

## School Choice in Texas: Where We Are, and Where We Should Be

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### Recommendations

- Raise the charter school cap from its current limit of 215 charters.
- Enact education scholarship legislation, either in the form of tax credits or vouchers given directly to parents.
- Open up virtual education in Texas.
- Allow greater flexibility within the public education system itself.

### Overview

School choice is expanding nationwide. Numerous charter, voucher, and virtual education programs have become operational over the last decade. The purpose of this paper is to examine where Texas stands in comparison to other states in these areas, and to recommend what steps be taken to ensure that it becomes a national leader in school choice.

Traditionally, school choice has encompassed charter schools and an assortment of education voucher programs. This paper will include virtual and online schools as a type of school choice as well. Because virtual learning grants students more flexibility and parents more agency in the design of their child's education, it should become a more pronounced and discussed part of the choice movement during the next decade.

### Charter Schools

Texas currently sits comfortably in the middle of its second decade of operating open enrollment charter schools within its public education system. In 1995, the 74th Legislature passed Senate Bill 1, which served as a massive overhaul of the existing public education system. Among other changes, it allowed for the creation of the state's first open enrollment charter schools.<sup>1</sup>

A charter school is an innovative public school, open to all students, that operates under a charter granted by the state or local school district. Charter schools must adhere to the same major laws and regulations as other public schools, but the charters can free them from some of the

rules and red tape that often divert a school's energy and resources away from acting in the best needs of students. For example, though charter schools must prepare their students for the same statewide tests and support the same number of instructional days as a public school, there tends to be more leeway when it comes to duration of the instructional day, instructional methods, and the 22:1 student/teacher ratio that traditional public schools are required to implement at the kindergarten through 4th grade ranks. Charters are intended to have more local control so they can be free to innovate and be the "research and development labs" for traditional public schools.<sup>2</sup>

The addition of open enrollment charters to the public school system has proven enormously popular among parents. Currently the Texas Charter School Association estimates that there are just under 120,000 students enrolled in the state's 185 charter schools.<sup>3</sup>

Multiple surveys over the last few years show apparent growth in Texas' charter demand. Per the Texas Public Policy Foundation's own research, in 2007-2008, there were only 17,000 students on the wait list among schools that responded to the Foundation's survey. In 2008-2009, that number passed 40,000. The *Austin American-Statesman* reported that in 2009-2010, that number was at 56,000 students.<sup>4</sup>

Part of the reason for this current backlog is that Texas currently limits the number of open enrollment charter schools that are allowed to operate. A hard cap of 215 prevents charters from expanding at a rate that will allow the demand to be met.

During the recent 82nd Texas legislative session, charter schools, like many other education policy issues, took a back seat to the state's intense school finance debate. Because of this, very few pieces of charter legislation, particularly legislation that would have aggressively boosted the charter cap, were able to gain traction. One of the central concerns that limit expansion of open enrollment charters in Texas is accountability, both on the fiscal and academic fronts. Because of these concerns, the charter cap of 215 was not increased, in spite of numerous bills filed to increase it.

One thing that did change is the way that Texas will fund its charter schools going forward. The state of Texas will now guarantee charter school's bonds in an attempt to ensure fiscal viability to charter schools operating in Texas.<sup>5</sup> This may prove to be a mixed blessing for Texas charters. While having the state's backing will add a sense of security to charter holders, this support comes with an increase in the state's already stringent accountability standards for charter schools. The vetting process for new providers to be granted their charter has intensified, and the state has added measures that allow for the restructuring of a charter's administrative body should they have academic or other problems. While accountability is hugely important, it is also vital to remember the purpose of charter schools within Texas public education: to provide a more flexible, innovative system where improved education could be had for less cost. The new laws reduce flexibility and increase cost, and, particularly with the cap still in place, do not encourage growth in charter schools.

### *Charter Schools Nationally*

So far, 2011 has proven to be a strong year for school choice, and charter schools in particular. A number of states enacted new laws specifically designed to grow participation in their states' charter programs. North Carolina, Tennessee, and Indiana all completely lifted their caps on the number of open enrollment charter schools allowed to operate in the state. Florida, already a prominent player in the school choice realm, enacted laws designed to make it easier for well performing charter schools to expand rapidly.<sup>6</sup>

Though Texas made some changes to its charter school policy in 2011, specifically in the form of the state guaranteeing the bonds that fund open enrollment charter schools, it did not enact any new policies that would encourage growth in student participation in Texas charter schools.

## **Education Grants and Other School Choice Measures**

Charter schools are not the only vehicle for school choice in the public education system. Shifting portions of school funding from district control to parental control is another means of implementing choice. Broadly referred to as "vouchers", these measures can include giving parents direct control over how state funds are spent on their students, including using the funds to send their child to a private school of their choosing, or to shift their child from one school district to another.

