



Charter Schools

Choice of Schools

Education Commission of the States

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Trends in state charter school laws: Authorizers, caps, performance-based closures and virtual schools

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Forty-two states and the District of Columbia have enacted charter school legislation. ECS analysts reviewed laws in the 50 states in creating an online database that highlights how state charter school laws vary, particularly in how states establish standards and accountability for charter school authorizers, allow for appeals, provide assistance with start-ups and fund charter schools.

Recently, attention to authorizers — the entities responsible for approving and overseeing charter schools — has increased. A growing number of states are establishing standards and reporting requirements that authorizers must adhere to.

Other rapidly evolving policy areas discussed in this brief are limits or “caps” on the number of charter schools allowed in a state, automatic performance-based closures and virtual or “cyber” charter schools.

Find your state in the ECS Database

ECS' charter school database covers 31 elements in seven policy areas, including:

- Accountability
- Authorizing
- Autonomy
- Finance
- Teachers

Key Takeaways

- 42 states and D.C. have charter school laws. Those without laws are **Alabama, Kentucky, Montana, Nebraska, North Dakota, South Dakota, Vermont and West Virginia.**
- 33 states have statewide authorizing bodies.
- 15 states and D.C. have standards for authorizers, including **Nevada, New Mexico and Ohio.**
- 16 states and D.C. require charter school authorizers to submit annual reports on their portfolio of schools, including **Illinois and Maine.**
- 11 states and D.C. have explicit performance thresholds. If charters fall below these thresholds, state law requires their charters to be revoked or non-renewed. Examples include **Florida, Mississippi and Tennessee.**
- 20 states plus D.C. place some type of cap on the number of charter schools or students served, including **Missouri, New York and Rhode Island.**
- More than 20 states with charter school laws have policies directed at online charter schools, including **Oklahoma and Oregon.** See page 5 for details on Oregon's robust policy.

Six evolving policy areas in state charter school laws

1. Statewide authorizing bodies

Why it matters: Statewide authorizing bodies can have a broader reach and provide quality and consistency in the way charter schools are authorized and overseen across the state.

Thirty-three states have established statewide authorizing bodies. A statewide authorizing body might be the state board, a quasi-independent body that maintains connections to the state education agency or a totally independent entity.

In some states, an authorizing body is the only entity that may approve charters while other states might also allow local school boards, higher education institutions or others to authorize charters. In some states, the traditional authorizers might require final approval from the statewide body. Other duties of statewide authorizing bodies may include hearing appeals when charter applications are denied by school districts and authorizing and/or specializing in oversight of cyber/virtual charters.

2. Standards for authorizers

Why it matters: Standards for authorizers focus on ensuring authorizing bodies are equipped to create and uphold high expectations for the schools they approve.

Fifteen states and D.C. have established standards for authorizers. Standards often reflect the lessons learned by experienced authorizers and are used to guide practices. Some authorizing standards are required by statute to be based on the standards developed by the National Association of Charter School Authorizers (NACSA) or similar national charter school organizations.

- **Nevada** requires authorizers to review and evaluate nationally recognized policies and practices and then to develop their own policies and practices.
- In **New Mexico**, chartering authorizers are required to develop and maintain policies and practices consistent with nationally recognized principles and standards.
- In **Ohio**, the department is to prescribe quality practices and develop an instrument to measure adherence. Standards must be based on standards developed by NACSA or other national charter school organizations. The department is required to annually rate all sponsors as “exemplary,” “effective” or “ineffective.”

3. Annual reports by authorizers

Why it matters: Annual reports provide transparency for operations and results.

Sixteen states and D.C. require charter school authorizers to submit annual reports on the portfolio of schools they have approved and that they oversee.

- In odd-numbered years, **Illinois** school boards with at least one charter school — and the state charter school commission — must give the state board specific information about the performance of their charter schools. In even-numbered years, the state board must issue a report to the general assembly and the governor on the performance of charter school pupils

versus the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

- In **Maine**, authorizers must submit a yearly report to the department of education about how well each school is meeting the terms of its agreement. In addition, at the end of every five years of a school's term the authorizer must issue a public charter school performance report.
- **Ohio** is unique in that it reports on its portfolio of schools but also reports on the portfolio of sponsors that it has approved. By Dec. 31 of each year, the state department is required to issue a report to the governor and the legislature that contains information on the effectiveness of academic programs, operations and legal compliance of all charter schools, and on the performance of sponsors.

4. Thresholds beneath which charters *must* be revoked

Why it matters: Policies that specify unacceptable performance can clearly signal when action is required.

Eleven states and D.C. have enacted policies on automatic closures of charter schools.

- In **Mississippi**, if a charter school is designated an "F" school during the final contract year, the authorizer is not allowed to renew the school's contract.
- **Florida** requires a sponsor to terminate a charter if the charter school earns two consecutive grades of "F" unless: the charter school was established to turn around the performance of a district public school that serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of "F" in the year before the charter school opened and the charter school earns at least a grade of "D" in its third year of operation. Or, it does not need to terminate the charter if the state board has granted a waiver (good for only one year and not an option for schools in existence for five years).
- In **Tennessee**, any charter schools identified as priority schools under the state accountability system must be closed at the end of the school year, and no appeals are allowed.

