



THE Center for Education Reform



SOLVING THE  
CHARTER SCHOOL  
FUNDING GAP

THE SEVEN MAJOR CAUSES AND  
WHAT TO DO ABOUT THEM



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# SOLVING THE CHARTER SCHOOL FUNDING GAP

## THE SEVEN MAJOR CAUSES AND WHAT TO DO ABOUT THEM

### Introduction

Charter schools are now a stable part of the educational landscape in the United States yet these relatively new, innovative, public schools are funded at a level significantly lower than non-charter (conventional) public schools. Over the last twelve months, the Center for Education Reform (CER) has conducted extensive research of state charter data in 40 states and the District of Columbia, and analyzed results from surveys of almost half of the nation's 3,400 charter schools operating at the end of the 2005 school year. The data revealed that, on average, charter schools receive 21.25 percent less public money than conventional public schools. This number is consistent with the conclusions of the comprehensive report released in August by the Thomas B. Fordham Foundation, "Charter School Funding: Inequity's Next Frontier" which found a gap of 21.7 percent across 17 states.

School funding — and how the traditional mechanisms impede education reform — is fast becoming the next major area of focus for education policymakers. While the first 14 years of the charter movement focused on giving parents more innovative schools with higher academic standards than were found in the conventional system, those same years witnessed a growing awareness that funding laws and formulae in most states are severely flawed. Many policymakers and even advocates failed to realize those problems until the new charter laws had already been set in motion. Eleven state supreme courts have held that charter schools are public schools and that their students are entitled to the same public financial commitment as non-charter public school students. If charter school students are to be funded at the same level as other public school students, the causes of the funding gaps must be identified and corrected.



# HOW LAWS CREATE THE GAP



The Fordham Foundation found that the per-pupil funding gap ranged from \$414 in North Carolina to \$3,638 in Missouri. Supporters of funding equity cannot afford to let these resources be lost. Every dollar that fails to reach its destination harms a public school student. The sources of the charter school funding gap fall into two broad categories: poorly drafted charter schools laws and other public school funding laws that have a negative (often unintended) impact on charter schools.

To understand this, a brief review of a typical charter law is necessary. Each charter law addresses funding in at least two different ways. First, typically a level of operational funding is specified. For example, California's state charter law reads that charter schools must receive "operational funding that is equal to the total funding that would be available to a similar school district serving a similar pupil population." That clause, from California, translates into an estimated 31.5 percent of funds actually getting to charter schools, according to Fordham's study.

Elsewhere in most laws, expenses that are to be funded directly by the charter school are often enumerated. Tennessee's law, for example, says that the charter school is responsible for transportation and financial audits, but does not stipulate that the district must pass to the charter any public funds it receives to manage these activities.

Often the law simply gives districts the authority to make decisions regarding administrative activities. Other times, the district is indeed required to pass funds to the charter but does not. This has been the case in South Carolina where for several years; school districts have chosen to withhold a large share of local revenues without challenge.

# ORIGINS OF THE FUNDING GAP

## POORLY DRAFTED LAWS

Some charter school laws contain clauses that automatically put charter schools at a funding disadvantage. Connecticut is one such state. According to the state's charter school law, local districts are not required to give charter schools any financial support. This decision is left entirely to the discretion of state budgeters and local decision-makers.

In New Jersey, charter schools are guaranteed only 90 percent of the funds that other public schools receive, but that percentage does not take into account previous New Jersey Supreme Court decisions that mandate "thorough and equitable" (T&E) funds to be sent to 'Abbott' districts (impoverished districts the court ordered the state to subsidize). Since T&E is a result of a court decision, and the original funding language of the charter law overlooks T&E funding in Abbott districts, only 57 percent of per pupil dollars reach charters in the worst performing districts. In addition, when laws are vague and use words that do not specify how and precisely how much money is supposed to flow to charters, the implementation of the law is often re-interpreted to suit a district or simply ignored until a charter can muster political or legal challenges. Such challenges occupy a fair amount of charter school administrators' time from year to year. When certain funds do not reach their accounts, charter school administrators are left to battle with the district that withheld funds in the first place.

For instance, in the spring of 2005, the Franklin City School Board decided to reduce district funding for the Franklin Career Academy charter school from \$82,000 to \$1. This move reveals a major flaw in the New Hampshire law -- the ability of local districts to arbitrarily decide not to fund public charter school students. This discrimination could happen statewide if unchecked. Likewise, the New Hampshire State Department of Education denies its obligation to provide state funds to charter schools.

