

Issue Brief

Accelerating the Success of Kansas Charter Schools

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INTRODUCTION

Thirteen years after a charter school law was enacted in Kansas, these innovative public schools have yet to take root in the Sunflower State. As of the 2006-07 school year, there were only 27 public charter schools open serving about 2,200 students, which is just 2% of the state's public schools and less than 1% of its public school students. Charters were open in just 23 of the state's almost 300 districts.

Most charters resemble small district programs as opposed to vibrant stand-alone schools. The average size of a charter school in the state is 78 students, as compared to the average size of a traditional public school at 332 students (and the average size of a charter nationally at 256 students). In fact, more than 60% of Kansas's charter schools have fewer than 80 students.

One of the primary reasons for the lackluster state of the charter school movement in Kansas is the anemic policy environment. A state's charter

school law can create the conditions for success for a state's charter schools. In Kansas, though, the law falls well short of that mark.

To be fair, the charter law in Kansas has its strong points. There is no cap on the number of charter schools that can be approved. There is no arbitrary limit on who can submit a charter application. And there are pretty clear timelines for most parts of the application process.

Unfortunately, the law's shortcomings outweigh its strengths, particularly in four of the most important parts of charter law. First, it does not provide sufficient autonomy to charter schools. Second, it provides inequitable operational funding to charter schools. Third, it does not provide any support for charter school facilities. Lastly, it does not allow charter applicants to apply to any entity other than their local school boards. In addition to these major issues, there are several other aspects of the current law that inhibit opportunities for high-quality charters in Kansas.

The purpose of this issue brief is to provide an analysis of those areas of the charter school law in Kansas that need to be strengthened to create the conditions for success for the state's public charter schools.

PROVIDING AUTONOMY TO PUBLIC CHARTER SCHOOLS

One of the core principles of charter schools is school level flexibility. To provide charter schools with such autonomy, states and districts waive many of the state and local laws, rules, and regulations that burden traditional public schools. Generally, there are two approaches that state

charter laws take to waivers. In the first approach, a variation of which is found in 16 states including Kansas, charter schools apply to their local school boards or state boards of education for waivers of state and local laws, rules, and regulations. In the second approach, found in 24 states and Washington D.C., the charter statute provides charter schools with an automatic waiver from most state and local laws, rules, and regulations to ensure that charter schools have the flexibility necessary to be successful.

Currently, the charter law in Kansas allows charter schools to seek waivers only after they are approved. Then, they must apply to the local board of education for waivers of local policies and state rules and regulations, but cannot seek waivers from state statutes. The local board, in turn, decides whether to grant the waivers of local policies and whether to apply to the state for waivers of state rules and regulations. The state board, then, decides whether to grant waivers of state rules and regulations. It is an onerous process for the schools, to say the least, and makes it difficult for charter schools to obtain the type of flexibility that is needed in order to develop unique and innovative programs.

The requisite flexibility could be provided if charter schools benefited from an automatic waiver of most state and local laws, rules, and regulations to public charter schools, with exceptions relating to health and safety, civil rights, and state standards and assessments. Such a step will allow for greater flexibility at charter

Fact

▶ Kansas charters currently enroll less than 1% of the state's public school students.

schools and will invite a greater number of charter applications with more innovative programs.

PROVIDING EQUITABLE FUNDING TO PUBLIC CHARTER SCHOOLS

One of the biggest hurdles facing public charter schools nationally is inequitable funding. According to a study by the Thomas B. Fordham Institute entitled *Charter School Funding: Inequity's Next Frontier*, public charter schools receive 78% of what traditional public schools get. In Kansas, the charter statute is silent on how charter schools are to be funded. As a result, the amount of operational funding for charter schools in Kansas must be negotiated into the charter itself. Since local districts are the only charter authorizers in the state, they essentially have complete discretion over how to fund the charter schools they approve. In other words, charter schools are at the mercy of local districts for enough operational dollars to sustain their schools.

To provide fiscal stability to charter schools, charter schools should be funded in a way that is fair to charter schools, to the school district(s) in which the charter school is located or from which it draws students, and, most important, to the students enrolled in the charter school.

