



# PolicyPerspective

## A Charter School Q&A: Examining Charter Schools in Texas and the Nation

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### Recommendations

- Eliminate or raise the cap on charter schools.
- Measure student and parental demand by calculating a statewide and regional waiting list annually.
- Reward high-performing charter schools with the ability to apply for an extended charter.
- Encourage co-location of charter schools and traditional schools.
- Require public schools with empty education facilities to lease their facility to a charter school.
- Remove unnecessary regulations.
- Measure academic performance with individual student growth.
- Research charter school best practices and share with all public schools.

### INTRODUCTION

Although the concept of charter schools has been around since 1991,\* most Americans know very little about charter schools. A 2008 national poll conducted for *Education Next* and Harvard University found 41 percent of Americans were undecided on charters, neither supporting nor opposing the formation of charter schools.<sup>1</sup> Another recent national poll by the Center for Education Reform found that only 20 percent of Americans can correctly identify a charter school as a public school.<sup>2</sup> This paper draws from multiple sources to educate policymakers, the public, and the media about charter schools from a national perspective and a Texas perspective.

### DEFINITION

#### *What is a charter school?*

A charter school is an innovative public school open to all students and held accountable for its results. Charter schools must adhere to the same major laws and regulations as other public schools, but are freed from some of the red tape that often diverts a school's energy and resources away from acting in the best needs of students. Charters are intended to have less red tape so they can be free to innovate and be the "research and development labs" for traditional public schools, yet in Texas, with the implementation of HB 6 (2001) and Texas Education Agency rules, charter schools are in some ways facing more regulations than traditional public schools.<sup>3</sup>

Charter schools are granted a "charter," or a contract, by an authorizing entity. Texas has

two authorizing entities: the State Board of Education and the local school board of any public school district.<sup>4</sup>

#### *How are charter schools different than traditional public schools?*

Charter schools were designed to be free from many burdensome state regulations so they can experiment and innovate to raise student achievement. Charter schools are not subject to class size requirements, teacher certification requirements (except for special education and bilingual education), teacher employment contracts, collective bargaining, paying teachers off of the state teacher salary schedule, and length of school day requirements.

Researchers at the University of Washington explain the difference stating, "Building a school from scratch, as most charter schools do, offers school founders the opportunity to completely rethink the way they organize their schools and classrooms. Many charter schools take advantage of this blank slate to do several things differently—everything from extending the school day<sup>5</sup> and calendar to moving away from traditional classroom organization."<sup>5</sup>

Charter schools are more likely than traditional public schools to be focused around specific instructional designs, offer different grade configurations and smaller classes, spend more time on instruction every day, and stay open more days per year. For example, elementary and middle school charter schools average an extra 20 minutes of instruction per

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\* Minnesota passed the first charter school law in 1991.

<sup>†</sup> A rule change by the Texas Education Agency discourages Texas charter schools from having a longer school year.

day. Charter schools are also more likely to subdivide their grades into teams or houses rather than using traditional grade and department structures. Elementary students in charter schools are more likely to spend multiple years with the same teachers. Nationwide, 52 percent of charter schools use a special instructional approach\* compared to 22 percent of traditional public schools.<sup>6</sup>

Texas open-enrollment charter schools tend to educate a much different student population than Texas' traditional public schools. Many open-enrollment charter schools target students who are falling through the cracks of the traditional one-size-fits-all model and are at risk of dropping out of school. As a result, about 43 percent of all Texas charter schools are classified as alternative education campuses and serve a predominantly at-risk student population.<sup>†</sup> In the 2006-07 school year, 1 of every 3 open-enrollment charter school students attended an alternative education school while only 1 out of every 200 traditional public school students attended an alternative education campus.<sup>7</sup> Schools classified as an alternative education campus are rated under alternative education accountability procedures.

Many open-enrollment charter schools have highly mobile students at-risk of dropping out of school. Researchers from the Texas Center for Educational Research find that Texas open-enrollment charter schools consistently have student mobility rates double the rates of traditional public schools. From 2003 to 2006, open-enrollment charter schools had between a 51 and 54 percent student mobility rate while traditional public schools had a student mobility rate ranging from 25 to 26 percent.<sup>8</sup>

### ***What is the purpose of a charter school?***

According to the Texas Education Code,<sup>9</sup> the purposes of charter schools are to:

- improve student learning;
- increase the choice of learning opportunities within the public school system;
- create professional opportunities that will attract new teachers to the public school system;
- establish a new form of accountability for public schools; and
- encourage different and innovative learning methods.