## PUBLIC SCHOOL FUNDING LAWS AND REGULATIONS

When charter school laws are initially passed, policymakers are so focused on the piece of legislation at hand that little attention is given to other laws that may have negative impact on charter schools. One example is the Missouri charter school law. While the law is relatively strong (14th strongest in the nation) it failed to take into account a desegregation ruling that seemingly allowed the Kansas City School District to retain nearly \$1,000 per pupil from charter schools. While the courts have ruled that the Kansas City School District is not permitted to keep that money, the dispute caused a more than 3-year battle during which charter schools were significantly under-funded. Likewise, few states give charter schools facilities assistance or equal access to revenue from bonds.

# SEVEN MAJOR CAUSES OF THE CHARTER SCHOOL FUNDING GAP

*Within laws, the major defects that cause inequitable funding are:*

1. **UNFAIR BARGAINING RELATIONSHIPS** between charter schools and local districts, impacting not only local funding but the delivery of state and federal categorical funds.
2. **VAGUE LANGUAGE** in the state charter school law (words such as “commensurate” and “equitable” are seldom defined).
3. **IMPACT AID GIVEN TO DISTRICTS;** resulting in additional funding to schools that lose students for a set period of time. This includes fees that charter schools must pay a district for services normally provided on a non-fee basis, such as administrative or transportation “reimbursements.”
4. **“HOLD HARMLESS” CLAUSES** that allow districts to withhold local funds -- that should follow students from school-to-school -- from charter schools upon a student’s transfer. Districts are essentially funded twice to the detriment of charter schools and taxpayers.
5. **PUBLIC DEBT MARKETS** such as **LOCAL BOND MEASURES TO WHICH CHARTERS ARE DENIED ACCESS.**
6. **SCHOOL DISTRICTS ARE NOT PENALIZED FOR CAPRICIOUSLY WITHHOLDING FUNDS FROM CHARTER SCHOOLS** or excluding them from revenue streams among categorical aid programs intended for all public schools from both state and federal levels.
7. **REVENUES FOR BUILDINGS** and facilities that are generated from special measures at the local and state level are not passed on to charter schools.



*Proven solutions exist to overcome inequities in charter laws. Existing laws and practice provide the basis for the following recommendation.*

## PROBLEM: FUNDING FLOW, NEGOTIATED FUNDING AND VAGUE LANGUAGE

These problems all are rooted in ineffective language or wording that easily can be misinterpreted. Typically, each entity that control funds in a state is responsible, on its own, for sending those funds to the charter. Even when the law specifies a percentage of funds should go to the charter, this does not necessarily occur. When school funding is not centralized in a state -- meaning that local funds do not get collected by the state and redistributed -- it means that school districts are left to decide how funds are allocated to charters, which is not something districts have traditionally had to do. When specific dollar amounts or percentages are not fixed in law, the funding flow from the district to the charter is often undermined. The practice of requiring the local districts to “pass through” funds to charters is not a problem in itself, except that proper implementation is solely depending on the district’s willingness to fund charters. Sending local dollars through districts before reaching individual charter schools is not harmful per se. Districts -- like those in the northeast -- where schools are funded almost entirely by local funds find charters particularly troubling, but there is no end in sight to district-based funding despite a bevy of adequacy lawsuits.

The problem for charters in the current funding system is that funds that must flow through a local school district are more likely to be withheld completely or reduced before reaching the charter school.

When laws fail to specify funding levels and allow districts to negotiate without guidance, the charter school must defend its right to various sources of money. This results in cases like that of Dekalb County in Atlanta, GA, in which the school district only passes on approximately 65 percent of funds allocated for public schools to charter schools such as KIPP’s Achieve Academy. The district believes that this amount satisfies its obligation to treat a “charter school no less favorably than other local schools,” which is the only funding requirement contained in the law. So not only is a charter required to negotiate for funds under Georgia’s law, but it must negotiate on the basis of a vague statute that leaves the parties to decide what is “favorable.”

Many have assumed that when a charter school is allowed to negotiate the amount of funds and services provided, the talks would be beneficial to the charter school. This idea is consistent with the notion that free trade (or negotiating) is beneficial to all parties involved and results in policies that are mutually beneficial. The reality is that negotiation only works when both parties have equal bargaining power. In the case of a district authorizer and a charter applicant there is an obvious imbalance of power. Most districts have no incentive to sponsor more charter schools and many erect barriers to entry. When a charter applicant engages in negotiations with the district (and the district serves as mediator) the applicant is likely to accept policies that will ensure the acceptance of the application even if these provisions have a detrimental effect on future classes of charter students.

Finally, districts rarely are penalized for withholding funds from charter schools, even when the law requires that the funds be transferred.

