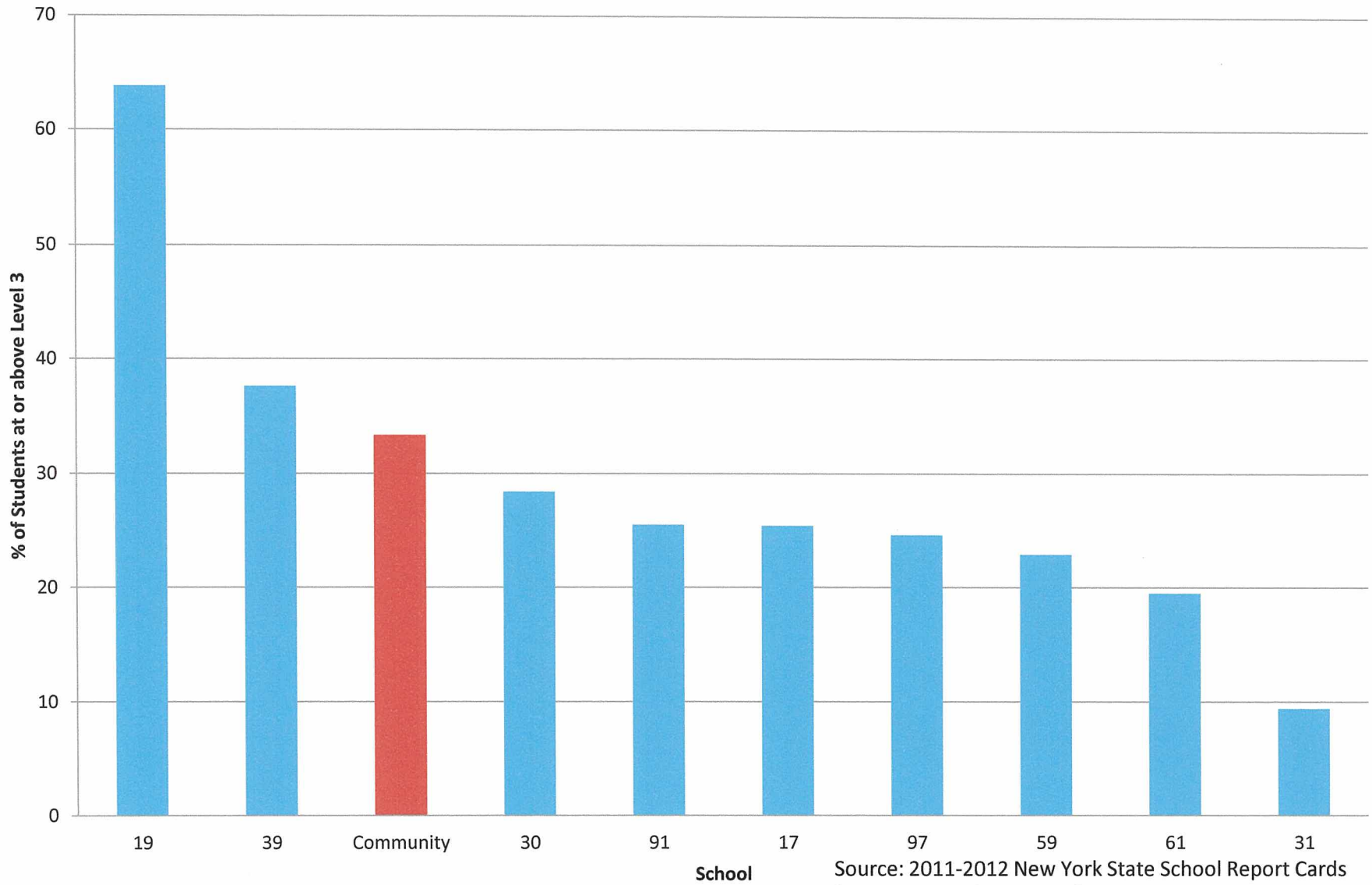
# Exhibit K1

## 2011-2012 Grade 3 Math Proficiency



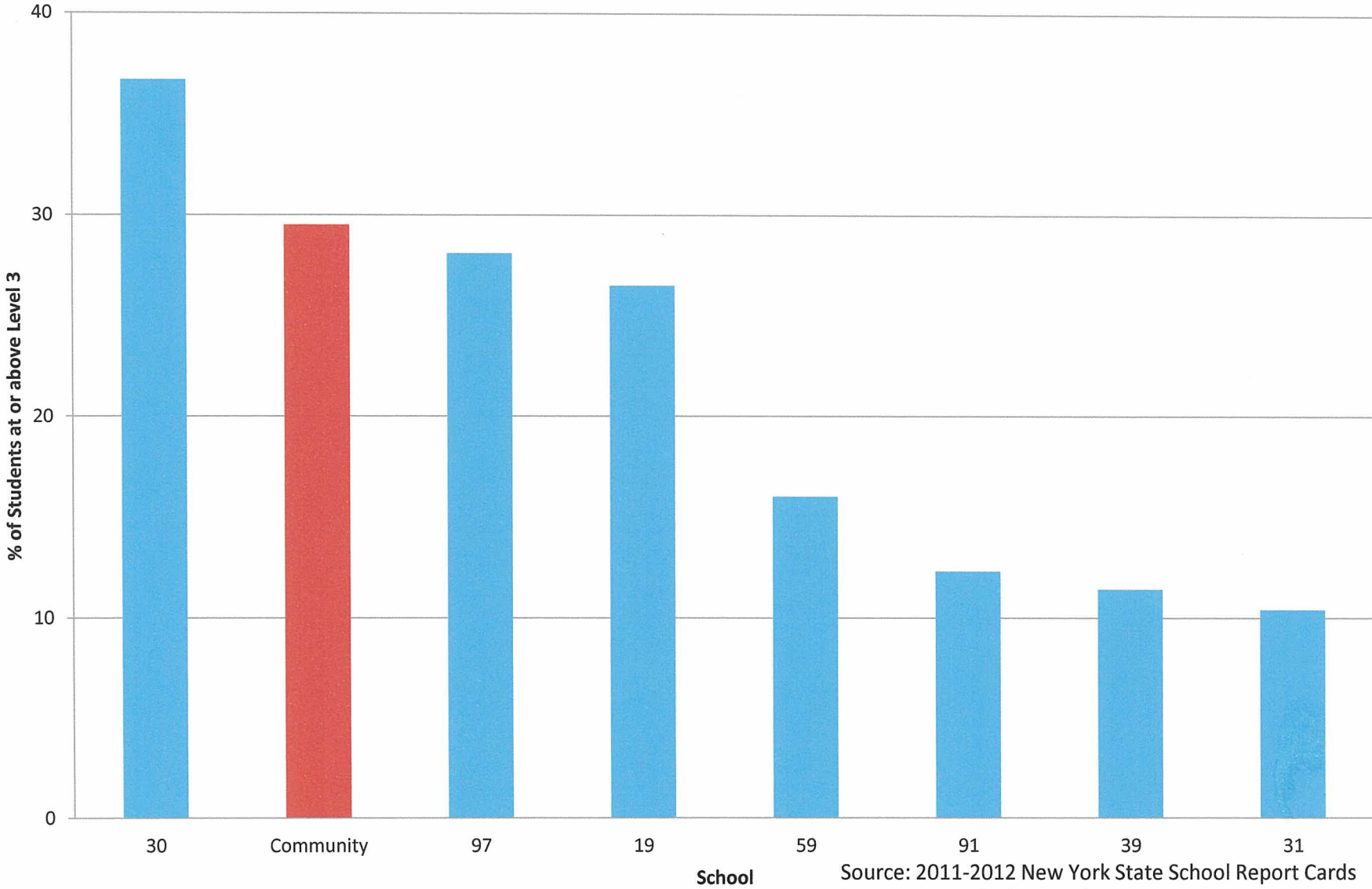
Source: 2011-2012 New York State School Report Cards  
(Department of Education)