### ***What are the different types of charter schools?***

There are three types of charter schools in Texas as outlined in the Texas Education Code:<sup>10</sup>

- 1) **Open-enrollment.** The State Board of Education grants charters to open-enrollment charter schools. State law limits the number of charters that can be authorized by the State Board of Education to 215. Open-enrollment charter schools are open to all students and are free public schools. Open-enrollment charter operators are considered an independent school district and can have multiple schools or campuses under a single charter. This explains why there were 355 open-enrollment charter school campuses last year even though there is a legislative cap of 215 charters. The majority of students attending a Texas charter school attend an open-enrollment charter school. In addition, a four-year university can sponsor a charter school. There is no cap on university open-enrollment charter schools. The Board of Regents acts as the governing board.
- 2) **School District.** A public school district can choose to convert an existing school to a district charter school or open a new school as a district charter school.
- 3) **Home-Rule Charter District.** A public school district can convert their entire district to a home-rule charter district. At least 5 percent of registered voters must petition the school board or two-thirds of the school board votes to set up a charter commission. The commission draws up a charter for voters to approve. The charter must be approved by a majority of voters and 25 percent of registered voters must turn out for the election to be considered valid. There are no home-rule school districts in Texas.

### ***How many charter schools are in Texas?***

During the 2007-08 school year, Texas had 355 open-enrollment charter school campuses, 59 school district charter school campuses and 19 university charter school campuses totaling 433 charter school campuses.<sup>11</sup> At the beginning of the 2008-09 school year, Texas had 433 open-enrollment charter school campuses, 61 school district charter school campuses, and 19 university charter school campuses, totaling 513 charter school campuses.<sup>12</sup>

\* Special instructional approaches may include self-paced instruction, Montessori, or open education ungraded classrooms.

† In 2006, at least 65 percent of the school's students must be at-risk. The percentage increased to 70 percent in 2007 and to 75 percent in 2008.

**Do other states have charter schools?**

Yes. Forty states and the District of Columbia have charter schools. There are currently more than 4,600 charter schools in the country educating over 1.3 million children.<sup>13</sup>

**MISSION**

**What are purposes of various charter schools?**

Every charter school is different. Some charter schools have a specialized math and science curriculum or rigorous college preparatory curriculum with the goal of every graduate attending and graduating from a four-year university. Other charter schools may focus on the arts, focus on vocational skills, or use a well-known model such as Core Knowledge or Montessori. Many charter schools are dropout recovery charters with the goal of helping students who have already dropped out of a traditional public school learn job skills and finish high school or attain their GED. These dropout recovery schools may focus on at-risk students, former dropouts, teenage parents, homeless youth, students in foster care, juvenile offenders, students in residential treatment centers, and others. Nationally, 19 percent of students in charter schools are Limited English Proficient (LEP), 15 percent are in special education, and 8 percent are teen parents.<sup>14</sup>

Charter schools that serve a high number of at-risk students can register as an alternative campus and be rated under the alternative education accountability (AEA) procedures in Texas. During the 2007-08 school year, roughly 43 percent of Texas charter school campuses were classified as alternative education compared to 3 percent of traditional public schools.<sup>15</sup>

**STUDENTS**

**Who attends a charter school?**

Any student can choose to attend a charter school in their area. Last year, 81 percent of students in Texas charter schools were minorities (compared to 60 percent of students in traditional public schools) and 70 percent were low-income (compared to 55 percent of students in traditional public schools).<sup>16</sup>

**How many students attend a charter school?**

In Texas, 113,760 students attended a charter school last year, representing 2 percent of all students in Texas public schools.<sup>17</sup> Nationwide, more than 1.3 million students attend a charter school.<sup>18</sup>

Figure 1  
Texas Charter School Enrollment  
Breakdown for 2007-08 School Year

Charter Type	Enrollment
Open-Enrollment	89,156
District	23,275
University-Sponsored Open-Enrollment	1,329
Home-Rule	0
Total	113,760

Source: Texas Education Agency

**What are the age of students or grade levels served by charter schools?**

Charter schools serve students from prekindergarten through 12th grade. There are a variety of options such as elementary schools, middle schools, high schools, prek-8, k-8, prek-12 and k-12.