## SOLUTION: REQUIRE A SPECIFIED AMOUNT OF FUNDING FOR CHARTERS

Change the funding flow so that the state collects money from districts and sends it directly to charters. Alternatively, penalize districts that fail to fully comply with funding provisions.

The vast majority of states with charter school laws use what can be considered strong funding language. This is categorized as statutory language that says a state and local district “must/shall pay X” as opposed to “may/ought to pay X”. The data show that language that requires states and districts to pay has a positive effect on the percentage of funding that charter schools receive. Charter schools in states with strong funding language receive four percent more funds than schools in states with weak language. Strong statutory language can mitigate the charter school funding gap, but it is not a guarantee of equal funding.

For example, charter laws should use strong language such as “the State shall pay \$7,500 or an amount equal to the per pupil expenditure for students in all public schools including charter schools, whichever is greater for the current school year.”

Where possible, the flow of funds should completely bypass school districts, which are predisposed to withhold funds from charter schools and have enough resources to shield themselves from successful challenges. This does not mean districts should not have to pay, but that districts should pass local funds to the state, where the state can pool the local, state and federal monies to comply with the law. Where it is impractical to redirect funds or bypass local districts, the State Board of Education should impose yearly financial penalties on school districts that fail to pass along funds to charter schools. This includes financial penalties for districts that fail to direct funds as required by law to charter schools or which pursue legal maneuvers to obscure the intent of the law.



## PROBLEM: IMPACT AID AND “HOLD HARMLESS” CLAUSES

The difficulty in pinpointing the gap in regard to impact aid is largely due to lackluster reporting of financial revenues and expenditures throughout the traditional school and district level. “Impact aid” is any amount received (in the case of reimbursements by the state for services rendered to charter schools) or withheld (generally from the per pupil allotment for administrative fees) by the district. Improper use of impact aid widens the gap between funds received by conventional schools and charter schools.

Districts often argue that there will be an immediate, adverse impact on their operations if they are required to redirect all local monies to charters. As a result, some laws permit the district to retain funds otherwise that would be used by districts as “impact aid” for a certain portion of time, such as funds for transportation, maintenance and administrative services. In an effort to retain this windfall many districts obscure how much is actually spent on these activities, and thus charters are often left with less than intended because of district number crunching in the district’s favor.

A “hold harmless” clause is any state mandate that essentially lets districts off the hook for the costs of students that attend charter schools. Under such a provision, money does not follow a student from a conventional school to a charter school. Instead the state provides dual funding (creating a higher burden on the tax base) so that districts are held harmless for their failure to retain students and parents. In other words, districts are not required to pass on funding to the school the child actually attends. States in these cases try to budget additional funds for charter students, causing the state to spend additional state funds on charters, while districts do not pay their share of proportionate revenues that would otherwise be spent locally on a charter student. This occurs because local officials argue that they have fixed costs that do not change with the loss of small numbers of students from a variety of schools. School funding is indeed often based more on fixed contracts and committed expenditures over time. This is not necessarily the best way to fund schools when new innovations like charters are permitting parents to pursue other choices. Districts must begin to alter the way they budget funds, based no longer on an assumption that they will always have a certain number of children, but rather based on a realistic prediction of how many children they are likely to serve each year. While this is difficult for school districts, this is nonetheless the future of school financing.

The other problem with a “hold harmless” clause is how it impacts one of the main intentions of charter school policy — the system response. Provisions that take away the financial impact of students leaving create a disincentive to improve. A conventional public school that loses students but doesn’t lose funding now has more money to spend per student, and little incentive to change. Recent data reports that just over 61 percent of all K-12 expenditures go towards “instructional costs;” the largest of which is teacher salaries. Why then, would a failing school – one that is losing students to a neighboring charter school — improve when the operation will just receive *more* compensation for the school’s failure to retain students. This troubling question still plagues New Hampshire, Massachusetts, and Connecticut.

## SOLUTION: ELIMINATE “HOLD HARMLESS” AND “IMPACT AID” PROVISIONS

Doing away with these harmful measures will provide more money — not new money — for students while holding in place the tax burden for all citizens. Districts that receive additional money when a student transfers to a charter school will not develop ways to cope with enrollment fluctuations or improve their product.

