

'FISCAL IMPACT' AS A FACTOR IN CHARTER GROWTH IN RHODE ISLAND

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NATIONAL ALLIANCE FOR
**PUBLIC
CHARTER
SCHOOLS**





INTRODUCTION

Charter schools and district schools are *both* public schools serving public school students and operating within the same public education ecosystem. For nearly as long as charter schools have been in existence, there has been concern about how these innovative public schools that generally sit outside the jurisdiction of the school district might potentially impact other public schools that sit within the school district—or even cause harm to the district itself. One of the most common misperceptions of charter schools is that they take financial resources from the local school district, thereby causing a negative “fiscal impact” on the district and hurting the overall public education system. This report discusses Rhode Island law on the relevance of public charter schools’ “fiscal impact” on school districts as a basis for limiting charter growth.

Following a brief summary of the status of public charter schools and the relevance of their ‘fiscal impact’ under Rhode Island law, this report briefly lists arguments school districts and others make on this basis for resisting charter growth, then outlines a series of affirmative and responsive legal and policy reasons why arguments of this sort should not generally block charter growth in the state. Facts, data, arguments, and citations supporting analysis in the main body of the report are laid out in greater detail in appendices cross-referenced at the end of paragraphs of the report. While this report is a deep dive into the specifics of Rhode Island’s charter sector, many of the fiscal impact arguments and rebuttals made here are also relevant in other states.

It should be noted that certain provisions of the charter law in Rhode Island provide a monetary cushion to district public schools, helping to ease – and in some cases completely eliminate – the financial effect of per-pupil funding that would leave a district school and follow the student to a charter school. Throughout the report, this phenomenon will be illustrated. The report will show that district schools in Rhode Island in fact suffer very little, if any, fiscal harm. While this might sound laudable on its face, there is also reason for concern.

It is the position of the National Alliance that charter schools, which are always public schools, deserve to be funded the same as any other public school. Students who attend charter schools are *public school* students who deserve all the tax-payer resources afforded to any other public school student for the same purposes. Further, in the long run, the goal must be to fund public education, not to fund school districts when they are no longer educating students.



SUMMARY

As of 2020, Rhode Island had 32 public charter schools operating at 36 campuses enrolling 11,061 students, or 7.9% of the state's public student body.¹ Half of the state's charter schools are in Providence, the state's largest city. Many charter schools draw students from more than one school district, and some draw students from across the entire state. From the 2009-2010 school year to the 2019-2020 school year, charter school enrollment nearly tripled, increasing at 9.41% per year, with a subsequent rise of 9.6% during the pandemic year of 2020-2021.

As the data for this report were being finalized in December 2020, the Rhode Island Council on Elementary and Secondary Education (CESE)—the state's equivalent of a state board of education—on the recommendation of the state's Commissioner of Education, approved the creation of three new charter schools and the expansion of three others,² all serving Providence (among other communities). The actions occurred in conjunction with CESE's and the Rhode Island Department of Education's (RIDE's) take-over and "reconstitution" of the Providence school district that began in 2019.³ The Commissioner's decisions authorize 6,068 new charter school seats to be phased in over periods ranging from 3 to 12 years, which, when fully occupied by students, will constitute a 60% increase in the number of charter students enrolled from the baseline year of 2019-2020. With the closure of one charter school in progress, the addition of three new schools brings the state's total to 34 authorized charter schools—one shy of the cap.

Rhode Island's Charter School Law (Charter Law) gives CESE, upon recommendation of the Commissioner, discretion to authorize, expand, renew, and revoke charter schools to operate independent public charter schools. The Charter

Law directs the Commissioner and CESE, in exercising this discretion:

*to place substantial weight on the fiscal impact on the city or town; programmatic impact on the sending school district; and the educational impact on the students in the district to ensure that the proposal is economically prudent for the city or town and academically prudent for the proposed sending school district and for all students in the sending district.*⁴

This guidance applies only to charter authorization and expansion. It does not apply to charter renewal and revocation decisions. The statement is one of just four directives the Charter Law includes in guiding the Commissioner's and CESE's discretion over charter authorization and expansion. The other directives are:

- ▶ To "consider all relevant information" provided in the charter proposal and public comments on the proposal and "the requirements of regulations and law";⁵
- ▶ That "priority of consideration be given to charter public school applications designed to increase the educational opportunities of educationally disadvantaged and at-risk pupils";⁶ and
- ▶ That "[t]he provisions of this chapter [i.e., of the Charter Law] are to be interpreted liberally to support the purposes set forth in this [Law] and to advance a renewed commitment by the state to the mission, goals, and diversity of public education."⁷ [Appendices G-2(a), G-2(b), G-2(c)]



In regard to last of these directives, the purposes of Rhode Island's Charter Law and the mission, goals, and diversity of education under Rhode Island law and policy in support of which the Charter Law is to be interpreted liberally may be summarized as follows:

- ▶ The primary goal is to use charter schools' flexibility, innovation, and accountability to promote improved student learning and academic performance, with special emphasis on the learning and performance of educationally disadvantaged and at-risk students.
- ▶ Secondary goals are to use charter schools to increase educational options for families, teacher leadership, and the flexibility and independence of schools.
- ▶ A cross-cutting goal is to achieve these important returns on the public's investment in education in an "economically" as well as "academically prudent" manner for "all students."⁸ Thus, in deciding whether or not to authorize or expand charter schools, the CESE and the Commissioner are to:
 - ▶ "[t]arget investments to improve student and school performance;"⁹
 - ▶ evaluate the "success of investments" in education based on
 - ▶ "accountability for student and school performance;
 - ▶ accountability in terms of whether the state's investment is sufficiently adequate and equitable to support such improvement in performance; and
 - ▶ accountability for district and school expenditures";
 - ▶ use charter schools as "vehicles for research and development in . . . fiscal accountability" in public education—valuing their ability to foster student success at lower cost than traditional public schools;¹⁰ and

- ▶ give substantial weight to the impact of charter schools on the learning success of "all students in the sending district," those in district as well as charter schools.¹¹[Appendix G-1]

Until 2016, the Charter Law pursued the above objectives by funding charter schools at the same per-pupil level as district schools "*net of*" school districts' separate budgets for constructing, renting, and debt service on school facilities—expenses charter schools must fund out of operating expenses.¹² Charter schools also have long received proportionately less of the state's categorical funding for students than districts receive. More specifically, the state's funding formula and Charter Law provide charter schools with (i) the same *state* per-pupil operating funds as the sending district for each student who comes from that district, using a per-pupil rate that is higher for more expensive-to-educate students (for example, students from low-income families); and (ii) the average *local* per-pupil operating funding for the same students, but in this case without accounting for the higher-than-average cost of educating English language learners, students from low-income families, and students with disabilities. The Charter Law also has long moderated districts' transition costs from sudden increases in charter enrollment from one year to the next by using the prior year's charter school enrollment as the reference for current year charter school funding, except when charter school enrollment increases by 10% or more. In that latter event, state and local funding is based on *half* of the increased student enrollment *at or above* that 10% mark. [Appendices E, G-5, G-7]

Under the state's general education funding formula, the state-funded portion of educational operating funds—and thus of charter school funding—is much greater for districts in Rhode Island's economically hard-pressed cities (where state funding typically accounts for over 70% of all funding) and much lower for the state's middle class suburban districts (where the state portion is typically under 35%). As charter schools more recently began operating in middle-class suburban



districts, which bear a much higher proportion of all public education funding—and thus of charter school funding—new resistance to charter schools arose.

In 2016 (effective in 2017), largely in response to this new, suburban phenomenon, the Rhode Island General Assembly adjusted the funding formula to further diminish charter schools' fiscal impact on school districts. The express goal of the new funding arrangements was to compensate districts more than before for their “fixed,” “indirect,” “unique,” and transitional costs that may not, at least immediately, decline in proportion to savings from decreases in the number of students enrolled. The legislature thus:

- ▶ Reduced district's local tuition rate by either 7% of their per-pupil operating expenses or 100% of those costs minus the district's per pupil “unique”—mainly indirect and fixed—costs that are not shared by charter schools—whichever is *lower*;
- ▶ Further reduced local tuition by ~\$1000/pupil for districts sending students to charter schools where teachers do not contribute to public pensions;
- ▶ Increased state aid to sending districts by 5% of their local contributions to charter schools (this state aid is not available to charter schools); and
- ▶ Provided districts with additional state aid (~\$108 for each student enrolled in a charter school for each qualifying year) to soften the effect of a recent 3-year period of high charter growth. [Appendix G-5.]