**Can a student with special needs attend a charter school?**

Yes. Charter schools and traditional public schools both serve special needs students under the federal Individuals with Disabilities Education Act (IDEA). Approximately 10 percent of students attending an open-enrollment charter school in Texas are in special education. This is similar to the percentage of special education students in traditional public schools, which is close to 11 percent.<sup>19</sup>

**Can a Limited English Proficient (LEP) student attend a charter school?**

Yes. Approximately 14 percent of students attending an open-enrollment charter school in Texas are LEP. This percentage is similar to the 16 percent of LEP students in traditional public schools.<sup>20</sup>

**How many students were on a waiting list to attend a charter school?**

In Texas, at least 16,810 students were on a waiting list to attend a charter school during the 2007-08 school year. The typical charter school waiting list was 99 students.<sup>21</sup>

Nationwide, more than 365,000 students were on a waiting list to attend a charter school last year. The typical charter school waiting list in 2007 was 51 students.<sup>22</sup>

**Figure 2**  
**Texas Charter School Regional Enrollment**  
**Data for the 2007-08 School Year**

Area	Total Regional Public Enrollment	Charter Enrollment	Waiting List
Austin	345,154	4,789	623
Corpus Christi	105,512	1,310	159
Dallas/Fort Worth	1,220,797	30,123	5,896
El Paso	173,735	2,434	53
Houston	1,031,462	24,591	7,415
Rio Grande Valley	383,460	6,126	2,110
San Antonio	379,879	12,349	488
<b>Statewide Total</b>			<b>16,810</b>

Source: Author's Calculations and Texas Education Agency Regional Enrollment Report

***Do charter schools provide transportation?***

Charter schools and traditional public schools have the same transportation requirements. Both types of schools are required by law to provide transportation to students with special needs.<sup>23</sup>

***What are the discipline policies at charter schools?***

Charter schools have more flexibility in applying discipline policies than traditional public schools and are allowed to exclude students with a documented history of a criminal offense, juvenile court adjudication, or discipline problems. While Chapter 37 of the Texas Education Code does not apply to charter schools, charter schools must comply with due-process in regard to suspensions and expulsions.<sup>24</sup>

**ADMISSIONS**

***What is the application process to attend a charter school?***

Parents and students residing in the school's geographic boundaries fill out a form with the student's name, grade level, and contact information and provide it to the school by the application deadline. If more students apply to the school than room allows, the school admits students with a random lottery system or by a first-come, first-serve policy. Student applicants not selected for admission through the lottery can put their name on the school's waiting list.<sup>25</sup>

***What is the difference between a charter school and a magnet school?***

Open-enrollment charter schools have an open-enrollment admissions policy, meaning that no student can be turned away due to poor grades or low test scores. In addition, open-enrollment charter schools cannot discriminate based on sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability.<sup>26</sup> Charter schools with more student applicants than open seats must either accept students randomly through a lottery process or through a first-come first-serve policy. In contrast, magnet schools are public schools or programs with a specialized curriculum and can be selective in their admissions policy.

**LOCATION, SIZE, & SCHEDULE**

***Where are charter schools located?***

While the largest number of students attend charter schools in the urban areas of Houston and Dallas/Fort Worth, charter schools are located all across the state in mid-size cities, small towns, and rural areas including: Abilene, Austin, Brownsville, Corpus Christi, Corsicana, Del Rio, El Paso, Laredo, Lubbock, Midland, San Antonio, Tyler, Waco, and Wichita Falls.<sup>27</sup>

***What is the average size of a charter school?***

Open-enrollment charter schools tend to be smaller than other charter schools or traditional public schools. Texas open-enrollment charter schools had an average of 243 students per campus. In comparison, district charter schools had an average of 389 students per campus and traditional public schools had an average of 568 students per campus.<sup>28</sup> Another study found Texas open-enrollment charter schools to have an average campus enrollment of 194 students.<sup>29</sup>

Across the country, charter schools had an average of 348 students compared to an average of 521 students attending a traditional public school.<sup>30</sup>

***What is the school schedule for charter schools?***

Texas charter schools are free to create a schedule that best serves individual student needs as long as they provide instruction at least four hours a day. As a result, some charter schools meet for only four hours a day while others have a longer school day, have school on Saturday, have mandatory summer school, or have year-round schedules.