## PROBLEM: FACILITIES ASSISTANCE NOT GIVEN TO CHARTER SCHOOLS

Recent reports by the Ewing Marion Kauffman Foundation and Local Initiative Support Corporation show that most charter schools have a serious need for adequate facilities that can help with long-term growth. Charter schools disproportionately serve urban communities where property costs are high. Because charter schools are not allotted funds specifically for the purchase, lease, or maintenance of facilities, many charters must use money that would otherwise go to instructional costs. This significant lack of funds also causes difficulties in attracting and retaining high quality teachers and administrators if funds are not generated through private measures. Even where charter schools have nominal access to state or local capital revenues, unfriendly district administrators can block funds. For example, in Georgia charter schools have access to funds generated by capital campaigns but only if specifically included by the district.

Recently the Michigan State Department of Education noted the importance of maintaining adequate, safe buildings for all public schools. The Department launched a study to investigate practical ways of strengthening schools’ infrastructure.<sup>1</sup> All efforts aimed at improving and providing facilities for public schools must include charter schools, which are part of the public school system.

## SOLUTION: FUND CHARTER SCHOOL FACILITIES ON A PER PUPIL BASIS

Some states have grants available to charter schools and there are some federal grants specifically for start-up/facilities costs. However, the most effective way to ensure that every public school student goes to school in a safe, adequate building, is to fund facilities with a per pupil expenditure. Recent research shows that only 8 states (including Washington, D.C.) have funded charter school facilities on a per pupil basis including, Arizona, California, Colorado, Florida, Massachusetts, Minnesota, Utah and the District of Columbia. For example, in Florida charter schools receive per-pupil funds for facility costs provided the charter school is not already using a building provided by the district.

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<sup>1</sup> “State Board of Education Launches Study to Improve School Infrastructure,” *Michigan State Board of Education News Release, March 30, 2004*

## PROBLEM: NO ACCESS TO PUBLIC DEBT MARKETS, SUCH AS LOCAL BONDS

Charter schools generally lack the access to public debt markets such as local bonds or public debt financing for capital expenditures. This access would provide much needed liquidity giving charters schools better ability to secure facilities and cover other, operational expenses. In some cases states create special line items in the state's budget to compensate for the lack of bond access. This means that local districts are not required to contribute funds to charter schools and taxpayers across the state must come up with thousands of "new" monies to fill the gap. More often than not, the lack of access to bond money goes unnoticed. If the lack of access to public debt markets is not remedied, there are two possible outcomes: either the public education system will cost the state even more as money will be raised to compensate for the lack of local revenue withheld from the charter schools or charter schools will continue to operate at a significant funding disparity. Neither of these outcomes is favorable; however there are viable solutions.

## SOLUTION: REQUIRE ACCESS TO PUBLIC DEBT MARKETS FOR CHARTER SCHOOLS

By defining charter schools as "public schools" legislators can show that the intent of charter school laws are to provide innovative uses of the same public funds. Creating a separate sub-set of education law ("charter school law") effectively excludes charter schools from previous education law. This exclusion is tantamount to discrimination, an implication that most legislators should be particularly wary of, given the fact that half of all charter students come from urban areas and are over half are members of minority groups. Requiring all public debt, such as local bonds, incurred in the name of "public schools" be shared equally among *all* public schools, charter and non-charter alike, is a component of the funding discrepancy that provides an immediate remedy.

# CONCLUSION

Requiring states and districts to spend the full amount on charter school students is merely a reiteration of the fact that charter students are public school students too. So long as money is appropriated to advance public school education, charter students should receive the full 100 percent of funds appropriated by the state legislature. In addition to the seven causes of the funding gap, several political considerations play a part in why charter laws end up creating funding disparities. For example, teacher union pressure often causes legislative committees to under fund charters as a “devil’s bargain;” state boards often interpret or misinterpret charter regulations in a district’s favor, and school boards often know the intricacies of state law better than most and recommend specific language for charter laws that seems innocuous, but has the effect of keeping certain funds from charter schools.

One thing is clear; the dialogue over the components of a strong charter law cannot exclude consideration of whether or not charter school students are funded at 100 percent. Research indicates that in most cases it is the combination of destructive provisions rather than one specific component that leads to the charter school funding gap. More specific language in a charter school law will help schools operate more effectively. In those states that rely heavily on local districts to provide equal (or near equal) funds, administrators must be pushed to transfer funds more efficiently to charter schools.

Model language exists to help policymakers solve the charter school funding gap. The worst they can do however, is insert language that has unintended consequences with the expectation of fixing the problem another day. That fix will almost never come, so it’s important to do it right the first time, despite pressures to the contrary.

The best policy therefore, is to fight for the adoption of *all* beneficial components that lead to equitable funding. When drafting or amending charter school laws, the best practice is to create an environment that allows charter schools, with diverse philosophies and techniques, to thrive using the same amount of resources that are given to conventional public schools.



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