

CONNECTICUT'S
CHARTER
SCHOOL **LAW**
&
RACE TO THE TOP

A CONNCAN ISSUE BRIEF



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AN ISSUE BRIEF BY TORI TRUSCHEIT

Photography
Kekoa Brown

Design & Layout
rouse@ides.org

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To order copies of this report
please contact ConnCAN at
info@conncan.org or 203-772-4017.

Connecticut Coalition for
Achievement Now (ConnCAN)
55 W. Lay Street
New Haven, Connecticut 06511
203-772-4017

429 Calver Avenue
Hartford, Connecticut 06105
203-772-8911

www.connan.org
info.connan.org

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Introduction

In recent years, public charter schools in Connecticut and around the United States have proven that students living in poverty are capable of high achievement. President Obama said in a July 2009 interview, “Charters, which are within the public school system, force the kind of experimentation and innovation that helps to drive excellence in every other aspect of life.”¹ Now the Obama administration has made the quality of a state’s charter school law a key criterion to win the \$4 billion at stake in the federal *Race to the Top* grant competition. The administration has also signaled that it will place a similar emphasis on spurring the growth of high-performing charter schools as part of the upcoming reauthorization of the Elementary and Secondary Education Act (formerly known as No Child Left Behind). But misconceptions still remain about what a charter school is and what components a charter school law needs to be competitive.

What does a good charter law look like, both across the country and in Connecticut? Forty states currently allow public charter schools by law, and each state law is different. Connecticut is home to thousands of students who attend charter schools, many of whom are low-income. But we lag far behind other states in creating policy to support these students.

Replicating high-performing schools should be a centerpiece of education reform in Connecticut, just as this has become a centerpiece of federal reform. But our inadequate charter school law and funding policies are holding Connecticut back. With the worst achievement gap in the country between poor and non-poor students, we can’t afford to ignore charter schools as we work to fix our public school system. Talented school leaders and teachers are skipping past Connecticut for Massachusetts or New York, where public officials have welcomed charters as part of the solution to close the gap.

To bring more great schools to Connecticut and address our most pressing social problem, our state needs to get its charter policies right. This brief will explain what our charter policies look like now and what needs to change.

Charter School Basics

A charter school is a tuition-free public school that is run independently from a school district. Many public charter schools have a particular area of emphasis: Common Ground High School in New Haven focuses on the urban environment, with classes about biodiversity and food politics, for example. Other charter schools center on the arts or educat-

¹ “Obama Uses Funding to Get Education Changes.” *The Washington Post*, July 23, 2009, available at <http://www.washingtonpost.com/wp-srv/special/politics/education/interview.html>.

ing former high school dropouts. Some charter management organizations are national nonprofits dedicated to boosting low-income student achievement; others are run by parent groups, educational think tanks, and in some states (not Connecticut) for-profit companies.

Autonomy, Accountability and Choice

All charter schools, regardless of their theme, have three things in common: autonomy, accountability, and choice.

Charter school operators have considerable freedom in how they choose to run their schools. For example, charter management organizations are not initially required to sign collective bargaining agreements, so teachers in charter schools are not required to unionize (though in Connecticut they may choose to do so at any time by a majority vote). As a result, many charter schools lengthen the school day for students and teachers, adding more learning time to improve student achievement.

At the same time, charter schools face higher accountability standards than traditional schools: they must maintain certain levels of student achievement to remain open. In Connecticut, school leaders must renew their charter every five years by submitting paperwork and attending a public hearing about the school. Students at charter schools take the Connecticut Mastery Test or the Connecticut Academic Performance Test, just like their peers at traditional schools, and the results of these tests factor in the charter school's renewal. In that way, accountability is significantly stricter for charter schools than for traditional public schools, which in many cases can continue to operate indefinitely regardless of student achievement.