\* There is an allowance in the Texas Education Code for a performing arts charter school to require an audition for admission in Subchapter D, Section 12.111(6) b and Section 12.1171.

Nationwide, 62 percent of charter schools provide their students more instructional time through a longer school day, longer school year, or both.<sup>31</sup>

## PERFORMANCE

### ***Do charter students have to take the state TAKS test?***

Yes. Students at public charter schools take state accountability tests just like students at traditional public schools. The current state test is the Texas Assessment of Knowledge and Skills or TAKS.

### ***How does student achievement at charter schools compare with traditional public schools?***

Public charter schools appear to be making great gains even though most students enter a charter school behind academically. A recent study on Texas charter schools found that students in Texas open-enrollment charter schools for three or more years had higher reading, writing, and math scores compared to students in traditional public schools, controlling for student academic and social backgrounds.<sup>32</sup>

According to researchers at the Texas Center for Educational Research, from 2004 to 2007, students who were continuously enrolled in an open-enrollment charter school for four years had the highest TAKS reading/English Language Arts and math passing rates. They found that “the greater the number of years continuously enrolled, the higher the TAKS reading/English Language Arts and math passing rates. In addition, students continuously enrolled in open-enrollment charter schools for all four years (2004-2007) had the largest passing rate gains in both reading/English Language Arts and math.”<sup>33</sup>

These same researchers found that “continuous enrollment is an important predictor of academic performance.” The researchers at the Texas Center for Educational Research controlled for prior year TAKS scores, gender, economic status, ethnicity, grade level, campus attendance, campus poverty, and campus type and found that “the number of consecutive years spent in an open-enrollment charter school was a significant positive predictor of 2007 TAKS reading/English Language Arts scores at the elementary and middle school level” (not high school) and a “significant positive predictor of 2007 TAKS math scores at the elementary, middle school and high school levels.”<sup>34</sup>

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\* This number includes district charter schools.

Another study by Texas A&M professors Gronberg and Jansen found that Texas students at traditional public schools facing charter competition achieved significantly higher gains in reading and math than schools that did not compete with charters.<sup>35</sup>

Nationally, charters make up 5 percent of all public high schools, but they make up 18 percent of the best 100 high schools in America on the *U.S. News and World Report* rankings.<sup>36</sup>

### ***How do charter schools compare to traditional public schools according to federal No Child Left Behind accountability standards?***

Fewer Texas open-enrollment charter schools missed the federal No Child Left Behind standards than other public schools—23.8 percent vs. 31.8 percent.<sup>37</sup>

### ***How do charter schools compare to traditional public schools according to state accountability standards?***

A higher percentage of charter school districts were rated *Exemplary* than traditional public school districts (7.1 percent vs. 2.8 percent) by the Texas Education Agency. This means that charter schools have a good number of the top schools in the state as determined by the state accountability system.

Roughly 21 percent of charter school districts were rated *Recognized* compared to 28 percent of traditional public school districts, 58 percent of charter school districts were rated *Academically Acceptable* compared to 68 percent of traditional public school districts, and 10.6 percent of charter school districts were rated *Academically Unacceptable* compared to 1 percent of traditional school districts. The state accountability ratings are for 1,031 traditional school districts and 198 charter school districts.<sup>38</sup>

Opponents of charter schools like to point to the percentage of *Academically Unacceptable* schools and call for all of those schools to be shut down by the state. However, the situation is not that simple. Texas charter schools serve a disproportionate number of poor, minority, academically behind, and at-risk students than traditional public schools. Charter schools have twice the student mobility rates as traditional public schools and often serve dropouts. Thus, it is not an apples to apples comparison.

Researchers at the Texas Center for Educational Research state, “Because charter schools offer different kinds of programs and attract different kinds of students than traditional district schools, it is difficult to make fair comparisons between charter and traditional district schools’ student achievement outcomes.”<sup>39</sup>

In addition, it is important to note that the current state accountability system does not take into account the amount of academic learning or individual student growth that was achieved over the course of the school year. The current system focuses on the percentage of students passing a minimum threshold and not on the effect of a certain school on the amount of student learning. “Value-added assessments, also known as growth models, measure how much students learn once they arrive in a particular school and provide a means to distill the effect of schooling on students’ academic achievement.”<sup>40</sup> Measuring a school with a value-added measurement will be a more accurate gauge of learning for both charter schools and traditional public schools.