The aggregate result of these adjustments was to reduce districts' effective local tuition rate for charter students from 100% to **no greater, and often considerably less, than 88%** of local per pupil operating funds.

More specifically, the calculation of a district's revenue lost to charter schools begins with the presumption that the district school would lose *100% of its local per-pupil funds* when a student leaves the district. This is not accurate. In reality, there are several “rebates” and other clever funding mechanisms that allow the district to automatically retain certain monies and to receive additional funding from other sources in certain circumstances. The net result is that district schools suffer far less financial impact than one might imagine. Consider this scenario where a district school will retain:

1. 100% of local facilities funding
2. 7% of per-pupil operating funds for students who are enrolled at charter schools
3. 100% of “unique” costs that exceed the per-pupil operating funds already retained (see #2)
4. 5% of the local per-pupil operating expense for each new student who transfers to a charter school
5. ~\$1,000 per pupil if the receiving charter school's teachers do not contribute to the public pension system
6. ~\$108 per pupil in state aid to districts during specified years of high charter growth
7. the *entire per-pupil cost* for new students who leave to attend a charter school, if the total enrollment at the charter school increased 10% or less than in the prior year

OR

8. 50% of cost of first-year charter students when the charter school increased its enrollment 10% or more over the prior year.



Since the 2017 changes, the Commissioner has recommended and CESE has approved the creation of three new charter schools and the expansion of at least four others.¹³ In each case, the Commissioner and CESE concluded that the proposed charter schools and expansions would not have an adverse fiscal impact on the affected towns and school districts and would in fact have a positive educational impact on all public school students in the affected areas.¹⁴

Appendix H describes RIDE’s and the charter schools’ local fiscal impact analyses based on which three new charter school authorizations and three expansions were approved in 2020. That information satisfied the Commissioner and CESE that the sending district’s local annual tuition payments to the proposed new or expanded charter school did not constitute a large enough proportion of the district’s total operating expenditures in the first year of the school’s operation and at scale to harm the district financially. A snapshot of the two proposals with smallest and largest impact as thus measured follows:

At least for larger urban districts, impact on total operating expenses under 1% in the first year and less than 8% at scale seems to satisfy the Commissioner and CESE that a proposal’s fiscal impact on the district is manageable. In more suburban school districts such as Cumberland, Lincoln, and Warwick, where local contributions to charter schools are much higher and recent opposition to charter growth for that reason has been stronger, the fiscal impact of charter schools remains to be seen. [Appendix G-7]

Charter proponents may appeal to CESE to review the Commissioner’s decisions not to recommend authorization, expansion, or renewal of a charter. In turn, the losing party may seek review of CESE decisions by petitioning the Rhode Island Superior Court of Providence County under the state’s Administrative Procedure Act. In preparing this report, we found no published judicial opinion reviewing a CESE or Commissioner’s decision denying (or granting) a charter proposal. [Appendix G-4]

APPROVED CHARTER PROPOSALS			
PROPOSAL	DESCRIPTION	YEAR ONE IMPACT AS % OF SENDING DISTRICT’S ANNUAL EXPENSES	IMPACT AT SCALE AS % OF SENDING DISTRICT’S ANNUAL EXPENSES
RI NURSES INSTITUTE	<u>Lowest impact:</u> 228-seat expansion over 5 years drawing from 9 districts	Negligible for all districts	.62% Providence (most impacted dist.)
EXCEL	<u>Highest impact:</u> 2,186-seat new charter phasing in over 9 years drawing from Central Falls, N. Providence, Providence	.58% Central Falls .46% N. Providence .54% Providence	7.6% Central Falls 6.1% N. Providence 7.1% Providence



FISCAL IMPACT ARGUMENTS IN RHODE ISLAND

Fiscal impact arguments made or likely to be made against charter growth

Typical “fiscal impact” arguments to oppose proposals to authorize or expand Rhode Island charter schools include suggesting that a new charter school will:¹⁵