A second option is education tax credits. There are typically two types of education tax credits: personal-use tax credits, which reimburse parents for educational expenses spent on their children; and donation tax credits, which give a tax credit to individuals or corporations who donate to an education scholarship fund. Education tax credits and tax deductions have several advantages. Tax credits save the state and taxpayers money, have a broad base of support that appears to be growing, and are less vulnerable to attacks in court as they have never been declared unconstitutional at a state or federal level despite several court challenges.<sup>7</sup>

Personal use vouchers are a slightly more polarizing means of providing school choice. Efforts to get such programs off the ground in Texas and other states have proven difficult. During Texas' 82nd Legislative Session, a large scale voucher program, the Texas Tax Payer Savings Grant Program, which would have immediately given the state one of the nation's largest voucher programs, was unable to make it out of committee.

### *School Choice Nationally*

A number of state level education voucher and tax credit programs have been enacted over the last 10 to 15 years.

The charts (next page) represent participation in major state school choice programs as of 2010, and participation is set to grow. Wisconsin Gov. Scott Walker signed legislation that will substantially expand the Milwaukee area school choice program (not listed in the charts because it was previously limited to one urban area, rather than the state as a whole). Indiana Gov. Mitch Daniels created the nation's largest education voucher program in 2011.

### Education Voucher Programs By State

State	Program	Year Enacted	Students in 2010-2011
Florida	McKay Scholarship for Students with Disabilities	1999	21,054
Georgia	Special Needs Scholarship Program	2007	2,550
Louisiana	Student Scholarships for Educational Excellence	2008	1,697
Ohio	Cleveland Scholarship and Tutoring Program	1995	5,264
Ohio	Autism Scholarship Program	2003	1,672
Ohio	Educational Choice Scholarship	2005	13,195
Oklahoma	Lindsey Nicole Henry Scholarship for Students with Disabilities	2010	10
Utah	Carson Smith Special Needs Scholarship	2005	624
Wisconsin	Milwaukee Parental Choice Program	1990	20,189
Washington, D.C.	D.C. Opportunity Scholarship Program	2004	1,012
<b>Total</b>			<b>67,267</b>

### Education Scholarship Tax Credit Programs By State

State	Program	Year Enacted	Students in 2010-20
Arizona	Individual School Tuition Organization Tax Credit	1997	27,476
Arizona	Corporate School Tuition Organization Tax Credit	2006	3,626
Arizona	Lexie's Law	2009	145
Florida	Corporate Tax Credit Scholarship Program	2001	32,946
Georgia	Georgia Scholarship Tax Credit	2008	6,125
Indiana	Corporate & Individual Scholarship Tax Credit	2009	219
Iowa	School Tuition Organization Tax Credit	2006	10,208
Pennsylvania	Educational Improvement Tax Credit	2001	42,339
Rhode Island	Corporate Scholarship Tax Credit	2006	460
<b>Total</b>			<b>123,544</b>

Source: Alliance for School Choice, "Hope for America's Children" (2010-11).

In March of 2011, Douglas County ISD in Colorado adopted what was to be the nation's largest single district voucher program. However, in August a Denver District Court ruled the program unconstitutional, and for the time being has halted its implementation.<sup>8</sup> Both of these incidents, one in macro and the other in relative micro, demonstrate the difficulty of installing a personal use voucher program into a state or district's public school system.

Other states to enact new or expand existing voucher and tax credit programs include Arizona, North Carolina, Florida, and Ohio. At present, Texas has no such programs operational in the state.<sup>9</sup>

### Virtual Education & Digital Learning

The third leg of modern school choice is digital and online learning. There are a number of models for virtual learning at work nationwide in public school systems, including state run networks, university run systems, and even virtual shops run by independent school districts.

Virtual schools are a newer choice medium than either voucher/tax credit programs or charter schools. However, because virtual schools are technologically based, and do not necessarily require a student to change schools or districts, the potential is there to expand more rapidly than charters or tax credit programs have done over the last two decades.

**In 2007, Texas implemented a state-run network for virtual education in the form of the Texas Virtual Schools Network (TxVSN). In its most recent semester, summer 2011, the TxVSN had a total of 8,524 students enrolled.**

Many students who participate in virtual courses do not use them as a full time school, but rather as an augmentation to their existing courses. This puts more educational options on the table for them without the disruption of relocation. Further, where tax credits and voucher programs tend to have enrollment caps, and charter schools have limited seats available, online courses do not face similar brick and mortar limitations.

