



# Guide to Charter or Community Schools

*OSBA leads the way to educational excellence by serving Ohio's public school board members and the diverse districts they represent through superior service, unwavering advocacy and creative solutions.*



### Introduction

Charter and community schools are a growing phenomenon across the country. Ohio is no exception, with nearly 400 such schools currently in operation. Charter and community schools take many forms, including brick-and-mortar buildings and Web-based programs. They are heralded by some as a new and innovative way to serve students and decried by others for accountability issues and their impact on traditional public schools.

The number of students and the share of public dollars going to support charter and community schools continue to expand. In the most recent biennial budget, nearly \$1 billion state foundation dollars flow through and from the funding distributed to traditional public schools — nearly 20% of the state appropriation for K-12 education. Every student leaving a traditional public school for a charter or community school takes almost \$5,800 annually from the state share of tax revenues distributed to the student's school district of residence. The loss of students and dollars leaves the traditional public school district with fewer revenues to support remaining students.

It is clear that charter and community schools are here to stay. Traditional school districts and their boards of education must plan accordingly if they are to compete successfully, retain current students and even attract students back from charter and community schools. This publication is intended to



serve as a primer on charter and community schools for school board members, staff and community members. It provides a brief overview of the types of charter and community schools and arguments for and against them. It also includes information about funding, facilities and student performance.

It is recommended that board members and administrators learn the facts about charter and community schools operating in their community, such as how many students and dollars are being transferred to these schools. More importantly, they should learn why students are choosing to leave the school district and how the district can address students' needs. This information should be analyzed and used as a basis for an action plan. Further, it is recommended that this information be reported to the community so it too will know about the flow of dollars to charter and community schools, as well as the facts about student outcomes in the district and local charter and community schools.



### Charter or community schools

Charter or community schools are publicly funded, privately managed, semiautonomous schools of choice. These schools receive public funding like traditional public schools, but have more freedom over their budgets, staffing, curricula and other operations. In exchange for this freedom, charters are expected to deliver academic results. If there is insufficient demand, or if they fail to show academic success, charter or community schools may be closed.

The number of charter schools has grown since the first charter law passed in Minnesota in 1991. Since that time, 41 states and the District of Columbia have passed legislation allowing the creation of these schools. As of July 2012, there are more than 6,000 public charter schools in operation. Charter schools account for more than 5.5% of all public schools and serve approximately 2 million students, accounting for 4.2% of public school students.

In 1997, Ohio enacted legislation to authorize the creation of charter schools, or community schools, as they are known by the Ohio Department of Education (ODE). The Ohio legislation was enacted “to promote greater competition, innovation and choice.”

### Authorizing charter or community schools

Authorizing is the process of approving an application for a charter, negotiating a contract, overseeing a school and deciding whether to close a school at the end of its charter or renew its contract. State laws determine which entities have authorizing powers and are responsible for holding charter schools accountable for effectiveness. An authorizer is responsible to develop a proposal or plan that:

- identifies the school’s mission;
- provides a financial plan for budgets and facilities;
- identifies specific educational goals, including graduation and promotion rates;
- designates any for-profit or nonprofit management companies that will be involved.

Across the U.S., the most common authorizers are local school districts, accounting for nearly 90% of all charter schools. Other authorizers include higher education institutions, state boards of education, nonprofit organizations, independent charter boards and municipal governments. A recent report by the *American School Board Journal* notes that states that identify local school boards as the primary authorizer of charter or community schools are more likely to create academically successful schools, while those states that empower multiple authorizing agencies tend to show the weakest academic results.

Ohio currently provides for two types of community schools: the *conversion school* and the *new start-up school*. A conversion school is created by converting all or part of an existing public school to a community school. A conversion school may be created by any city, local, exempted village or JVSD, or in any ESC. Any person or group of individuals may submit a proposal to convert all or part of a building owned by a school district or operated by an ESC. The board of education may enter into a preliminary agreement to a conversion to a community school. Once the board signals its preliminary agreement, the proposing body may finalize plans for the conversion school, establish a governing authority for the school and negotiate a contract with the board of education. As long as the proposing



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body adheres to the preliminary agreement, the board of education is required to negotiate in good faith a comprehensive sponsor contract to govern the operation of the conversion school.