## Exhibit K2 2011-2012 Grade 4 Math Proficiency



Source: 2011-2012 New York State School Report Cards  
(Department of Education)

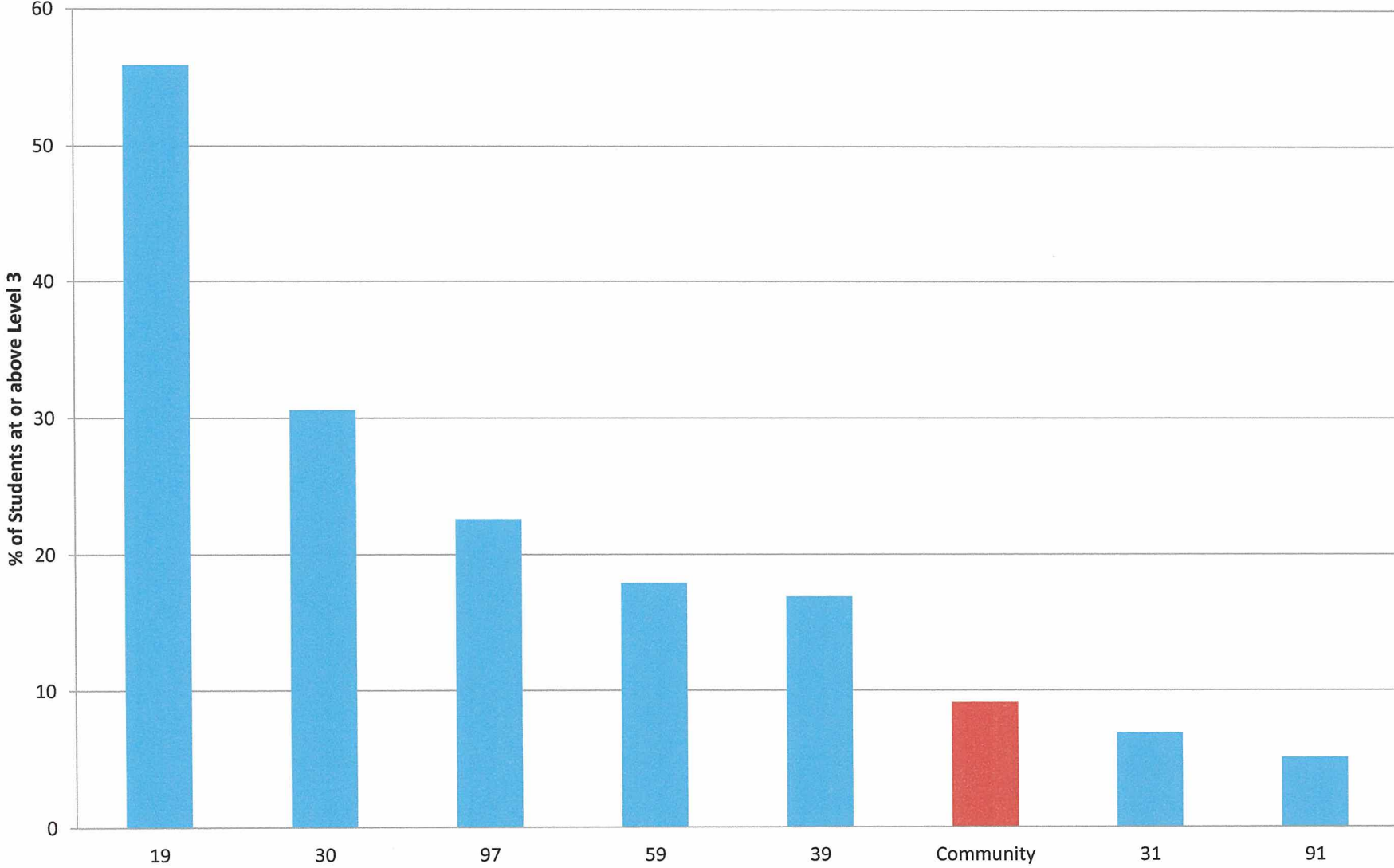
### Exhibit K3 2011-2012 Grade 5 Math Proficiency