## TEACHERS

### *Are charter schools unionized?*

Open-enrollment charter schools are not required to have collective bargaining agreements with unions or teacher associations. Therefore, it is up to the discretion of each charter school as to whether they hire teachers in a union or teacher association. Nationwide, 85 percent of charter school teachers do not participate in a union or collective bargaining unit.<sup>41</sup>

### *Do charter schools have teacher contracts with their teachers?*

Charter schools are not required by law to have employment contracts with their teachers. While most traditional public schools have one-year, three-year, five-year, or ten-year teacher contracts, charter schools are exempt from this requirement. Therefore, charter schools have discretion over their employment policies and as a result many have more flexible and cost efficient hiring and firing policies.

### *Are teachers at charter schools certified?*

Charter schools are exempt from hiring certified teachers in all subjects except for special education and bilingual education, but must meet No Child Left Behind (NCLB) highly qualified requirements. This means that all teachers who teach in core academic subjects must have a college degree and teach their subject matter expertise.

### *Do charter schools pay teachers with a salary schedule?*

Texas charter schools are not required to pay teachers off of the state teacher salary schedule, yet charter schools can choose to use the state schedule or develop their own. Traditional public schools are required to pay at least the minimum state salary at each level on the 20 step state teacher salary schedule. As a result, most school districts, in Texas and nationwide, design their own salary schedule based on their starting teacher salaries.<sup>42</sup>

### *Do charter schools pay teachers with a merit-pay system?*

Yes. Charter schools have the flexibility to pay teachers based on ability and performance in the classroom. In fact, 20 percent of charter schools nationwide use performance-based pay to reward teachers.<sup>43</sup> In comparison, 8 percent of public school districts reward excellence in teaching.<sup>44</sup>

## GOVERNANCE

### *What entities issue charters in Texas?*

Texas has two types of charter authorizers. The State Board of Education issues charters to open-enrollment charter schools. Local public school boards can convert an existing public school into a district charter school or open a new school as a charter school. An entire school district can choose to convert to a home-rule charter school district if approved by a majority of voters.<sup>45</sup>

### *How long is a charter?*

Open-enrollment charter schools are granted an initial five year charter. Renewals have been granted for three-year, five-year, or ten-year terms. Renewals are now typically granted for ten-year terms.

### *Which Texas public universities either operate a charter school or collaborate with a charter school?*

The University of Texas at Austin, the University of Houston, Stephen F. Austin State University, Richland Collegiate Community College and Texas State Technical College all either operate a charter school or collaborate with a charter school (under Texas Education Code, Chapter 12, Subchapter D or E). In addition, Texas Southern University and seven community colleges collaborate with an open-enrollment charter school or a school district charter school (under Texas Education Code, Chapter 12, Subchapter C, see Figure 3).<sup>46</sup>

**Figure 3**  
**College/University Collaboration with Charter Schools**  
 (under Texas Education Code, Chapter 12, Subchapter C)

Technical/Community College	School District/ Charter	School
Brookhaven Community College	Carrollton-Farmers Branch ISD	Early College High School
Del Mar Community College	Corpus Christi ISD	Collegiate High School
El Paso Community College–Northwest Campus	Canutillo ISD	Canutillo Northwest Early College High School
Houston Community College	Houston ISD	Challenge Early College High School
Houston Community College	Houston ISD	East Early College High School
Houston Community College	Houston ISD	Houston Academy for International Studies
San Jacinto Community College-South	Clear Creek ISD	Clear Horizons Early College High School
Texas A&M University–Corpus Christi	Flour Bluff ISD	University Preparatory*
Texas A&M International University	Laredo ISD	Laredo Early College High School
Texas State Technical College–Marshall	Panola Charter School	Panola Early College High School
Texas State Technical College–Waco	Rapoport Academy Public School	Meyer Public High School†

Source: Texas Education Agency

**Which school districts operate charter schools?**

Thirteen school districts currently have one or more district charter schools. The school districts include: Bryan ISD, Canutillo ISD, Carrollton-Farmers Branch ISD, Cedar Hill ISD, Clear Creek ISD, Colorado ISD, Corpus Christi ISD, Dallas ISD, Houston ISD, Laredo ISD, McAllen ISD, San Antonio ISD, and Spring Branch ISD.<sup>47</sup> In the 2006-07 school year, Houston ISD and San Antonio ISD operated 86 percent of district charter schools.<sup>48</sup>

**How do charter schools expand?**

Current operators of open-enrollment charter schools in Texas can expand by applying to the State Board of Education for a new charter or by applying to the Commissioner of Education for an amendment to their current charter. The amendment would be an expansion amendment specifying changes to their current charter such as adding new grade levels to be served, changing geographic boundaries, adding an instructional facility, or increasing enrollment beyond the maximum amount allowed in the charter.