Board of education members are not permitted to simultaneously serve as a member of the school district's board of education and a member of the governing board of a conversion school sponsored by the district. A superintendent of a school district may serve simultaneously as the chief administrative officer of the conversion school, but with certain limitations on overseeing the operation or financial operations of the conversion school. Similarly, a treasurer of a school district may serve simultaneously as

### Arguments for and against charter or community schools

#### School choice

**Proponents** believe charter or community schools provide families with greater choice. Parents can choose the school best suited for their child.

**Opponents** suggest only some parents will have access, due to the limited number of charter or community schools, raising questions of equity and fairness.

#### Innovation

**Proponents** believe charter or community schools serve as laboratories for experimentation and innovation and that these schools will identify successful practices that can be adopted by traditional public schools.

**Opponents** argue many successful reform practices are already available, making the charter or community schools unnecessary. These innovative practices should be attempted in traditional schools first.

#### Competition

**Proponents** argue school choice increases competition and leads to pressure on school districts to reassess their practices.

**Opponents** note charter or community schools are too limited in scope to put significant pressure on the entire public school system.

#### Accountability

**Charter or community school supporters** argue they are more accountable, since they are not renewed if they are not successful or fail to retain sufficient students.

#### Traditional public school supporters

argue charter or community schools are less accountable since they are freed from many regulations and reporting requirements that school districts must meet.

#### Academic success

**Proponents** contend that charter and community schools serve and succeed with those children who are among the most difficult to educate.

**Opponents** point out that charter schools frequently use selective admission criteria and that traditional public school students typically outperform charter students.

#### Financial savings

**Proponents** believe that charter and community schools educate students at a lower cost than traditional public schools.

**Opponents** point out that traditional public schools must incur costs for additional services and operations required by state and federal law that charter and community schools are not required to provide.





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treasurer of a conversion school sponsored by the district, but with a similar restriction.

A new start-up community school can only be created in a “challenged school district,” defined as any district in academic emergency or academic watch; any urban district with a poverty level greater than 30% and total enrollment exceeding 12,000; or any district ranked in the lowest 5% of school districts according to their performance index score on the State Report Card.

Sponsors of new start-up community schools in Ohio may be:

- the local board of education in the district in which the school will be located;
- the board of a JVSD having territory in the county containing a majority of the territory of the district in which the school will be located;
- the board of education of any city, local or exempted village district having territory in the county that contains a majority of the territory of the district in which the school will be located;
- the governing board of an ESC if the school will be in the county having territory within the ESC or contiguous to that county;
- any authority designated by any of the 13 state universities, as long as the purpose of the school is related to the university’s teacher preparation program;
- a qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Service Code, which:
  - ◆ has been in operation for at least five years;
  - ◆ has assets of at least \$500,000 and a demonstrated record of financial responsibility;
  - ◆ has a demonstrated record of successful implementation of education programs;
  - ◆ is an “education-oriented entity” as determined by ODE;
  - ◆ is not a community school.

The new start-up community school must have a governing board with at least five members. No person may serve on the governing board of more than two new start-up community schools. No present or former board member, or immediate relative, may be an owner, employee or consultant of any sponsor or operator for a period of one year following such person’s governing board membership. Management companies providing services to a community school at a cost greater than 20% of the school’s gross annual revenues are required to provide a detailed accounting of those costs.

The contract between the sponsoring entity and the community school must be approved by a majority of both governing boards. ODE must make available on its website a copy of every approved and executed contract filed with the department. There is no limit on the number of community schools that may be created within a given school district.





### **Internet- or computer-based community school**

There is a subcategory of community schools, called an Internet- or computer-based community school. This school is defined as a community school in which students “work primarily from their residences” on assignments provided “via an Internet- or other computer-based instructional method that does not rely on regular classroom instruction.” The definition also may incorporate “mixed delivery” or “blended learning” approaches where at least some instructional time is through face-to-face contact.

An Internet-based or computer-based community school must:

- maintain affiliation with at least one full-time licensed teacher of record;
- assign each child to at least one teacher of record;
- not allow a teacher of record to have primary responsibility for more than 125 students;
- use filtering technology to protect against obscene or harmful Internet content;
- include a plan for teacher visits;
- provide a computer for each child enrolled at the same residence, unless parents consent to a lesser number;
- not count a student as enrolled for state-funding purposes unless all computer hardware and software is in place and fully operational.