Finally, students choose to attend a charter school, as do the teachers and principals who work there. Just like traditional public schools, charter schools are publicly funded and do not charge families to enroll, nor are they allowed to screen students or set entrance criteria. Instead, interested families simply sign up to attend the school, and if there are more sign-ups than available spaces, a lottery is conducted to determine which students get in.²

Seventeen Years of Growth

The first charter school in America opened in Minnesota in 1993, after Minnesota passed the nation's first law allowing charter schools in 1991. Connecticut followed in 1996, and Odyssey Community School in Manchester opened its doors in February 1997. Since then, the State Board of Education has granted charters for 17 more schools.³ Amistad Academy opened in 1999 in New Haven and has gained national attention for its no-excuses approach to urban education. The founders of Amistad Academy subsequently started Achievement First, which is currently the only charter management organization in Connecticut, operating a series of schools in New Haven, Hartford, and Bridgeport.

² Lotteries are random and open to the public. In some cases, the host school district itself runs the lottery process.

³ Sometimes more than one school is included in one charter, as in the case of Elm City Elementary and Middle Schools.

Nationally, the charter school movement has exploded since the Connecticut law passed. Across the country, 1.5 million students attend more than 4,900 charter schools.⁴ In some states, charter schools enroll significant percentages of public school students: in Arizona, more than eight percent of public school students attend charters, and in New Orleans, Louisiana, charter schools enroll 54 percent of public school students.⁵

Connecticut Charter Schools: Restrictions and Results

Despite a restrictive policy environment, Connecticut's charter schools have also expanded. Over the last five years, the number of Connecticut students attending charter schools has increased from 2,918 in 2005 to 5,712 in 2010. State funding for charter schools increased by 215 percent, from \$22.4 million in 2005 to \$48.1 million in 2009, after hard-fought annual battles in the state budgeting process.⁶

Our state's public charter schools have demonstrated sustained success, especially among low-income students, making them a centerpiece in the movement to close our worst-in-the-nation achievement gap. On average, African-American middle school students fare better in charter schools than in traditional public schools. Statewide, only 35 percent of African-American middle school students are performing at goal, but at Amistad Academy, for example, 73 percent performed at goal—and three of the top 10 schools in the state for African-American performance are charters. This year the Achievement First network of charter schools performed particularly well: three of Achievement First's middle schools reached ConnCAN's Top 10 list for African-American performance, and Achievement First Bridgeport Academy was first in middle school performance gains.⁷

The Four Problems with Connecticut's Charter Law

Connecticut has an opportunity to win up to \$200 million in federal funding for education through the *Race to the Top* competition, but the criteria for winning are strict—and they address charter school policy directly. The guidelines allot a full 40 points for states that ensure “successful conditions for high-performing charters and other innovative schools.”⁸ Specifically, a state's charter school law must not “prohibit or effectively inhibit increasing the number of high-performing charter schools,” and charter schools must receive “equitable funding compared to traditional schools,” among other factors.⁹ Although Connecticut does meet one criterion related to charters—our State Board of Education

⁴ Public Charter School Dashboard. National Alliance for Public Charter Schools, June 2009, available at <http://www.publiccharters.org/dashboard/>.

⁵ *ibid*

⁶ Figures based on budget data published by Connecticut General Assembly, Office of Fiscal Analysis available at <http://www.cga.ct.gov/OFA/>.

⁷ *The State of Connecticut Public Education: A 2009-2010 Report Card for Our State's Public Schools and Public Policies*, ConnCAN, Tori Truscheit, January 2010, available at <http://www.conncan.org/sites/default/files/research/StateOfCTPubEd2009-Web.pdf>.

⁸ *Race to the Top Program Executive Summary*, U.S. Department of Education, November 2009, available at <http://www2.ed.gov/programs/racetothetop/executive-summary.pdf>.

⁹ *ibid*

uses student achievement as a factor in whether charters are renewed—we are far behind overall. In fact, the National Alliance for Public Charter Schools ranked Connecticut 22 out of 40 states in the quality of our charter school law, citing major problems with our funding system and the charter school enrollment cap.¹⁰ Fixing our charter school law will help us compete in the *Race to the Top*, but it is also an opportunity to get this critical part of our public school system right.