- ▶ **Decrease the district’s funding, budget, surplus, staffing, or programs.** Because Rhode Island is a small state with a large proportion of small school districts (on average there are five schools per district, even fewer excluding Providence, which has 43 schools), the fiscal and programmatic impact of losing funding for even relatively small numbers of charter students can be substantial, especially for smaller middle-class districts bearing a high proportion of school funding [Appendix B-2.]
- ▶ **Diminish funding without proportionate cost savings due to indirect, fixed, and transition costs that are insensitive or slow to adjust to decreases in student enrollment.** Aggravating the adverse effect of enrollment loss, especially by small school districts, are districts’ fixed and indirect costs, which do not go down much or at all when districts send students and their funding to charter schools (e.g., the cost of transporting non-public students to school) or that may be pegged to previous, higher enrollment and staffing levels (e.g., health benefits for retired teachers).¹⁶ Because charter schools attract a small number of students from several district schools, it is difficult for the district to immediately reduce staff, programming, and other costs in proportion to the amount of enrollment and funding loss.
- ▶ **Create new or exacerbate existing budget deficits or other financial hardships, especially during economically hard times when local tax receipts and state funding shrink.** Districts’ loss of enrollment and funding to charter schools aggravates other financial problems, which include a decline in population and overall public school enrollment (district + charter)—causing immediate declines in state per-pupil funding and gradual declines in tax revenue. At this writing, the economic shock accompanying the 2020-2021 pandemic is aggravating all these problems. Charter opponents fear that if charter growth continues much beyond its current share of public school enrollment, the state and towns will have to fund what amounts to parallel school districts. Given local funding constraints from balanced-budget requirements,¹⁷ the need for a state waiver to raise a municipal levy by more than 4% year on year,¹⁸ and several large districts’ inability to fund their portion of the “foundation rate” that the state defines as educationally adequate, districts’ only remedy if more charter seats are authorized is school closures and associated disruption. [Appendix G-5]



- ▶ **Leave district schools with higher proportions of students who cost more than average to educate (e.g., from low-income families, English learners, and students with disabilities), while charter schools receive average local per-pupil funds to educate students who, on the whole, cost less than average to educate.**¹⁹ [Appendix C]
- ▶ **Is not tied to any long-term strategy for public education in the state or firmly enough to the Charter Law’s policy of improving the learning outcomes of traditionally underserved students.** Although Rhode Island has nearly reached its cap of 35 charter schools, there is no statutory cap on expansion of existing charter schools, which continues to occur, without any formal state policy on where such growth might lead. One proposal, in a recent report by a Senate Select Committee, is to link charter growth more firmly to the Charter Law’s primary goal of enhancing the performance of traditionally underserved students by resetting the local tuition for charter schools to “100 percent when the receiving charter is outperforming the sending school” and to “no more than 50 percent of the local tuition calculation” “[w]hen the sending school is outperforming the receiving charter.”²⁰

This proposal might have the effect of limiting charter growth in middle-class suburbs such as Cumberland, where district schools have 62% and 53% proficiency rates in ELA and Math, compared to 49% and 48% for the area’s largest charter school operator. [Appendix D²¹]

A Senate Select Committee Report described fiscal impact arguments often made in Rhode Island. The report was used to present a controversial fiscal impact case study about the expansion of the Achievement First charter school in Providence by 1000 students. According to the report, those 1000 students would leave the Providence district with a \$15 million hole in its budget that would need to be filled “in order to break even.”²² The report describes the decidedly charter-friendly legal and policy frame within which the General Assembly requires that all issues arising under the Charter Law be resolved, and then lists a variety of reasons why charter proposals’ “fiscal impact” vis-à-vis school districts should not often bar charter school proposals.

Reasons why “fiscal impact” is only rarely an appropriate basis for denying charter proposals

The remainder of this report provides a point-by-point analysis of the Rhode Island-specific arguments listed above and shows why “fiscal impact” should rarely provide a legally appropriate basis for rejecting proposals to authorize the creation or expansion of Rhode Island charter schools.

The points listed here are generally specific to Rhode Island’s Charter School Law. Because the financial, educational, and political conditions affecting charter school proposals are dynamic, differing from place to place and moment to moment, the



reasons given here almost certainly do not exhaust those that may be available to any given charter proposal in the future.