If a current operator of a charter school in a different state or a completely new entity wanted to open an open-

enrollment charter school in Texas they would need to apply to the State Board of Education for a charter. At this time the State Board of Education has reached the cap of 215 on open-enrollment charters holders and is unable to issue any additional charters. University-sponsored charter schools are exempt from the cap.

**Have any charter schools closed?**

Charter schools cease functioning for a variety of reasons. Out of a total of 281<sup>‡</sup> charters that have been awarded by the State Board of Education: 13 charters had their charters revoked, rescinded, or renewal denied; 17 charters merged with another charter school; 32 charters returned their charter to the State Board; 3 charters let their charter expire. The state of Texas has closed seven charter schools for academic reasons.<sup>49</sup>

Nationwide, 11 percent of charter schools have closed for various reasons including academic, financial or management problems, consolidation, or district interference.<sup>50</sup> Approximately 3 percent of approved charter schools never open.<sup>51</sup>

\* The charter program is part of an existing school. It is not a separate school.

† Meyer Public High School is a TSTEM high school. TSTEM stands for Texas Science, Technology, Engineering, and Mathematics school.

‡ Out of the 281 charters awarded, 14 never became operational and either returned their charter or had it revoked.

### ***What is the process to open a charter school?***

Entities interested in opening up a charter school through the State Board of Education must fill out a lengthy and rigorous application to compete in the competitive bid process. Texas Education Agency staff review applications to ensure all required documents have been submitted. All applications deemed complete by agency staff are forwarded to external independent reviewers who read and score the applications. Applications receiving a minimum score move forward in the application process and are sent back to Texas Education Agency staff for review. Agency staff assess each application regarding the governance structure, non-profit legal status, and financial and budgeting records submitted by each entity to gauge whether there are major deficiencies to be addressed before the charter can be granted.

All applicants with applications that received the required minimum score are requested to come before the State Board of Education for an in-person interview. At the next State Board of Education meeting, the Instruction committee hears public testimony on the applications and votes, sending their recommendations to the full Board. The next day the full Board discusses the applications and votes. In order to receive an open-enrollment charter from the State Board of Education, the applicant must receive a majority vote by the State Board of Education.<sup>52</sup>

University-sponsored charters go through a similar rigorous review process with the State Board of Education, but they are not competing with other applicants for a charter that year.

Reduced scrutiny during the late 1990s regarding the quality of a charter's application allowed some poor quality charter schools to open. Unfortunately, some of these charters were poorly-run or mismanaged finances, creating concerns about oversight. As a result, in 2001, the State Board of Education changed its charter school authorization policies and implemented a more rigorous selection process to receive a charter.<sup>53</sup> There was also concern over the politicization of the process during the third generation.<sup>54</sup>

### ***What is the process to close a charter school in Texas?***

The Commissioner of Education notifies the charter holder before modifying, placing on probation, revoking or denying renewal of the school's charter. The notice explains the action sought and the reasons for such action.

The charter school must notify parents and guardians of the Commissioner's intended action. The charter school can request a hearing within 10 business days of receiving the notice and submit a written response to the alleged violations. The Commissioner has 15 business days after receiving the charter school's written response to make a decision and notify the school. When a hearing is held, the State Office of Administrative Hearing conducts the hearing and rules on the decision of the Commissioner to close the school.

### ***Who closes a charter school in Texas?***

The Commissioner of Education has the authority to close a charter school. The State Board of Education originally had that authority and it was moved to the Commissioner in 2001.