Problem No. 1 Enrollment Cap

Despite proven success for the students who need it most, charter schools have not been able to expand in Connecticut the way they have in other states, including our neighbors to the north and south, because our charter school law is one of the most restrictive in the nation. The law caps the number of students who can enroll in a charter school regardless of the charter school operator's capacity to educate more students. These caps have resulted in waiting lists of hundreds of families at charter schools like Hartford's Jumoke Academy, where students are turned away each year for lack of available seats.

Problem No. 2 Unequal Funding

Even more prohibitive than the enrollment cap is Connecticut's inequitable system for funding charter schools. Under Connecticut law, state charter schools are funded directly by the state and they do not get a share of the education funding raised by local property taxes. This means that charter schools end up with only about 75 percent of the per-pupil funding that districts receive for traditional public schools—even though they too provide a free education to public school students.¹¹

The state has a constitutional obligation to "provide a substantially equal educational opportunity" to all public school students—and an obligation to ensure equitable access to the public resources that fund our state's schools, whether public charter or traditional.¹² Matching charter school funding to the spending levels of students' actual sending districts, rather than the statewide average, is the appropriate reference point for ensuring equity. Indeed, rather than funding public charter schools at a lower rate than traditional schools, public charter students, who are disproportionately low-income and from the state's urban centers, should receive *higher* levels of state support. Through the progressive mechanism of the Education Cost Sharing funding formula, the state has recognized that these students deserve higher levels of state support—and the per-pupil spending level of many of these urban districts is accordingly thousands of dollars above the statewide average. Denying charter school students access to the same level of public resources as their peers, simply because their families have made a choice to attend a different public school, is inequitable.

10 "How State Charter Laws Rank Against The New Model Public Charter School Law," National Alliance for Public Charter Schools, January 2010, available at http://www.publiccharters.org/files/publications/DB-ModelLaw_Report_01-12-10.pdf.

11 Although charter schools are independently eligible for federal funding, such as Title I, they receive a share of these federal resources on a proportionate basis to traditional school districts, and so this source of funding does not serve to narrow their overall shortfall in public funding in comparison to traditional public schools.

12 In a series of court decisions, dating back over 30 years to *Horton v. Meskill*, the Connecticut State Supreme Court has ruled that the state has a constitutional obligation to provide a "substantially equal" educational opportunity to every child. Section 4, Article 8 of the Connecticut constitution, available at <http://www.cslib.org/constitution/amends/constitution.htm>, addresses the constitutional obligation to fund education.

Problem No. 3 ***Unsustainable Financing***

In addition, the way that the state provides this funding—an annual appropriation through a state budget line item—is unsustainable. Connecticut’s charter enrollment has grown each year as charter schools complete their natural grade growth: a high school that starts with a ninth grade must add a tenth grade the year after and so on until the school is complete. But this means that the state line item must be adjusted annually to precisely track this change, leading to a system that puts new schools at risk of half-completion. For the state budget line item to accommodate new students, public charter schools must advocate for an increase in funding every year—even though the state is constitutionally obligated to fund public school students’ education. Public charter school parents, students, and leaders must wait uncertainly each year to know if their schools will have the funding to remain open.

In addition to being inequitable and uncertain for families, the system is also wasteful: each year, the state misallocates scarce public dollars by paying districts for students they no longer educate while short-changing charter school students. Under state law, after a one-year grace period, charter school students are not supposed to be included in the enrollment counts of the districts from which they originated. But due to “hold harmless” provisions in the Education Cost Sharing formula, which stipulate that a district cannot be paid less each year than the year before, the state does not adjust for annual declining enrollment in each school district. In other words, if 100 students leave a school district to attend a public charter school, the state continues to pay the ECS grant to that district as if these students had never left—while at the same time adding new funds to a separate budget line item to pay for the education of these students in their charter school. The practical effect is that in many cases taxpayers are paying to educate the same students twice, at a high price: adding in the same effect for magnet school and technical school students, the state pays districts more than \$186 million a year for students they no longer educate.¹³ In a state with a budget deficit as vast as Connecticut’s, this kind of duplicative spending is unreasonable.