- ▶ **Fiscal impact arguments must be carefully scrutinized so that seemingly large numbers do not overwhelm appropriate analysis.**

In the example above, the Senate report describes the impact on Providence of a 1,000-student expansion of the Achievement First RI charter school as \$15,000,000: \$4,276,892 (or \$4,277/pupil) in local tuition payments to the charter school and \$10,759,175 (\$10,759/pupil) in lost state aid for those students who instead would enroll in the charter school. This implies the impact on Providence may be unsustainable. Ultimately, however, the Commissioner recommended approving the 1,000-seat expansion, and CESE approved it.²³ The Commissioner and CESE evidently were persuaded by several features of the proposal and its effect on Providence that are not addressed in the Senate analysis and illustrate the need to scrutinize fiscal impact arguments carefully:

- ▶ **Gradual Phase-In:** The Senate report does not account for the fact that the charter school is phasing in the new seats over 11 years (~90 seats/year), giving the district over a decade to adjust to the diminished enrollment and funding.²⁴ Indeed, as is illustrated by Appendix G-7 below, Providence's projected per pupil contribution to Achievement First during the 2021-2022 school year (\$1,841), which includes the second year of the newly authorized seats, is considerably lower, and the state's per pupil contribution (\$12,058) is considerably higher, than the Senate report estimated (respectively, \$4,276 and \$10,759).
- ▶ **Using Prior-Year Data:** The Senate report's analysis does not include the effect of the funding formula's use of the previous year's (lower) reference enrollment in calculating each year's increment—an effect that remains over each of the 11 phase-in years.
- ▶ **Counting Students From Previously Authorized Schools:** The report estimates Providence's "non-core expenses," which could suggest that all those costs are fixed or indirect and, thus, of a sort that are slow to respond to declining enrollment. In fact, the non-core expenses include the district's payments for students attending previously authorized charter schools, each of whom represents a reduction in the district's expenses as the student becomes the responsibility of a charter school, not the district, to educate.
- ▶ **Districts Actually Make More Money When Students Attend Charter Schools:** Because Providence keeps 7% and receives state aid in the amount of an additional 5% of its usual per-pupil funding rate for each student sent to a charter schools per-pupil funding for its retained students actually rises modestly above the level in place absent the charter transfers. As is noted in Appendix G-7, the result is that Achievement First's projected 2021-2022 per-pupil funding for all operational and capital expenses is \$13,899 (including



operational and facilities expenses), compared to Providences' \$14,285 per-pupil funding in 2021-2022 (including operating but not most capital expenses).

- ▶ **Expenses Follow the Child:** Most importantly, the Senate's table omits any estimate of Providence's cost savings from having 1,000 fewer students to educate and fails to highlight the assumption of the state's funding formula for all districts and charter schools—namely, that fewer students means lower costs.
- ▶ **The Commissioner and CESE are obliged by the Charter Law to liberally exercise their discretion with charter growth proposals—as they have done—to expand the availability of academically strong charter school options for all students and particularly for traditionally underserved students.** [Appendices G-1, G-2, G-3]

As is developed in detail in Appendices G-1, G-2, and G-3, the Charter Law emphasizes a wide range of contributions it intends and expects charter schools to make and directs authorizers to implement the Charter Law “liberally” to achieve those objectives and the mission and goals of state education law and policy generally. Those objectives and that mission may be summarized as follows:

- ▶ The Charter Law's primary goal—or, one might say, its desired return on the public investment in education—is to use charter schools' flexibility, innovation, and accountability to promote the state's broader mission of improving student learning and academic performance, with special emphasis on the learning and academic performance of educationally disadvantaged and at-risk students.
- ▶ Secondary goals are to use charter schools to increase school independence, teacher leadership, and educational options for families.
- ▶ A cross-cutting goal is to achieve these returns on the public's investment in education in an “economically” as well as “academically prudent” manner for “all students.”²⁵ In deciding whether or not to authorize or expand charter schools, therefore, state law:
 - ▶ “Target[s] investments to improve student and school performance”;²⁶
 - ▶ Evaluates the “success of investments . . . based on accountability for student and school performance; accountability in terms of whether the state's investment is sufficiently adequate and equitable to support such improvement in performance; and accountability for district and school expenditures”;
 - ▶ Intends charter schools to be “vehicles for research and development in . . . fiscal accountability” in public education—valuing their ability to foster



student success at lower cost than traditional public schools;²⁷ and

- ▶ Requires that substantial weight be given to the impact of charter schools on the learning success of “all students in the sending district”—those in district as well as charter schools.²⁸ [Appendix G-1.]