Source: 2011-2012 New York State School Report Cards  
(Department of Education)



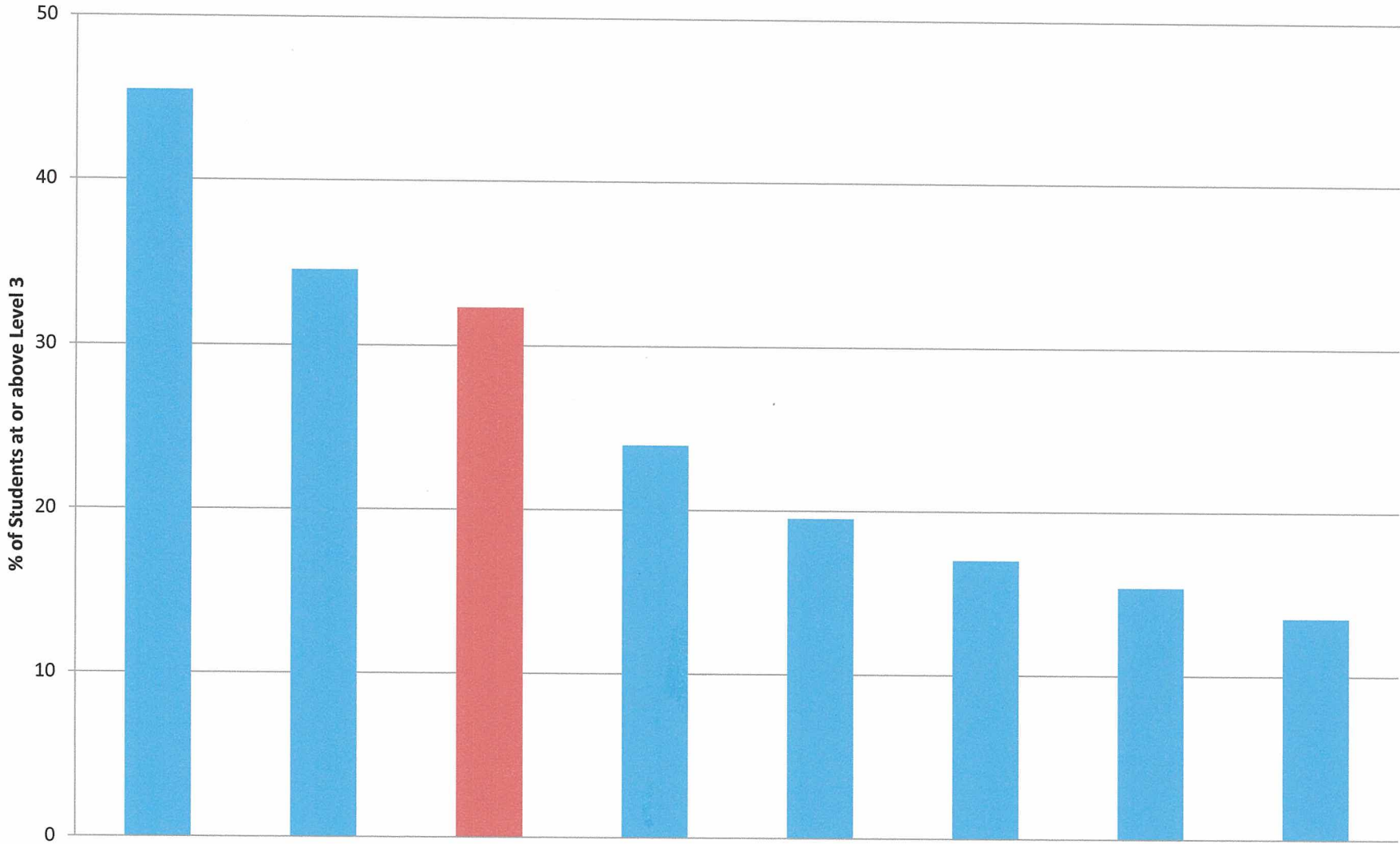
# Exhibit K4 2011-2012 Grade 6 Math Proficiency



School Source: 2011-2012 New York State School Report Cards  
(Department of Education)