Connecticut’s charter funding system is an exception: every other state except two funds charter schools through a more efficient, stable system. Hawaii and Rhode Island are the only other states that use a yearly line item in the state budget for all charter school funding—and Hawaii does so because it only has a single statewide school district. Virtually every other state with a charter school law has found a better alternative.

Problem No. 4 ***Barriers To Growth***

This outdated, wasteful spending system is also a major barrier to growth in the charter school sector. Even if the State Board of Education

13 *The Tab: How Connecticut Can Fix its Dysfunctional Education Spending System to Reward Success, Incentivize Choice and Boost Student Achievement*, ConnCAN and Public Impact, November 2009, available at <http://www.conncan.org/sites/default/files/research/TheTab.pdf>.

approved a charter for a new school, funding is prohibitively difficult to secure. Imagine that a principal with great experience in improving student achievement wants to open a new charter school in Connecticut. This principal brings together a core group of community supporters, writes a strong application to the State Board with all the necessary documentation, and the State Board approves her application. Now she has to find funding. Because charter schools are funded by state line item, she must lobby for an increase in that line item before she can get state money for her first crop of students' seats. If the state legislature chooses not to fund seats for a new charter, she will not be able to open the school, even though the State Board has already approved her plans.

The intimidating charter funding process severely discourages the opening of new schools—even though many Connecticut charter schools have made impressive progress in increasing achievement among the state's neediest students. States like Massachusetts and New York make it relatively simple to secure charter funding, and Connecticut loses out on new schools that could make an impact on our achievement gap. In a recent report from the National Alliance for Public Charter Schools, Connecticut was named a "laggard" for its charter growth and school choice policies. The report calls Connecticut's charter caps "some of the most restrictive in the nation" and gives the state a one out of four for inequitable charter funding. Neighboring Massachusetts was one of three states ranked as leaders in charter funding.¹⁴

The Changes Needed To Be Competitive

Other states have already begun to change their charter laws in anticipation of the *Race to the Top* competition. The Massachusetts legislature, for example, recently passed an education reform bill to increase management flexibility in underperforming schools, raise the cap on charter schools in the lowest performing 10 percent of districts, and create a model for parents and community members to gain operational flexibility in their school.

Lift the Cap

First, Connecticut should remove charter enrollment caps and statutory provisions restricting charter school growth. Connecticut is the only state in the nation with a cap on charter school enrollment; although there is no cap on the number of charter schools that can exist, current schools are limited in size to 300 students.¹⁵ Limiting charter school enrollment keeps the state's neediest students from an opportunity for a

¹⁴ *How State Charter Laws Rank Against The New Model Public Charter School Law*. National Alliance for Public Charter Schools.

¹⁵ Specifically, the law calls for an enrollment cap of 250 students for every board of education-certified charter school, or 25 percent of the enrollment of the district in which the charter is located, whichever is less. For K-8 charters, the enrollment cap is 300 students or 25 percent of the enrollment of the district. There is an exception for schools with demonstrated records of student achievement: they may add 85 students per grade. For more information, see the National Alliance for Public Charter Schools' state charter law rankings database, available at <http://www.publiccharters.org/charterlaws/component/1>.

great education—and in the state with the nation’s largest achievement gap, we cannot afford barriers to the growth of high-performing schools.

Equalize Funding, Remove Barriers and Create a Sustainable Finance System

The other three major problems with our law (unequal funding, unsustainable financing, and barriers to growth) are fundamentally interconnected and can only be addressed with a new charter school funding system.