One way to fund charter schools that is fair to all parties is to require that all state and local funding be sent to the charter school, minus local funding streams inappropriate for charters. For example, the total state financial aid for District X is \$4,700 per student and the total local effort is \$2,200 per student. A charter school that serves students from District X would receive a total of \$6,900 for each student attending that charter school from District X minus local funding streams inappropriate for charters. If a charter school serves students from more than one district, the calculation is repeated for each district from which a charter school draws students. To mitigate the impact on small districts, lawmakers should amend state law to explicitly permit charter schools to draw students from more than one district.

PROVIDING SUPPORT FOR PUBLIC CHARTER SCHOOL FACILITIES

As states address the fiscal inequities between public charter schools and traditional public schools, a significant challenge is ensuring that charter schools are able to find and finance facilities. The charter school law in Kansas is silent on this pressing

issue. This silence has limited the types of public charter schools that have opened in the state, resulting in mostly smaller, virtual, and conversion charters as opposed to larger, brick and mortar, and start-up charters.

There are several approaches that can be utilized to address the facilities issue. First, charter schools should be able to access unused or underused district facilities and land. For example, Arkansas law provides that charter schools shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a district from which it draws its students if the district decides to sell or lease the facility.

Second, the state should provide funding for charter school facilities costs. By doing so, Kansas would become eligible to apply for federal matching dollars via the State Charter School Facilities Incentive Grants Program.

Currently, 15 states provide some type of funding for facilities costs through per-pupil allocations, grants, or loans. For example:

- For FY 2008, **Colorado** appropriated \$5 million in capital construction funds for charter schools. These funds are provided to qualified charter schools on a per-pupil basis.
- In **New York**, the Charter Schools Stimulus Fund provides discretionary financial support to charter schools for start-up costs and for costs associated with the acquisition, renovation and construction of school facilities. New York appropriated \$6 million to this program for the 2007-08 school year.
- In **California**, a charter schools revolving loan fund allows charter schools to receive loans for as much as \$250,000, allowing up to five years for repayment.



In providing funds for charter school facilities costs, a revolving loan fund could be created with monies from the federal Charter Schools Program (CSP). According to federal law, states can use up to 10% of their grants from the CSP to establish a revolving loan fund, as was done in California.

In addition to a public solution to the facilities issue, the state should explore public-private partnerships and private solutions. There are several entities that have received federal funds for the specific purpose of providing credit enhancement for charter schools in various parts of the country (e.g., the Raza Development Fund, the Charter Schools Development Corporation, and the Local Initiative Support Corporation). Some of these programs have a national focus and could support charter school facilities in Kansas. There are also bond issuers that are interested in and have experience in underwriting bonds for charter school facilities (e.g., AG Edwards/Wachovia Securities and RBC Capital Markets).

ALLOWING ADDITIONAL AUTHORIZERS OF PUBLIC CHARTER SCHOOLS

Charter authorizers are entities charged by law to approve new schools, monitor compliance with applicable laws and regulations, and evaluate their performance to make decisions about charter renewal and closure. To achieve quality charter school authorizing, a recent report



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from the U.S. Department of Education entitled *Supporting Charter School Excellence Through Quality Authorizing* recommends that states allow for a mix of different authorizers, autonomous authorizers, authorizers that are insulated from political changes, and authorizers that are sufficiently funded and held accountable.

In fact, there is a growing trend among states with charter laws to allow entities in addition to districts to serve as charter authorizers. Currently, 26 states and D.C. allow non-district entities to serve as charter authorizers. These alternate authorizers include colleges and universities, city and county governments, non-profit organizations, and state charter boards.

Under the Kansas charter statute, districts are the only allowable authorizers. This framework provides little incentive for the creation of a robust charter school sector. When presented with a charter application, districts often see it as competition – and it is. However, it does not have to be a Kansas vs. Kansas State type of competition. Instead, it should be more like the competition between and among teammates – a competition that helps all team members to improve.

Charter applicants sometimes make this problem worse. In some situations, charter petitioners have difficulty communicating with districts in a non-threatening way. Applicants can be intimidated in dealing with

these well-established entities, especially because districts hold the fate of the applicants' dreams in their hands. Such trepidation can result in a lack of communication, leaving the district feeling ambushed by a charter petition that is presented to them with short notice.

In addition to the lack of incentives for districts to approve charter applications, districts are often not ideally suited to performing the tasks required of a charter authorizer. The charter school model is more of a bottom-up approach, empowering educators, parents, and others to innovate with educational models, operations, and governance. Conversely, districts typically operate in more of a top-down way and often lack the human capacity and the philosophical desire to oversee one or more schools that are operating autonomously and differently from the other schools in the district.

