

# Protect students, parents, and taxpayers through improved charter school ethics and oversight



## 88TH TEXAS LEGISLATIVE SESSION

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*21 Texas organizations have come together to support recommendations that address serious concerns about charter schools in Texas and ensure that Texas students, parents, and taxpayers have more voice in the choices they make for their children and communities.*

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Texas has strong laws to safeguard taxpayer dollars and protect parent and student rights. However, many of these laws do not apply to open-enrollment charter schools.

Recent examples underscore the need for charter schools to comply with safeguards on ethics and transparency. As charters continue to grow — now accounting for 7 percent of public school students and 18.5 percent of state funding/revenue for public schools — it is important to ensure they are transparent and accountable to taxpayers.<sup>1</sup>

Just as public school districts do, charter schools should follow state laws on parental rights and student protections, such as data privacy protections.

# Recommendations to the 88th Texas Legislature (2023)

## 1. Guarantee Parents' Rights and the Right to Informed Choice.

Parents often assume that charter schools offer the same parent and student rights, student services, academic programs, and teacher qualifications as their neighborhood public school district. However, many charters fail to provide the same rights and resources and do not give parents easy access to this information before admission or enrollment.

For example, charters are not required to allow parents the right to review all teaching materials or the right to written consent before recording a child.<sup>2</sup>

State legislators should require that parental rights are the same, whether parents choose a public school district or a charter school. This includes parents' right to elect the school board that will govern their public school and the ability to conveniently attend and participate in school board meetings.

Many charter boards do not meet in the same communities as their campuses, and charter board members often do not live in those communities.

**Why it matters:** Parents may not have the information they need to make an informed choice about the services, programs, and staff qualifications that they value and seek in their public schools, such as transportation, counseling, food services, elective courses, extracurricular activities, class sizes, teacher certification, and special education services.

For example, the state's largest charter school chain had an average first grade class size of 43 students per classroom compared to an average of 18 students statewide.<sup>3</sup>

In addition, charters spend an average of \$646 less per student on instruction and 67% more of their total expenditures on central administration than public school districts.<sup>4</sup>

## 2. Safeguard Public Funds: Eliminate Conflicts of Interest and Misuse of Public Funds.

State lawmakers should require charter schools to adhere to the same state laws on conflicts of interest, nepotism, transparency, and misuse of public funds that apply to public school districts. Millions of taxpayer dollars intended for the classroom are at stake.

For example, the private management organizations contracted by some charter schools are not subject to state public information requirements and can shield a large percentage of charter school spending from public view. And unlike public school district superintendents, charter leaders are not prohibited by law from financially benefiting from work for entities that do business with their charter schools or from real estate transactions.<sup>5</sup>

**Why it matters:** Charters divert millions of taxpayer dollars out of Texas public school classrooms to private charter-affiliated groups and people — that are sometimes located in other states — without sufficient oversight or accountability. Charter schools are projected to receive \$8.8 billion in public funds over the 2022-2023 biennium,<sup>6</sup> and they now enroll almost 20 percent or more of students in our largest urban areas.<sup>7</sup> Charter schools should be held to the same standards as public school districts.

## 3. Educate All Children and Guarantee All Students Access.

Charter schools' policies, practices, and budgets often do not provide equal choices for all students, which limits their educational opportunities, especially for students needing special education services.

- Charters can exclude students who have any disciplinary history, even for a minor violation,<sup>8</sup> which has a disproportionate impact especially on special education students.

- In fact, charter schools serve 32 percent fewer special education students statewide than public school districts.<sup>9</sup>
- Charters can also exclude certain students by not providing transportation — which limits access to families who have reliable vehicles and flexible schedules. Charters continue this practice even though they can receive state funds for transportation.
- More than half of Texas charters spend zero dollars on student transportation, compared to less than 1% of school districts,<sup>10</sup> even though surveys conducted by charter groups show a majority of children may not be able to attend a charter school unless transportation is provided.<sup>11</sup>

State lawmakers should prohibit charter schools from denying enrollment to any student residing in their attendance zone and should require charters to provide the full array of services needed by local students.

**Why it matters:** Charter schools receive public funds and should serve all students equally. Charters should remove barriers to enrollment that exclude certain students, especially students requiring special education services.

#### 4. Guarantee Parents and Taxpayers a Voice in Charter Expansion.

Parents and taxpayers need a voice in education decisions that impact their children and their communities, yet they have little opportunity for input in the approval of most new charter campuses that cost taxpayers hundreds of millions of dollars every year.

The approval of new charter campuses approved through an expansion amendment to the original charter is the responsibility of one appointed state official at the Texas Education Agency (TEA). The amendment process does not include a general public notice, local public meetings, or the vote of a locally elected body.

Since 2010, 953 new charter campuses have been approved solely by the TEA Commissioner of Education — 67 in 2022 alone — without public input or vote.<sup>12</sup> The commissioner has approved the expansion of charters that serve far fewer students needing special education services than the state average and has approved expansions of charters that fell far short of their initial

projections of students requiring special education. State law puts no limits on the number of new charter campuses approved through the amendment process.