# Exhibit L

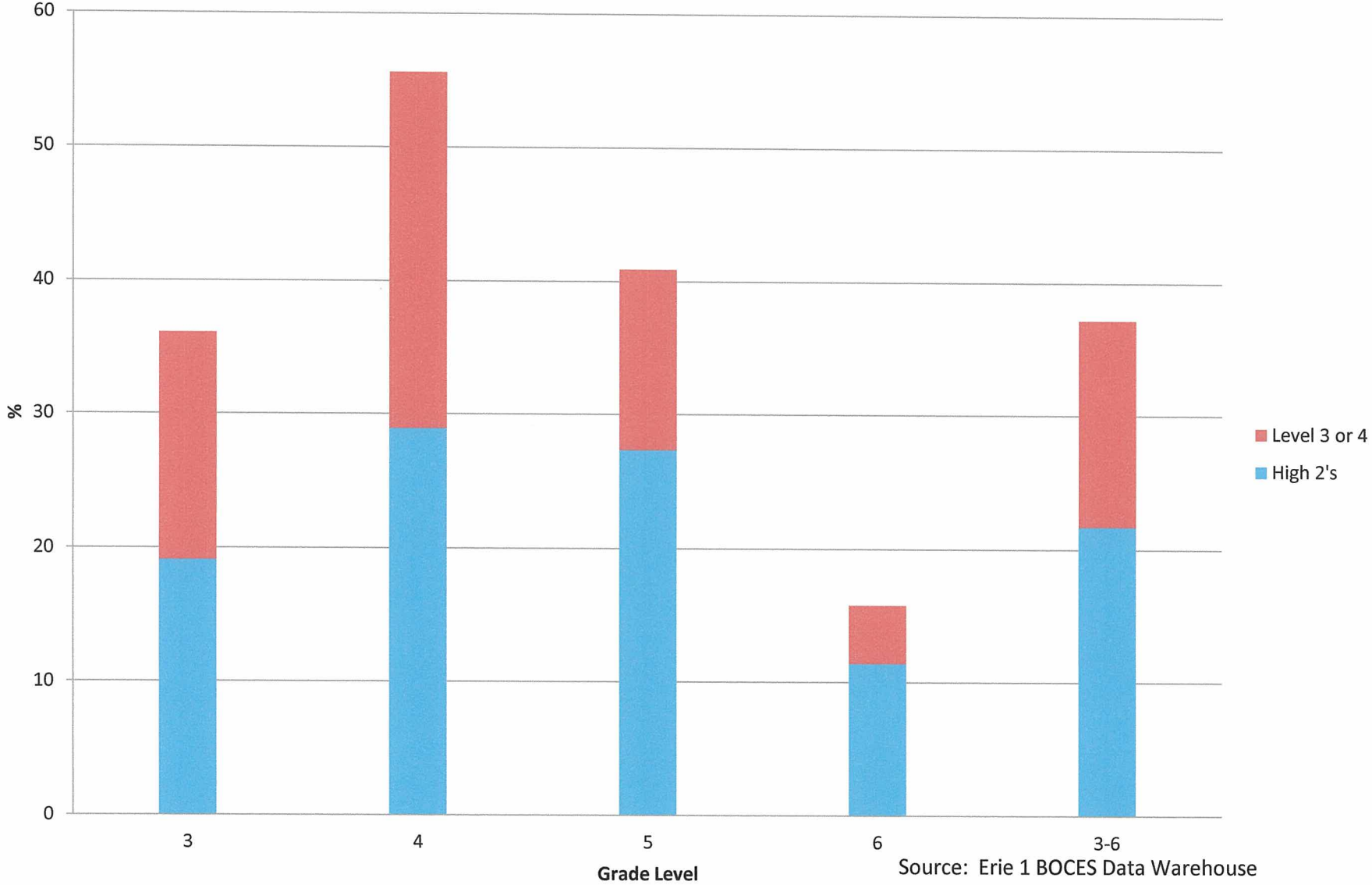
## 2011-2012 Grade 3-5 Math Proficiency



Source: 2011-2012 New York State School Report Cards (Department of Education)