### Charter or community school exemptions

Freedom from rules and regulations is a hallmark of charter or community schools across the nation, and Ohio is no exception. Charter or community schools in Ohio are exempt from most, but not all state laws and regulations. The Ohio Revised Code (RC) section governing community schools (RC 3314) states that community schools shall be “exempt from all state laws and rules pertaining to schools, school districts and boards of education, except (1) laws that grant certain rights to parents; (2) laws specified in the sponsor contract; and (3) laws specifically enumerated in Chapter 3314.” (For a list of applicable laws, see list below.)

#### Laws applicable to charter or community schools

Among the laws that are retained and applicable to charter or community schools are those relating to:

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| • teacher licensure/revocation;  | • Sovereign Immunity Law;  | • child abuse reports;  |
| • State Teachers Retirement System and School Employees Retirement System; | • Ohio Whistleblower Law;  | • jury duty/protection of employees;                          |
| • open meetings (Sunshine Law);  | • Public Employment Risk Reduction Program (Ohio Occupational Safety and Health Administration); | • achievement tests;  |
| • Public Records Law;  | • bus driver qualifications;   | • Third-Grade Reading Guarantee;                              |
| • Education Management Information System;                                 | • criminal records check (Ohio Bureau of Criminal Investigation);                                | • student records;  |
| • Ohio Ethics Law;   | • employee insurance programs;   | • student suspension and expulsion;                           |
| • state auditor’s audit requirements;                                      | • tax-sheltered annuities;   | • student discipline policy;                                  |
| • spending plan requirement;   | • student diagnostic assessments/intervention;   | • permanent exclusion;  |
| • Ohio Privacy Act;  | • missing children clearinghouse;  | • corporal punishment ban;                                    |
| • Ohio Civil Rights Act;   | • sealing of juvenile records;   | • immunization rules;   |
| • workers’ compensation;   |  | • special education provisions;                               |
| • wage and unemployment discrimination;                                    |  | • health screenings, including vision and hearing screenings; |
|  |  | • health and safety standards;                                |
|  |  | • school lunch and breakfast programs.                        |

Charter or community schools are subject to all federal laws that pertain to schools and employers generally, including the Family Educational Rights and Privacy Act of 1974, Individuals with Disabilities Education Act and Free Appropriate Public Education for Students With Disabilities, as well as federal anti-discrimination laws.



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Charter or community schools are exempt from many other laws, including state minimum education standards, civil service laws and competitive bidding requirements. Additional exemptions are included in the list below.

### Laws from which charter or community schools are exempt

Among the laws not applicable to charter or community schools are those relating to:

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| • civil service laws;     | • zero-tolerance policies;  | • academic eligibility    |
| • collective bargaining;  | • academic distress         | rules for interscholastic |
| • Uniform Public Security | commission;                 | competition;              |
| Law;                      | • disposal of district real | • shared services;        |
| • Uniform Depository      | and personal property;      | • open enrollment;        |
| Act;                      | • competitive bidding       | • vocational education    |
| • school records and      | requirements;               | requirements;             |
| retention;                | • calamity makeup days;     | • capital and maintenance |
| • state minimum           | • business advisory         | fund.                     |
| education standards;      | councils;                   |                           |

## Charter or community school funding

As publicly funded schools, charter or community schools receive money for the students they enroll. The funding subsidy for charter or community school students in Ohio is calculated on a per-pupil basis. When a student enrolls in a charter or community school, funding follows him or her from the state through the local district to the charter or community school. The funding is deducted from the state basic aid amount that would otherwise flow to the resident district.

This deduction of funding from the district of residence is a confusing and contentious issue. First, the state reports the level of state funding for the district *before* the charter or community funding is deducted, giving community residents the impression the local school district receives more state funding than it actually does. Second, it is not clear as to whether any local revenue follows the student. To the extent that the dollar amount for charter or community schools exceeds the per-pupil amount districts receive from the state, it can be said that the difference between the amount directed to charter and community schools and the state funding provided to the district is local money. However, charter or community school proponents insist that no local funds follow the child as long as the district receives even \$1 in state funding. Regardless of one's position, it is clear that the district has fewer dollars to spend on the students remaining in the district. Simply having one less student does not proportionately decrease the burden on a district for staff, facilities, instructional materials and other operating costs. Also, the local school district must bear the financial burden to provide transportation for the charter or community school.

Charter or community schools may not levy taxes, nor may they charge tuition. They may receive gifts and donations from individuals, corporations or charitable foundations, and they may apply for state and federal grants.