In states that allow entities in addition to districts to serve as charter authorizers, lawmakers believe charter applicants should have a choice of authorizers, particularly in districts that are skeptical – if not downright hostile – toward charters. In addition to providing charter applicants multiple avenues toward authorization, allowing other entities to become authorizers forces districts to take their authorizing roles seriously. If they don't, charter applicants will go to the other entity.

The fact that the majority of districts in Kansas are small is another factor that supports some form of charter

authorizer other than districts. In fact, if you take away the seven school districts in the four largest population centers - Wichita, Kansas City (including four districts), Topeka, and Lawrence – the average number of students in the remaining districts is just over 1,000 per district. An alternate authorizer may be in a much better position to approve and oversee charter schools in rural areas of Kansas that serve students from multiple districts.

Charter schools would be a more viable option in Kansas if additional entities could serve as charter authorizers. In particular, we recommend the state give serious consideration to creating an independent state charter board to serve as an additional charter authorizer, a growing innovation in charter authorizing. This entity could be responsible for authorizing and overseeing charter schools in a way that is supportive of high quality charter schools but also ensures that the schools are accountable for achieving the performance goals listed in their charter. Currently, eight jurisdictions have created such entities (Arizona, Colorado, District of Columbia, Florida, Hawaii, Idaho, South Carolina, and Utah), with other states likely to do so soon, such as Georgia.

METHODOLOGY

With financial support from the Ewing Marion Kauffman Foundation, the National Alliance for Public Charter Schools contracted with Phil Andrews of Charter School Solutions, Inc. to conduct an analysis of the charter school law in Kansas. Mr. Andrews reviewed the existing law, prior efforts to change the law, and media stories on charter schools. He also visited Kansas and interviewed over 20 government officials, charter supporters, and charter school leaders and petitioners. This paper is based on Mr. Andrews's analysis.

SOLVING THE MIDDLE SCHOOL RIDDLE

As in many states across the country, the middle school grades are particularly challenging for educators in Kansas, especially in urban districts. In several states, public charter schools are playing a key role in successfully overcoming this challenge. One notable example is the Knowledge Is Power Program (KIPP).

KIPP is a national network of high-performing public schools, most of which are public charter schools. There are currently 57 KIPP schools in 17 states and Washington, DC, serving over 14,000 students. KIPP schools share a core set of operating principles known as the Five Pillars: High Expectations; Choice & Commitment; More Time; Power to Lead; and, Focus on Results. KIPP schools have been widely recognized for putting underserved students on the path to college. More than 80% of KIPP students are low-income and more than 90% are African American or Hispanic/Latino. Nationally, nearly 80% of KIPP alumni have matriculated to college.¹

¹ Information from KIPP's website, www.kipp.org, visited on January 11, 2008.



IMPROVING OTHER PARTS OF THE CHARTER LAW

By providing charter schools with sufficient autonomy, equitable funding, support for facilities, and a new authorizer, Kansas will go a long way to creating the conditions for high quality public charter schools. In addition, the charter school environment in Kansas would benefit from the following improvements.

Clarify Timelines in Charter Application Process

As noted above, the current timelines

are pretty clear on most aspects of the petitioning process. However, there are four specific issues that need to be addressed in this area. First, there is not a clear deadline for a charter authorizer to hold a hearing after receiving a petition. That hearing should occur within 45 days of receiving a petition.

Second, in addition to the hearing deadline, there should be a clear deadline for how long after denying a petition a charter authorizer must send out its written notice of denial with the reasons stated. Thirty days should be sufficient time for a written notice of denial to be prepared.

Third, the entire timeline from initial submission of the charter until the opening of the school is too tight. Currently, the deadline to submit a

petition to open a charter school in 2008 is December 1, 2007. Ten months is simply not enough time to go through a two-step approval process (i.e., local board and state board) and perform all of the work necessary to prepare for the opening of a new, start-up charter school. A better approach would be a deadline for the initial submission of a charter petition of August 1st of the year before the school is set to open.

The fourth issue is to ensure some flexibility in the timing of the process. For example, an applicant that receives approval for its charter proposal may encounter some bumps in the road that prevent them from opening the school the following fall. In those cases, the applicant should have more time to get ready to open. To account for this circumstance a petitioner should have up to 18 months after final approval of their charter to open the school, with the ability to ask for further extensions as needed.