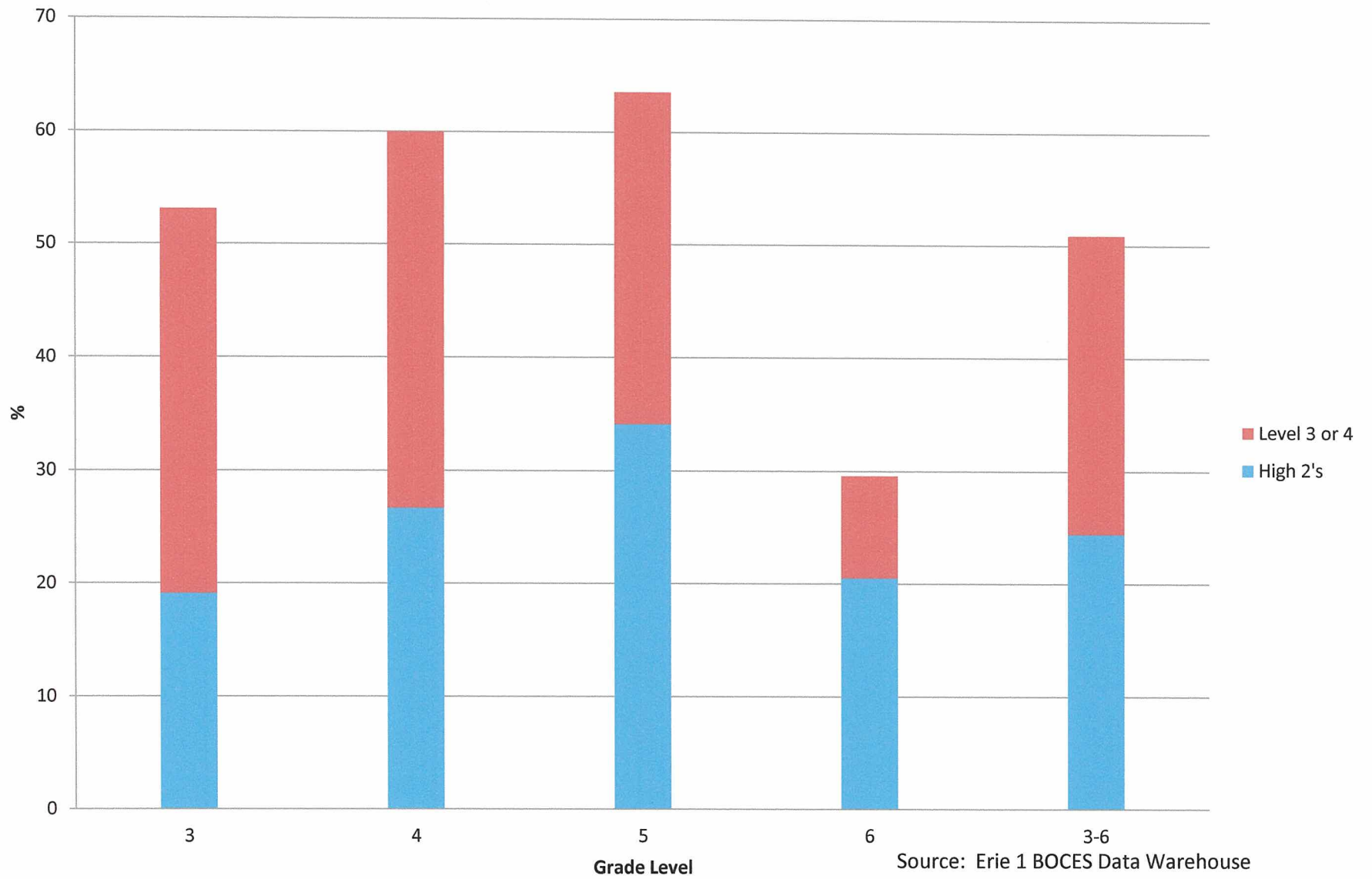
# Exhibit M

## 2011-2012 ELA Proficiency for Community Charter School



# Exhibit N

## 2011-2012 Math Proficiency for Community Charter School



## Exhibit O

### Community Charter's Growth on the AIMSweb Reading Benchmarks for the 2012-2013 Schoolyear

Grade	Reading Curriculum Mean (Fall)	Reading Curriculum Mean (Winter)	Reading Curriculum Growth†
2	37.7	67.7	1.1
3	61.7	89.9	0.8
4	82.6	102.2	0.7
5	102.8	122.4	0.6
6	119.2	131.1	0.4

†Growth between fall and winter in terms of fall standard deviations

Source: Community Charter School AIMSweb

## Exhibit P

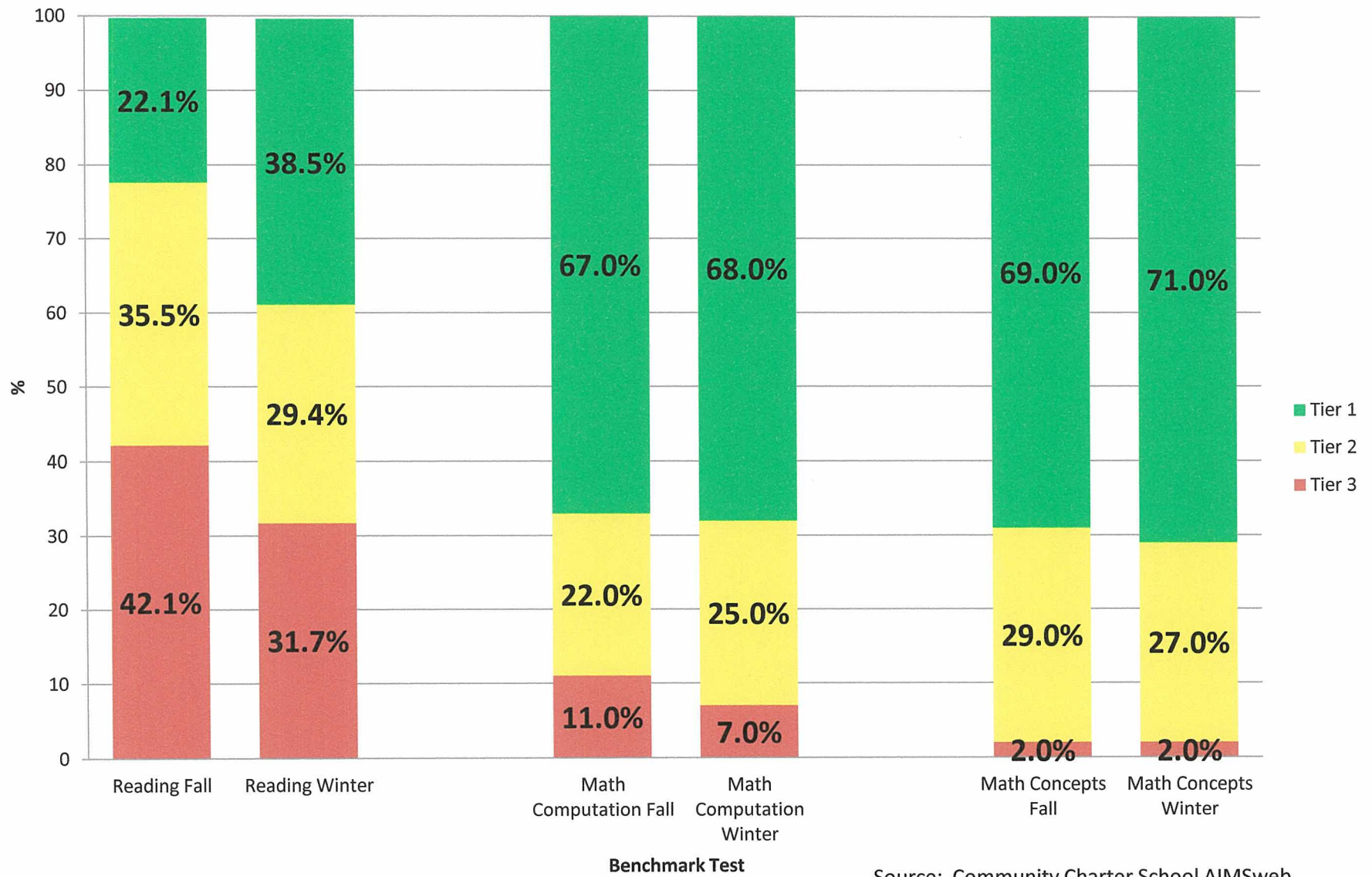
### Community Charter's Growth on the AIMSweb Math Benchmarks for the 2012-2013 Schoolyear