Texas Education Agency rules specify that the Commissioner of Education has the authority to modify, place on probation, revoke, or deny renewal of an open-enrollment charter if the charter holder fails to satisfy academic performance requirements, accreditation standards, fails to meet generally accepted fiscal management accounting standards, fails to protect the health, safety, or welfare of the students, commits a material violation of the charter, or fails to comply with Chapter 12, Subchapter D of the Texas Education Code or other applicable law or rule.<sup>55</sup>

### ***What is a first generation charter?***

Texas refers to charters in terms of when they were approved by the State Board of Education. The first group of charters approved are referred to as "first generation" charters and the second year are called "second generation," etc.<sup>56</sup>

### ***Are financial records open to public scrutiny?***

Yes. Charter schools are public schools and are subject to the same level of Texas open government rules as traditional public schools, including but not limited to: open records, open meetings, record retention, etc.<sup>57</sup>

## **FUNDING & FACILITIES**

### ***How are charters funded?***

Like independent school districts, charter schools receive state funds based on student enrollment or average daily attendance (ADA). Unlike independent school districts, open-enrollment charter schools do not receive funds from local tax revenue and do not have access to certain

formula funding and state facility allotments, including the small and midsize school adjustments. According to researchers at the Texas Center for Educational Research, in the 2005-06 school year, open-enrollment charter schools received about \$752 less per student in average daily attendance (ADA) than traditional districts.<sup>58</sup> Another report finds that Texas open-enrollment charter schools receive nearly \$1,500 less per student than traditional public schools.<sup>59</sup>

Charter schools can also apply for federal start-up funds through a U.S. Department of Education grant. District charter schools, unlike open-enrollment charter schools, can receive local tax revenue and facilities funding. Traditional public schools and charter schools can also receive funds from private donors and foundations.

### ***Do charter schools receive weighted funding?***

Yes. Both traditional public schools and charter schools receive state and federal funds to serve specific student populations such as at-risk students, special education students, and students in career and technology education, gifted and talented programs, or bilingual education.

### ***Do charter schools charge tuition?***

No. Charter schools do not and cannot charge tuition; charter schools are free public schools.

### ***Do charter schools typically own or rent their facilities?***

Since open-enrollment charter schools do not receive state or local facilities funding, the majority of them cannot afford to purchase buildings. In fact, 65 percent of charter schools nationwide rent their facilities and 30 percent own their facility or rent it from their sponsoring entity. Charter schools across the country are creative with facilities by converting retail facilities, government office buildings, churches, daycares, lofts, and portable trailers into classrooms, cafeterias, and gym space.<sup>60</sup>

### ***Are Texas charter school facility bonds backed by the Permanent School Fund like traditional public schools?***

No. Texas' Permanent School Fund only guarantees traditional public school facility bonds by providing them with a AAA bond rating, which functions like bond insurance and provides a better interest rate on the loan.

### ***Is there any assistance to help charter schools in Texas acquire facilities?***

Yes. The Texas Credit Enhancement Program (TCEP) provides limited assistance to Texas open-enrollment charter schools. TCEP provides credit enhancement in the form of a debt service reserve fund for bonds that Texas charter schools issue to acquire, build, repair, or renovate facilities. The Texas Credit Enhancement Program was established by a consortium among the Texas Public Finance Authority, Charter School Finance Corporation, the Texas Education Agency, and the Resource Center for Charter Schools. The consortium received a \$10 million grant from the U.S. Department of Education to credit enhance up to \$100 million in total debt.\* Charters may not apply for more than \$1 million of the guarantee fund per series of bonds and are only eligible for up to a total of \$3 million per charter holder.<sup>61</sup>

### ***My local school district in Texas has some empty school facilities. Can a charter school lease these empty buildings?***

Charter schools can only lease a building if the school district agrees to do so. Even though these buildings were built or purchased by Texas taxpayers to be used for public education purposes, a school district can and many times does choose to leave them empty rather than lease to a public charter school. School districts are not required to lease unused buildings and some school districts choose not to.

### ***Is donating to a charter school tax deductible?***

Yes. Donations are tax deductible at the federal level.† Charter schools are non-profit organizations and therefore donations to charter schools can be deducted off of one's federal income tax. This is similar to public school education foundations which are non-profits and donations are tax deductible.

\* Approximately \$8 million was awarded to 14 charter schools meeting high academic and financial criteria in 2007. In 2008, another \$2 million was awarded to two charter schools. As all awards were not accepted, an additional \$1.7 million of TCEP funds were available to be awarded and in January 2009 these funds were awarded to two additional schools. Roughly half a million dollars remains in the TCEP fund for future awards as of January 2009. Additional money may be available in the TCEP fund in future periods as a result of interest accruing to the fund. Also, Texas might be able to apply for an additional federal grant.