Interpreting these policies liberally (as is required by law), the Commissioner and CESE typically have proceeded in three steps.²⁹

- ▶ Step 1: Compare the academic performance of the districts and schools from which the new or expanded charter school would draw students to the charter school’s own track record of performance—or, if it is new, to the charter school’s realistic academic performance commitments—particularly in regard to educationally disadvantaged and at-risk students. In conducting this step, the Commissioner and CESE consider evidence of unmet family demand for existing seats in charter schools seeking to expand, recognizing the family’s role in assessing the quality of the education options available to them.³⁰
- ▶ Step 2: If this academic comparison significantly favors the charter school, determine whether a charter school proposing an expansion has in the past and commits to continuing—or, if the charter school is new, it now commits—to provide those services at a local per-pupil spending rate at least somewhat below the sending district’s own per pupil spending rate. (In regard to this step, it is important to keep in mind that the charter school must use the funds in question to cover capital/facility as well as operating expenses, while the district applies the comparable funds only to its operating expenses, with additional resources applied to its capital/facility needs.)
- ▶ Step 3: If both the academic and fiscal comparisons favor the charter school, determine whether the sending district’s annual local funding for the charter proposal, both in the charter school’s first year of existence and at scale, composes only a small proportion of the district’s total annual operating funds. If so, approve the charter proposal, assuming it meets the Charter Law’s other requirements. Since 2017, when the Charter Law first directed the Commissioner and CESE to place substantial weight on this consideration, they have been satisfied (i) by year-one funding levels for the proposed charter school that are less than 1% of the district’s funding levels for its remaining students, and (ii) by at-scale charter-funding levels that are less than 8% of the district’s operating funds for its remaining students. There are three important caveats in regard to this step:
 - ▶ This step focuses entirely on the proposal’s separate fiscal impact on each sending district, not on the proposal’s combined impact on all districts nor on the proposal’s impact on a given district combined with the impact of the same school’s or other charter schools’ previously authorized seats. The Commissioner’s and CESE’s approvals of successive expansions of



the Achievement First RI charter school in 2019 and 2020 illustrate the point. Both times the Commissioner and CESE separately analyzed the impact of the proposal on each sending district, and in the latter case, they considered the impact of only that proposed expansion, not its impact plus that of the previous year's expansion or plus the impact of the charter school's pre-existing seats. The Charter Law itself requires this practice by making clear that it is “[i]n *considering a proposed charter, or an amendment to a charter for expansion,*” that “*substantial weight*” is to be given to “*fiscal impact,*” “to be sure that *the current proposal* is economically prudent.”³¹

- ▶ The 1% and 8% figures reflect practice to date, but the Commissioner and CESE have not defined year-one and at-scale ceilings, which could be higher.
- ▶ The recent practices described here apply to charter school proposals that mainly affected larger urban school districts with large numbers of economically disadvantaged students and relatively low local funding rates; the Commissioner and CESE have not yet made clear how they will analyze the local impact of charter proposals affecting more middle-class suburban school districts with considerably higher local fund rates. [Appendix H]

- ▶ **The Charter Law itself and longstanding Rhode Island practice directly account for districts' fixed and transitional costs, in order to ensure their expenses decrease in sync with their gradually declining number of students and associated funding.** [Appendices G-4, I-6]

As is clear from the basic charter school funding formula set out in the Summary above, and as is detailed in Appendix G-5, the Charter Law itself responds to worries that establishing a charter school will diminish the district's funding more rapidly than its “unique,” “fixed,” and “indirect” expenses by:

- ▶ Relieving the sending district of any responsibility for charter schools' capital expenses;
- ▶ Allowing the sending district to *keep*:
 - ▶ 7% of the local per-pupil cost of each charter student (i.e., funding each charter student at only 93% of the cost of other students);
 - ▶ the per-pupil share of any of the district's “unique” costs—mainly those not tied to its current enrollment—that charter schools do not bear and that are not covered by the above 7% deduction;