Grade	Computation Mean (Fall)	Computation Mean (Winter)	Computation Growth†	Concepts Mean (Fall)	Concepts Mean (Winter)	Concepts Growth†
2	16.2	30.7	2.1	6.3	16.3	3.8
3	19.1	43.5	2.4	3.6	7.1	1.7
4	20.7	42.4	1.7	9.3	15.6	1.5
5	11.1	24.2	1.4	6.1	9.3	0.7
6	17.1	27.9	1.1	7.8	10.8	0.7

†Growth between fall and winter in terms of fall standard deviations

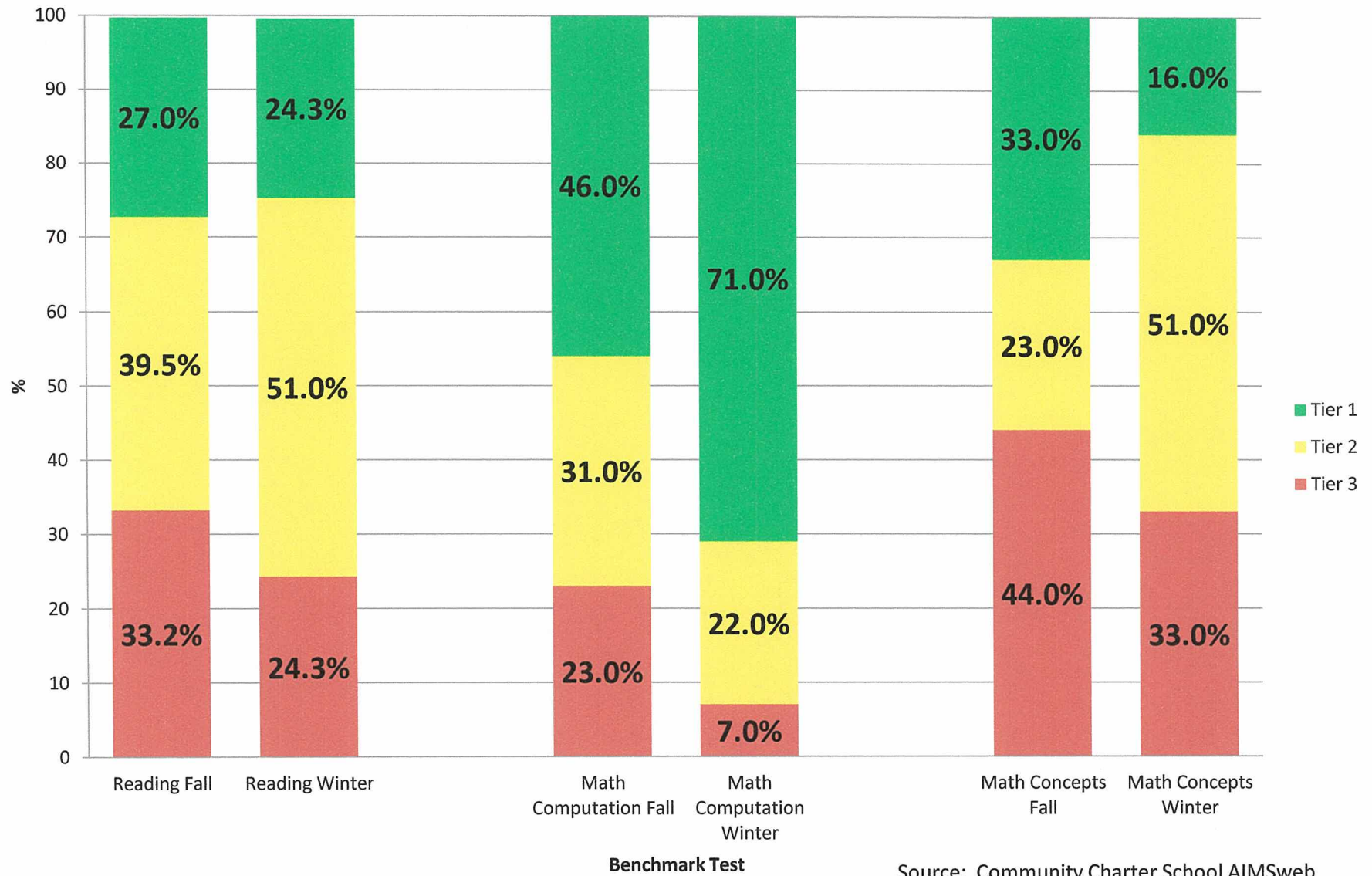
Source: Community Charter School AIMSweb