In 2007, Texas implemented a state-run network for virtual education in the form of the Texas Virtual Schools Network (TxVSN). In its most recent semester, summer 2011, the TxVSN had a total of 8,524 students enrolled.<sup>10</sup> It offers a wide variety of courses to the state's public school students, and because it does bring some flexibility into the public education system, referring to it as an agent for choice is technically accurate. However, there are limitations. For a public, private, or other online course or curriculum provider to become eligible within the network, there is a sometimes lengthy approval process that must be completed before their course becomes available to students around the state.

Additionally, the bulk of the courses provided by the network come through public school providers. While parents who want more options on the table for their students certainly have them through the TxVSN, to a large degree, those options are limited to moving within the public school system. Parents who wish to remove their students from the public system and toward either a private or home schooled environment still face limitations from the network. Perhaps the most significant of these is a cap of two courses per student for home schooled and privately educated students. To truly become a powerful agent of choice in Texas, the TxVSN will either need to become drastically more flexible, or the door for other providers will need to be opened.<sup>11</sup>

### *Virtual Education Nationally*

Because of these factors, virtual schools had, as of 2009, more participants than tax credit or charter programs combined, with over 450,000 students participating in some form of on-line learning. Of that 450,000, more than 200,000 students were fully enrolled in virtual schools. Those students are dispersed across 39 states, 27 of which (plus the District of Columbia) have a full time virtual school available.<sup>12</sup>

There are many kinds of virtual education programs available nationwide. Many universities, such as Brigham Young and the University of Nebraska, run their own virtual education shops.<sup>13</sup> Several states allow school districts to run their own online programs. However, the most common approach at present is to have virtual learning operate through state run networks. Florida, the state considered by many to be the leader in K-12 online education, has such a model in place.

### **Recommendations**

There are a number of changes Texas could enact at the policy level to enhance school choice in the state.

- **Raise the charter school cap from its current limit of 215 charters.** At present, the demand for charters in Texas exceeds the supply. As other states enact laws either raising or removing entirely charter school caps, Texas faces a danger of falling behind in this area. Removing the cap would allow charter schools in Texas to grow and would vastly improve school choice in the region.
- **Enact education scholarship legislation, either in the form of tax credits or vouchers given directly to parents.** This is the most direct way to enhance school choice in Texas and has the potential to save the state substantial sums of money, depending on the number of students participating in the program.
- **Open up virtual education in Texas.** Currently, courses that a school district provides online must be vetted by and run through the Texas Virtual Schools Network. Allowing school districts to more flexibly provide their own online learning shops will allow for much more rapid expansion of virtual education, and with that school choice, in Texas.

- **Allow greater flexibility within the public education system itself.** More aggressive options such as allowing partial enrollment in Texas public schools would create tremendous flexibility for parents seeking the maximum amount of choice in regards to their child's education, allowing them to participate in a potential mix of traditional public, online, and even home-school based learning.

## Conclusion

While Texas has made some strides in school choice over the last decade, particularly on the virtual education front, there are many changes the state could make to enhance school choice for Texans. Limiting charter school growth and channeling all of the state's public school funding directly to the public schools, rather than allotting some to parents and students as well, limits the state's ability to become a leader on the school choice front. Changes are needed at the policy level if Texas is to become a progressive leader in education reform. ★

## Endnotes

- <sup>1</sup> Texas Education Agency, "An Overview of the History of Public Education in Texas."
- <sup>2</sup> Texas Public Policy Foundation, "A Charter School Q&A: Examining Charter Schools in Texas & The Nation."
- <sup>3</sup> Texas Charter Schools Association, "Fact Sheets."
- <sup>4</sup> *Austin American-Statesman*, "Charter School Waitlist Sparks Legislation."
- <sup>5</sup> *Bloomberg*, "Texas Bill Gives Charter Schools Momentum in Financing Growth: Muni Credit."
- <sup>6</sup> *The Wall Street Journal*, "The Year of School Choice."
- <sup>7</sup> Texas Public Policy Foundation, "Helping Parents Pay for Education."
- <sup>8</sup> *Denver Post*, "Judge Halts Douglass County School Voucher Program."
- <sup>9</sup> *The Wall Street Journal*, "The Year of School Choice."
- <sup>10</sup> Texas Virtual School Network, "TxVSN Enrollment by Semester."
- <sup>11</sup> TxVSN.org, "FAQs Section."
- <sup>12</sup> inACOL, "Keeping Pace With K-12 Online Learning."
- <sup>13</sup> Ibid.



## About the Author

**James Golsan** is an education policy analyst at the Texas Public Policy Foundation. He joined the Foundation's Center for Education Policy in October 2010 and contributes to the following issues: K-12 education growth; higher education spending; and increasing spending transparency across academia.

Prior to joining the Foundation, Golsan completed his Master's of Arts degree in English at Texas Tech University. His article, "The Detective as Superhero: A Note on Robert Parker's Spenser," was published in the Spring 2010 edition of *South Central Review Journal for Literary Criticism*.

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