† Texas does not have a state income tax.

### ***Is there a tax credit at the state or federal level for charter schools?***

No. There is no incentive on the state level to encourage private donations. In addition, there is no tax credit at the state or federal level.

## **TEXAS VS. NATION**

### ***How does Texas' charter school law compare to other states?***

Texas is ranked 27th and receives a "C" for a weak state charter school law by the Center for Education Reform.<sup>62</sup>

### ***How does Texas compare to other states in terms of charter school enrollment?***

Texas is ranked fourth in number of students and fifth in the number of charter schools.<sup>63</sup>

## **BARRIERS TO EXPANSION**

### ***What is a charter cap?***

A charter cap is a ceiling on the number of charters that the state or charter authorizer may grant. Caps are artificial limits on charter school growth with no connection to charter school quality. In Texas, the state legislature limited the number of open-enrollment charters that may be granted to 215 (excluding university-sponsored charters). The State Board of Education hit the 215 cap at their November 2008 meeting when they issued the remaining five open-enrollment charters. The State Board of Education is now prohibited from issuing additional open-enrollment charters to existing charter holders (for additional campuses under a different charter) or entities applying for a charter for the first time, regardless of the growing student waiting list.

### ***Do other states have caps?***

Yes. Most states with charter schools originally passed laws with caps limiting charter school growth. Charter school caps resulted from political tradeoffs to get the law passed, not because it was good education policy. Several state legislatures are making changes to their caps. For example, Colorado allowed their cap to sunset and California and New York recently raised their cap.<sup>64</sup>

Currently, 25 states and the District of Columbia have some type of cap on charter school growth. The states are Alaska, Arkansas, California, Connecticut, Washington D.C., Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana,

Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas, Utah, and Wisconsin.<sup>65</sup> With nearly 17,000 students on a waiting list to attend a charter school in Texas, the cap is preventing charter schools from meeting consumer demand.<sup>66</sup>

The cap in nine states is severely constraining growth. These states include: Delaware, Hawaii, Illinois, Massachusetts, Michigan, New Hampshire, North Carolina, Ohio, and Texas.<sup>67</sup>

### ***Do any states not have a cap on charter schools?***

Yes. Fifteen states do not have a cap limiting charter school growth. They include Arizona, Colorado, Delaware, Florida, Georgia, Kansas, Maryland, Minnesota, Nevada, New Jersey, Oregon, Pennsylvania, South Carolina, Virginia, and Wyoming.<sup>68</sup>

## **RECOMMENDATIONS**

### ***Expansion***

- Eliminate or raise the legislative cap on open-enrollment charter schools that is preventing many students on waiting lists from being served.
- Start measuring parental demand for charter schools by annually tracking the number of students on a waiting list both in Texas and by region.
- Lower barriers to expansion and replication for successful charter schools.
- Reward high-performing charter schools that meet high academic and financial standards for a minimum of five years by allowing them to apply for an extended charter.
- Allow traditional public schools and charter schools to be co-located within the same facility (such as a school with declining enrollment) and give the traditional school the option of claiming the charter school test scores. This could encourage sharing of ideas and best practices between the two schools.
- Require school districts with empty school buildings financed by taxpayers for the purpose of education to lease their empty facilities to charter schools.

### ***Regulations***

- Remove unnecessary regulations and red tape that hinder charter school performance and innovation.

- Where regulations affect both traditional schools and charter schools, treat them equally.
- Be careful that regulations don't penalize charter schools for serving a disproportionately large number of poor, minority, special education, or at-risk students, as this is the mission of many charter schools.

### **Accountability Measures**

- Measure charter school academic performance with individual student growth, as this will provide a more accurate picture of the school's impact on student learning.

### **Quality**

- Continue to have a rigorous application process to check for quality up-front before issuing a charter.

- Provide more in-depth training to charter school operators before they open their school.
- Provide ongoing training and technical support for charter school operators.
- Encourage Texas Education Agency staff to seek out training, development, and best practices in charter school authorizing and monitoring from other states, policy organizations, and national associations.

### **Research Best Practices**

- Research and share best practices from innovative charter schools with traditional public schools. ★

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