## Exhibit Q 2012-2013 Grade 2 AIMSweb Benchmark Tests



Source: Community Charter School AIMSweb

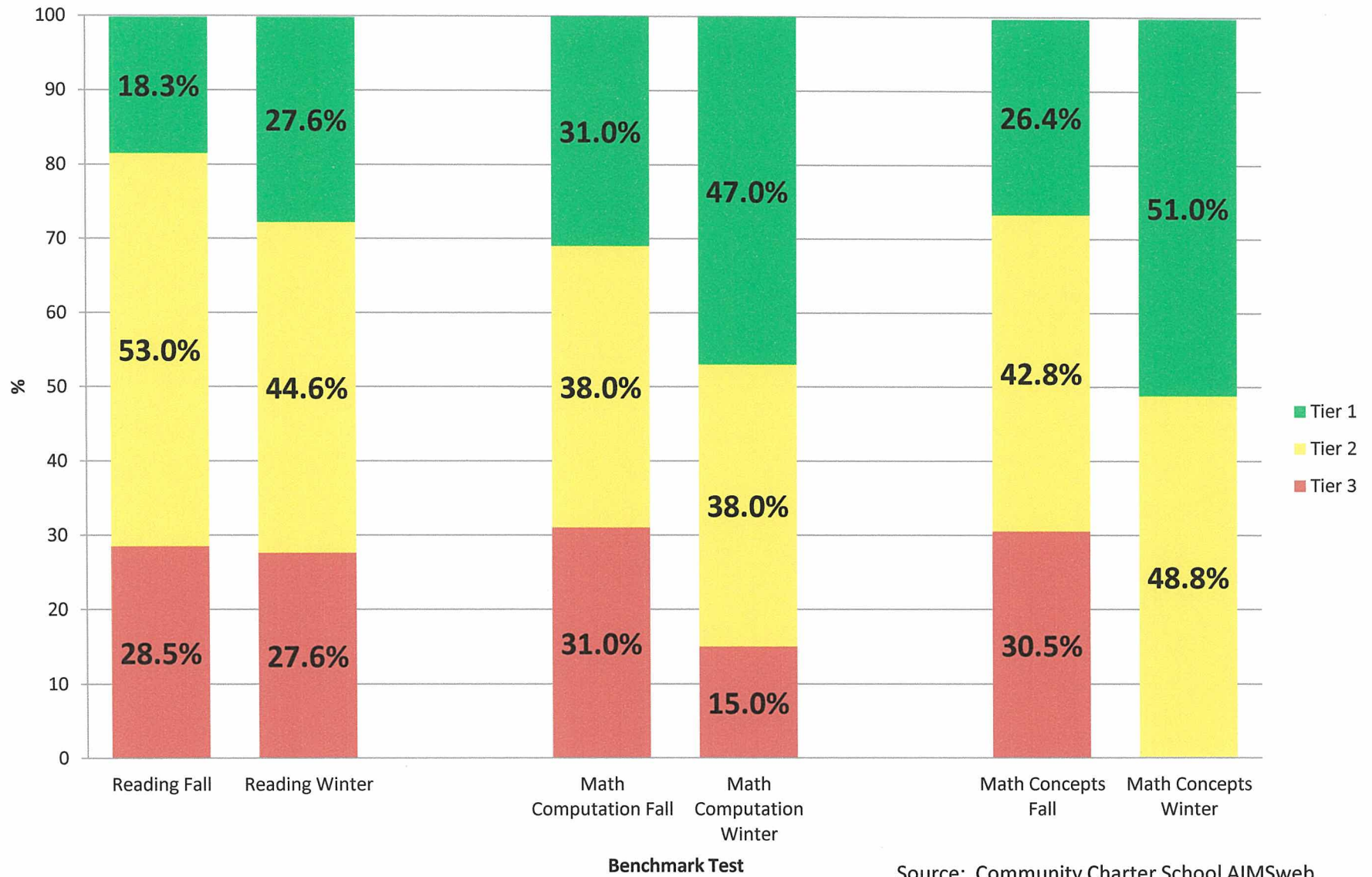
## Exhibit R 2012-2013 Grade 3 AIMSweb Benchmark Tests