Each school district is required to report annually the number of resident students attending charter or community schools. Similarly, the charter or community school must report detailed enrollment information. This information, subject to verification, is the basis for the funding amount sent to the charter school.

### Charter or community school facilities

In Ohio, charter or community schools are given a “right of first refusal” when a school district is selling a building or leasing space. The school district must offer the facility to charter or community schools at a price that is not higher than the appraised fair market value of the property, as determined in an appraisal no more than one year old. If no charter or community school acts on the right of first refusal within 60 days, the board of education is free to dispose of the property as prescribed by law.

Further, if a school district facility ceases to be used for school operations for a period of two years, the board of education must offer the property for sale or lease to the governing authorities of all charter or community schools located in the district and/or to any charter or community school with established plans to locate in the community.

If a charter or community school no longer needs or plans to use a facility purchased from the school district, it must first offer the property to the school district at a price no higher than the fair market value.

Charter or community school facilities must meet all health and safety standards established by law for school buildings.

A charter or community school may borrow funds for a period of up to 15 years for the purpose of acquiring, improving or replacing facilities through the Ohio Community School Classroom Facilities



Loan Guarantee Program. This program is operated by the Ohio School Facilities Commission and guarantees loans for up to 15 years and 85% of the total cost for principal and interest. The most recent state budget, as adopted in House Bill 59, provides \$100 per charter or community school student for facilities expenses.



### Charter or community school achievement

Students enrolled in Ohio charter or community schools are subject to the same achievement and graduation testing requirements as students enrolled in traditional public schools. However, due to their unique student demographics, waivers may be granted to dropout recovery schools and those schools where a majority of the students are children with disabilities requiring special education.

The charter or community school experiment is based on the hypothesis that improved student performance will result from the freedom, flexibility and autonomy granted. Twenty-two years after the charter school movement began, these expectations have yet to be realized. There are a few notable successes among charters. Schools such as KIPP public charter schools and Breakthrough Schools have shown strong performance. But the vast majority of charter or community schools have shown very poor performance, lagging behind the achievement of traditional public schools. When only test scores are considered, traditional public schools consistently outperform charter schools on a nationwide basis, not only in reading and mathematics proficiency, but also in average SAT and ACT scores.

Deeper analysis has shown, however, that some low-income students may perform better in charter or community schools offering a strong focus on student achievement and discipline. Ohio charter or community school results are similar — most of the lowest performing Ohio schools are charter or community schools, but a few charter or community schools have been among the highest performing schools in the state.

The State Report Cards for the 2012-13 school year show the comparative performance of traditional public schools and charter or community schools. More than 60% of charter or community school grades were rated “D” or “F,” as compared to only 20% of traditional public school grades in those same categories. Moreover, more than 50% of traditional public school grades were rated “A” or “B,” as compared to less than 20% of charter or community school grades.

The assessment results for charter or community school vary so dramatically that it is impossible to issue a blanket summary. The National Conference of State Legislatures recently issued a summary of research that shows:

- traditional public schools have consistently outperformed charter schools in reading and math proficiency of fourth- and eighth-graders;
- charter middle school students tend to perform better in math and reading when compared to similar students attending traditional middle schools;
- charter schools operating in their first year often will have low test score performance;
- virtual charter schools historically have shown consistently lower levels of achievement.

In Ohio, charter or community schools are required to close for poor performance when the school has been in academic emergency for two of the last three years (K-three schools); in academic emergency for two of the last three years *and* showed less than one standard year of growth in reading or mathematics (grades four-eight); or has been in academic emergency for two of the last three years (grades 10-12).

Student demographics vary among charter or community schools, but in Ohio, the charter or community schools tend to reflect the racial and socioeconomic characteristics of the communities in



which they are located. Many, but not all, serve a population that is low-income, with high percentages of minorities. Generally, these schools serve a lower percentage of students with disabilities that require special education services.

## Conclusion

School choice has become a popular mantra in recent years. While it is true that “one size does not fit all,” making a good choice requires a thoughtful decision-making process. The wise parent will take a variety of factors into consideration, including their child’s learning style and the performance of the schools being considered — whether that be a traditional public school district, district-sponsored charter or community school, nonpublic chartered school or a private school. It is recommended that parents making such decisions seek the advice and counsel of other parents, school officials and trusted educators.

## Sources

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