The simplest and most straightforward way to do so is to adopt a “money follows students” funding mechanism, phased in over time. In a system where money follows children to their charter school of choice, which is already employed in virtually every other state, students’ per-pupil funding would follow them from a district school to a charter school, eliminating the current double-funding problem.¹⁶

To ensure equity, each charter school student would be funded at a level equivalent to the sending district’s average per-pupil expenditure, excluding costs such as transportation, which charter schools do not themselves incur. Districts would also transfer the responsibility for the cost of special education to charter schools, with the exception of out-of-district placements for students with especially high-cost needs. The state would also create a school facilities allowance for charter schools and a provision to provide access to state bond funding for school facilities on equivalent terms to traditional public schools.

The cost of a new charter school funding mechanism would be minimal for most districts and would be phased in over time, as is the case in Massachusetts. The state would gradually transfer financial responsibility for charter students to the districts, incorporating them back into the districts’ ECS formula allocations and subsidizing the cost of each charter student at 100 percent in the student’s first year of charter enrollment, 60 percent in the second year, 40 percent in the third year, and finally requiring the district to fully fund that student in the fourth year. The state would never fully remove itself from funding new charter students, always providing a subsidy in the first three years of a student’s enrollment and easing the burden on districts. But a new system would save the state a substantial amount of money.

Under the current system, the state is on track to spend \$357 million on charter schools through 2014–2015, growing the charter line item to finish natural grade growth in open charter schools and support the ECS Commission’s recommendation to increase per-pupil funding to \$10,600. Under the proposed new funding system, the state would spend \$285 million through 2014–2015, including transitional aid to districts, a savings of \$72 million. In the final year of the transition in 2014–2015, the annual cost to the state would be just \$2.7 million, or less than 4 percent of the \$65.9 million that the current system is estimated to cost by 2014–2015. The transitional aid payments would begin in 2011–2012, with no financial impact to districts until the 2012–2013 budget year. And the only year this new system will cost more is 2011–2012, which the

¹⁶ For more information about a system where money follows children, see page 14 of *The Tab*.

state could cover using a portion of the winnings from *Race to the Top*, realizing even more savings than the estimated \$72 million.

For 85 percent of districts, the transfer costs would be less than \$100,000 a year under the proposed system, and the median cost of these transfers per year to districts would be \$11,832. Some of the large districts like New Haven and Hartford, where transfer costs would be higher, already allow families to choose their schools as part of a portfolio system and could leverage a money-follows-the-student system on behalf of all students in the districts, not just those attending charter schools.

Conclusion

Changing Connecticut's charter school laws will be a challenge, but it is an essential part of closing Connecticut's achievement gap. Lifting the charter school enrollment cap is an important initial step to earn points for the *Race to the Top* and better serve Connecticut's neediest students. A cap limits the number of students who can have access to a high-performing charter school, short-changing the thousands of students who might benefit from a school of choice.

But in addition to lifting the cap, we need to fix the fundamental problem with charter school policy in Connecticut: the inequitable funding system. Students in charter schools are public school students, and the state is responsible for funding their education, just like their peers in traditional public schools. The state charter line item funds charter schools separately from traditional schools and wastes millions of dollars of taxpayer money through double-funding. This funding system is unreliable for families and charter school operators—and it penalizes families who exercise choice by funding them at 75 percent of traditional schools' per-pupil rates. To win our *Race to the Top* and to give our public school students the education they deserve, we need to change Connecticut's charter law now.

About ConnCAN

The Connecticut Coalition for Achievement Now is building a new movement of concerned citizens advocating to fundamentally reform our public schools through smart public policies.

In the tradition of Connecticut's great advocacy movements—from the Connecticut Woman Suffrage Association to Harriet Beecher Stowe and the abolitionists—ConnCAN was founded in January 2005 on the fundamental belief that closing the achievement gap requires not only innovative educational models, but also issue-based advocacy that secures systemic change.

Today, ConnCAN has a staff of 11 employees working in offices in New Haven and Hartford and is hailed as one of the nation's leading state-level education reform organizations.

We will not rest until every Connecticut child, regardless of race or class, has access to a great public school.

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