5. Caps on numbers of charter schools or students served

Why it matters: Fewer caps can allow greater options and increased accessibility for families.

Twenty states and D.C. set some type of limits on the number of charter schools or the number of students enrolled in them, although the actual list of states has changed from 2010 to 2014. Not only is there variation across states in the size of caps but also in which types of schools or entities the limits apply. For instance, **Delaware** law sets no caps but a local school board can choose to limit the number of charters granted.

- **Rhode Island** law says that no more than 35 charters can be granted and at least half of the total number of charter public schools must be reserved for charter school applications that are designed to increase educational opportunities for at-risk pupils.

- In **Missouri**, while there is no cap on start-up charter schools, no more than 5 percent of the operating public schools in a school district may be converted to charter schools.
- **New York** state law sets a limit of 460 total for start-ups, but conversions and renewals do not count toward limits.
- The **District of Columbia** limits the number of *new* charters to 20 each year.

Even where there are caps, changes might be phased in. For instance, **California's** limit — which was 1,750 in the 2013-14 school year — increases by 100 each year.

6. Explicit attention to virtual or cyber charters

Why it matters: Policymakers worried about the academic performance and operations of virtual charters are beginning to strengthen accountability mechanisms for these schools. For instance, virtual programs often attract a greater share of for-profit or out-of-state operators, which can make fiscal and performance oversight more challenging than for most brick-and-mortar schools.

More than half of the 42 states with charter school laws explicitly define or permit cyber charter schools. A smaller number (19) require additional oversight of these schools. Some states are silent regarding cyber charters but that doesn't mean such programs cannot or do not exist in that state.

- In **Nevada**, if a charter provides a program of distance education, all statutes and regulations that are applicable to distance education apply.
- **Ohio** limits new Internet- or computer-based schools to five each year and such schools require the approval of the superintendent of public instruction. The state board is required to adopt rules to determine experience and qualifications of applicants and is to define measures. The director of the Governor's Office of 21st Century Education and the superintendent of public instruction are required to develop standards.
- In **Oklahoma**, a virtual provider that offers full-time instruction to students who are not residents of the district is considered a site within each district. State law requires the provider and the district with which it contracts to identify students who are full-time virtual and do not live within the physical boundaries of the district. The district and provider are required to submit detailed data in electronic format — on performance of nonresident students receiving full-time instruction. Beginning July 1, 2014, no school district may offer full-time virtual education to students who are not residents of the district, nor can a district contract with a provider to serve such students.

Case Study: Oregon

Oregon's virtual charter school policies are notably robust. More so than most states, Oregon law targets specific aspects related to academic achievement, family engagement, finance and licensure:

Academic policies

Cyber charters must:

- Create a plan to improve student learning and meet academic content standards and outline performance criteria in which to measure progress
- Have a process for monitoring and tracking student progress through valid assessments
- Ensure that each student has access to computer and printer equipment and is offered an Internet service cost reimbursement
- Agree to provide a student's education records to the student's resident school district or to the sponsor, upon request of the resident school district or sponsor
- Create a plan to provide written notice to the sponsor and, if different, to the school district where the student is a resident if a student withdraws from the school.

Student and family engagement policies

Cyber charters must create a plan to:

- Conduct school-sponsored optional educational events at least six times each school year
- Conduct meetings at least twice a week between teachers and students enrolled in the school
- Provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year
- Involve parents, guardians and the professional employees of the school in the academic program.

Finance policies

Cyber charters must have:

- A budget, business plan and governance plan for the operation of the school
- A plan for maintaining financial records, at a designated central office.

Licensure policies

- All superintendents, assistant superintendents and principals of the school must be licensed by the Teacher Standards and Practices Commission
- Teachers must be licensed to teach by the Teacher Standards and Practices Commission and be considered highly qualified, as described NCLB, to teach at least 95 percent of the school's instructional hours.

See Section 338.120 of Oregon charter schools law.

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What are charter schools?

Charter schools are semi-autonomous public schools, founded by educators, parents, community groups or private organizations that operate under a written contract with a state, district or other entity. Many charter schools are exempt from many rules and regulations affecting other public schools, as long as they continue to meet the terms of their charters.

Additional resources

Recent state policies and activities, [Choice of Schools – Charter Schools](#), from the ECS State Policy Database, updated weekly. This database is made possible by state fiscal support of ECS.

[ECS charter school issue site](#), including sections on [what states are doing](#) and [selected research and readings](#).

About ECS

[The Education Commission of the States](#) was created by states, for states, in 1965 to work with governors, legislators, chief state school officers, higher education officials and other leaders across all areas of education, from pre-K to college and the workforce. We track policy, translate research, provide unbiased advice and create opportunities for state policymakers to learn from one another.

The conclusions presented in this report are those of ECS, which receives the majority of its funding from the member states it serves. As part of the services ECS provides to states, staff members are available for consultation and to serve as third-party experts in legislative hearings.

As with any compilation of information across the 50 states, the information is only as good as the information available. We welcome any corrections, additions or changes. Please contact Kathy Christie, 303.299.3613 or kchristie@ecs.org with questions or comments about the database.

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