Source: Community Charter School AIMSweb

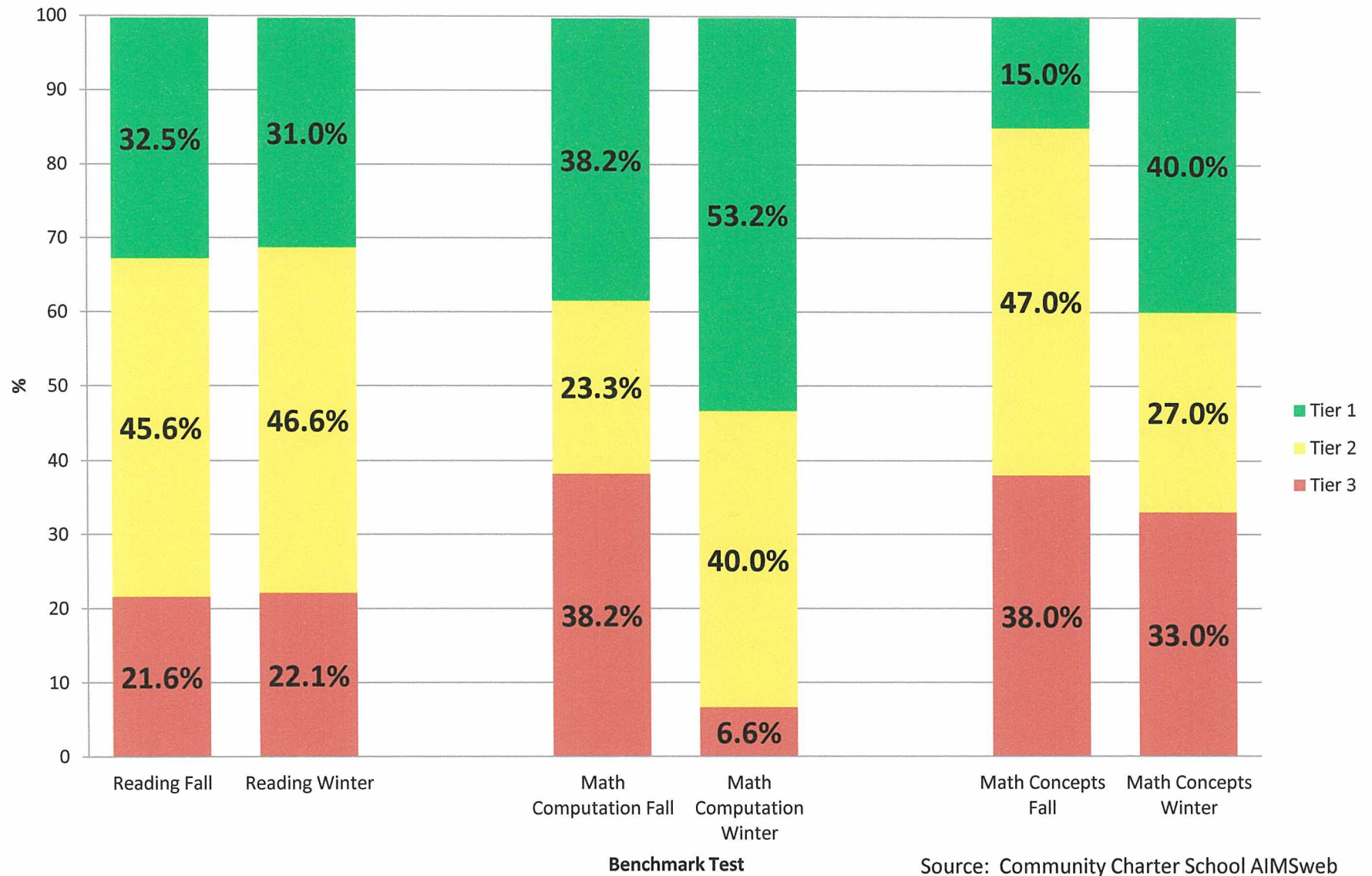


## Exhibit S 2012-2013 Grade 4 AIMSweb Benchmark Tests

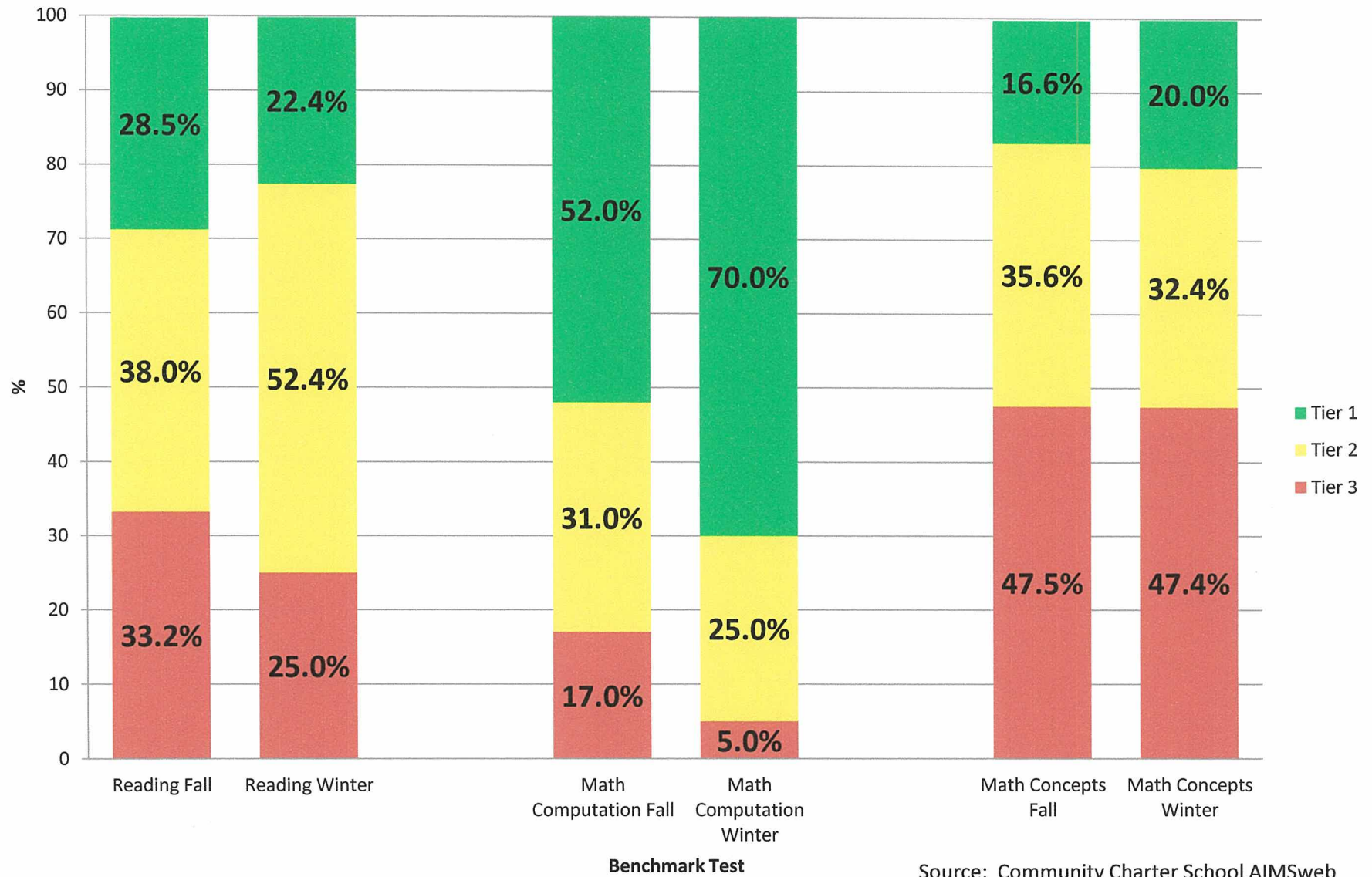


Source: Community Charter School AIMSweb

## Exhibit T 2012-2013 Grade 5 AIMSweb Benchmark Tests



## Exhibit U 2012-2013 Grade 6 AIMSweb Benchmark Tests



Source: Community Charter School AIMSweb