Create a Process for Amending Charters

Currently there is no stated process for amending a charter granted in Kansas. If a charter needs to be amended for any reason, the Department of Education has adopted a process that treats the charter like any other contract. Basically, if one or more parties to the charter want to amend the charter, they must propose the amendment to the other two parties and, if all parties agree, the amended document is signed by all three parties (charter school, local

Fact

▶ Eight jurisdictions have created independent state charter boards.

school district, and state) and remains in effect, as amended, for the remainder of the term of the charter.

While this approach is logical and efficient, there is currently no written policy regarding this process.

Therefore, if there is a change in the charter school office of the State Department of Education there is no assurance that the current, reasonable approach will continue. There should be long-term predictability and certainty about the process for amending a charter.

Clarify the Process for Renewing Charters

There appears to be some conflict or ambiguity in the charter statute regarding the process of renewing a charter school. The charter law provides that charter schools can be renewed if the local school board and state board of education determine that the charter school has “demonstrated progress in achieving the program goals it established” That language implies that a positive review of the progress of the charter school is all that is required in order to renew a charter school.

However, the charter law also states that the “board of education of a local school district shall receive and review each petition for establishment or continuation of a charter school and may grant or renew a charter for operation of a school. The charter must contain the following key elements: ...” (emphasis added).

While the quoted language is not real clear on this issue, it seems to

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indicate that a petition to continue or renew a charter needs to contain the same elements as an initial charter petition. That would be a much more onerous process than the one implied in the other part of the charter law. Some clarity on this issue would be helpful.

Ideally, a whole new petition would not be required. Instead, renewal should only require submission of a detailed review of the progress of the charter school toward meeting the performance objectives set forth in its charter, plus approval of either a new set of performance benchmarks if the original benchmarks have been met or, if not, a set of adjustments and new strategies for reaching any of the original benchmarks that have not yet been reached.

GETTING STUDENTS READY FOR THE WORKPLACE

The challenge of preparing students for an ever-changing workplace faces education leaders throughout the nation. In Kansas, there are several industries – such as aerospace around Hutchinson and Wichita and construction and farming throughout the state – that require a skilled workforce. The Central Educational Center (CEC) in Newnan, Georgia, illustrates how charter schools are helping to meet this challenge.

CEC was developed through a partnership between local business leaders, the local school system, the local technical college, local community leaders, the Georgia Department of Technical and Adult Education (DTAE), and the Governor’s Office. CEC is designed to meet the needs of a 21st century economy by seamlessly blending secondary and postsecondary education and training with business and industry. In its first four years, CEC served 559 dual-enrollment students who earned 657 technical college certifications. Since CEC was formed, the local school systems’ dropout rate has fallen by nearly half. ²

² Information from CEC’s website, <http://www.gacec.com/index.cfm>, visited on January 11, 2008.

CONCLUSION

While the charter school movement is small in Kansas, there are an increasing number of individuals who passionately believe in the power of public charter schools to improve student learning in Kansas. That student improvement will only be realized, however, if the environment for charter schools is strengthened in ways that better support existing and new schools, including innovative models that have thrived in other states but been reluctant to open schools in Kansas.

The roadmap for more robust opportunities for charter schools should involve addressing the following eleven points:

1. **Provide an automatic waiver of most state and local laws, rules, and regulations to public charter schools, with exceptions relating to health and safety, civil rights, and state standards and assessments.**
2. **Require that all state and local funding be sent to the charter school, minus local funding streams inappropriate for charters.**
3. **Provide avenues for charter schools to access unused or underused district facilities and land.**

4. **Provide funding for charter school facilities costs.**
5. **Allow additional entities to serve as charter authorizers.**
6. **Create a deadline of 45 days after receiving a petition for a charter authorizer to hold a hearing.**
7. **Create a deadline of 30 days after denying a petition for a charter authorizer to send out its written notice of denial with the reasons stated.**
8. **Move the deadline for the initial submission of petition for a start-up charter school to no later than August 1st of the year before the school is set to open.**
9. **Provide that a petitioner has up to 18 months after final approval of their charter to open the school, with the ability to ask for further extensions as needed.**
10. **Create a process for amending a charter.**
11. **Create a process for renewing a charter.**



By implementing the above recommendations, Kansas can create conditions for the success of the state's public charter schools, resulting in more public schooling options available to the state's families and higher levels of performance among the state's students.

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