State legislators should grant the elected State Board of Education, which provides for public input when approving new charter applications, the authority to revoke a charter and approve charter expansion amendment requests. This would give local communities some voice in expansions and provide taxpayer accountability.

**Why it matters:** Most new charter campuses are routinely approved by the commissioner through the amendment process without a public vote, even though the charters do not serve all children equally; often have not met the commitments made in their original charter application; have not adequately informed affected communities about expansion plans; and do not consider the financial impact on the majority of students who choose to attend their public school districts.

#### 5. Provide Fair Funding for Public Schools.

Texas taxpayers expect that all students are provided the same level of financial support regardless of where they attend school. While there are various adjustments for students or socioeconomic status, school districts operating near charter schools serving largely the same student populations receive on average about \$1,150 less per student than charter schools.<sup>13</sup>

State legislators should adjust the small-school allotment to apply to charter schools in the same manner that it applies to school districts. Currently, charter chains enrolling tens of thousands of students receive a small-school allotment designed for schools with fewer than 5,000 students. For example, the ninth largest charter school in Texas enrolls 68,000 students and received \$68 million from this allotment.<sup>14</sup> A public school district with the same student enrollment receives zero.

**Why it matters:** There should be a level playing field for state funding so that students who choose to attend their public school districts are not penalized with fewer resources for support services, academic programs, and extracurricular activities.

# The following 21 organizations support these recommendations:



Association of Texas Professional Educators (ATPE) | Coalition for Education Funding | Every Texan | Fast Growth School Coalition (FGSC) | Go Public | IDRA (Intercultural Development Research Association) | Pastors for Texas Children | Raise Your Hand Texas | Texas American Federation of Teachers (Texas AFT) | Texas Association of Community Schools (TACS) | Texas Association of Latino Administrators and Superintendents (TALAS) | Texas Association of Midsize Schools (TAMS) | Texas Association of Rural Schools (TARS) | Texas Association of School Administrators (TASA) | Texas Association of School Boards (TASB) | Texas Classroom Teachers Association (TCTA) | Texas Elementary Principals and Supervisors Association (TEPSA) | Texas Rural Education Association (TREA) | Texas School Alliance (TSA) | Texas State Teachers Association (TSTA) | Texas Urban Council of Superintendents (TUC)

## SOURCES:

- <sup>1</sup> Compare 2022-2023 Statewide M&O Collections Detail Report, November 7, 2022, line 8 Total state aid excluding recapture (\$21,495,913,841) and 2022-2023 Statewide Charter School Summary of Finances, November 7, 2022, line 53 Total FSP/ASF State Aid (\$3,971,612,858) = 18.476%. Recapture is excluded in this calculation because it originates as locally collected school district property taxes that the state then appropriates.
- <sup>2</sup> Open-enrollment charter schools are generally exempted from many Education Code provisions under Tex. Educ. Code Sec. 12.103(b) (General Applicability of Laws, Rules, and Ordinances to Open-Enrollment Charter School). Sec. 12.104(b) (Applicability of Title) applies few parental rights laws to charter schools. Chapter 26 (Parental Rights and Responsibilities) likewise applies few parental rights laws to charters. Thus, many laws, e.g., Sec. 26.006 (Access to Teaching Materials) and Sec. 26.009 (Consent Required for Certain Activities), are inapplicable to charters.
- <sup>3</sup> Texas Annual Performance Report 2020-2021 for IDEA Public Schools (p. 31); Average classroom size information for IDEA and statewide.
- <sup>4</sup> TEA 2020 Snapshot State Totals; Line 89 (Actual Expenditures % on Central Administration was 10.7% of charters' total expenditures and 6.4% of districts' expenditures); Line 94 (Total Actual Instructional Expenditures Per Pupil for charters were \$4,950 and for districts were \$5,596).
- <sup>5</sup> Tex. Educ. Code Sec. 11.201(e) (Superintendents) does not apply to a charter school.
- <sup>6</sup> Legislative Budget Board Fiscal Size-Up (March 2022) p. 215; Figure 161.
- <sup>7</sup> Percentage of charter transfers by district calculated using TEA data from District Transfer Reports 2021-22.
- <sup>8</sup> TEC 12.111 (a)(5)(A).
- <sup>9</sup> 2021 TEA PEIMS data; Charters serve 7.7% special education students statewide while public school districts serve 11.4%.
- <sup>10</sup> TEA PEIMS District Financial Actual Reports 2020-2021 (Line item: transportation; calculated for all charters and for all public school districts).
- <sup>11</sup> Survey conducted by Families Empowered for Heritage Classical Academy (2021 new charter application PDF p. 159); Report from the Center for Reinventing Public Education (2014) p. 3; summary of additional research from National Association of Charter School Authorizers.
- <sup>12</sup> Texas Education Agency list of charter campuses approved through an expansion amendment by year received via public information request and 2022 expansion amendments posted on TEA website.
- <sup>13</sup> TEA Summary of Finances 2021-2022 – Charter School Statewide Summary (Line 20 – Small to Mid-Size Allotment).
- <sup>14</sup> TEA Summary of Finances 2021-2022 for IDEA Public Schools (Line 20 -Small to Mid-Size Allotment), TEA Student Enrollment Report for 2021-2022.