- ▶ 100% of the per-pupil share of first-year charter school students who increase the charter school's total enrollment above the prior's year's "reference" enrollment by 10% or less; and
- ▶ 50% of the per-pupil share of students who increase a charter school's prior year's enrollment by more than 10%;
- ▶ Providing sending districts with added state aid in the amounts of:
 - ▶ 5% of the local per-pupil operating expense for every local student transferring to a charter school;
 - ▶ \$1000 per pupil transferring to a charter school if the receiving charter schools' teachers do not contribute to the public pension system; and
 - ▶ ~\$108 per pupil transferring to a charter school during each of three specified high-charter-growth years (this funding recently expired but reveals the legislature's readiness to address the effect of exceptional transitional costs); and
- ▶ Spreading out the cost to districts of students enrolling in newly authorized charter schools by phasing in the charter school or seat expansions on a grade-a-year basis (i.e., taking three years for a grades 6-8 middle school and 12-13 years for a K-12 school).³²

Together, the features of the state's charter school funding system *increase* the district's per-pupil operating funds after accounting for the loss of students to charter schools. This demonstrates that Rhode Island charter schools do not actually have a negative fiscal impact on districts but in fact are operating with fewer than their fair share of dollars.

Some might also point out that school district budgeting best practices call for school districts of all sorts at all times to fund their schools and other operating units using a student-based formula. This encourages schools and operating divisions to structure their operations to be immediately responsive to changes in funding caused by fluctuations in student enrollment, no matter how rapidly the fluctuations occur or what causes them.³³ Especially in an era of declining statewide enrollment for reasons unrelated to charter expansion (see Appendix B-2), encouraging districts to adopt student-based budgeting that enables it to respond effectively to enrollment declines is a more appropriate response to the modest enrollment declines charter growth creates than rejecting the charter proposals that state law and policy favor.

- ▶ **Proposed charter schools may further increase the effective-per pupil funding of the district's traditional public schools because their 93% (or less) funding rate is pegged to average local per-pupil funding for the students they enroll,**



even though their students often are *more expensive than average* to educate. In some situations, the sending district may end up with more than 100% of average per-pupil funding for students who cost *less-than-average* to educate.

A common misperception about charter school funding, both nationally and in Rhode Island, is that charter schools receive average per-pupil funding for their students, while failing to enroll their fair share of especially expensive-to-educate students (such as students with special needs and English language learners).³⁴ The purported result is that charter schools net a per-pupil funding rate that is *higher* than required to educate their students, while students with expensive learning needs are concentrated in traditional public schools that have a per-pupil funding rate that is *lower* than the actual cost of educating their students. In actuality many charter schools nationwide and in Rhode Island educate far *more* than their proportionate share of students eligible for “free and reduced-price lunch”—who on the whole are more expensive to educate than higher-income students. As a result, the actual “netting out” effect of the distribution of students has not been as clear cut as charter opponents have suggested.

In Rhode Island, this argument plays out differently in urban and suburban areas. In urban areas like Central Falls, Pawtucket, and Providence, charter schools tend to have (i) about the same or a modestly lower proportion of special education students; (ii) considerably lower proportions of ELL students than their sending districts—with exceptions like the Learning Community charter school with proportionately more ELL students; and (iii) about the same number of FRPL students and students of color. Charter schools serving more middle-class and suburban areas like Cranston, Cumberland, Lincoln, and Warwick, however, have (i) about the same proportion of special education students; (ii) considerably more ELL students; and (iii) substantially more FRPL students and students of color.

Overall, the “average funding/higher-than-average instructional costs” argument is modestly supportive of urban school districts’ fiscal impact claims. By contrast, there is strong evidence that charter schools receiving students from suburban and middle-class districts in Rhode Island *increase* their sending districts’ effective per-pupil rates by assuming the responsibility of higher-than-average numbers of expensive-to-educate students, while being funded at just 93% or less of districts’ *average* per pupil revenue. [Appendices C, G-7]

- ▶ **The premises of nearly all “fiscal impact” arguments for denying Rhode Island charter proposals—that charter growth is responsible for declining enrollment among students in the district’s traditional public schools, which in turn diminishes funding for those schools—are not accurate in some cases for several reasons.**
- ▶ First, a key premise of Rhode Island’s district funding formula and its Charter Law is that the appropriate way to measure the level of resources available to students in district schools is on a *per-pupil*, not *total budget*, basis. The



state's funding formula bases every district's increment of state funding on its recent enrollment, assuming fewer students means lower expenses. [Appendix E] In turn, the Charter Law expects that achieving its purposes will require district budgets to shrink along with, if not fully proportionately to, declines in enrollment. [Appendix G-5] And, with appropriate transition periods built in through phase-ins and limits on year-one funding, the Charter Law expects districts to be able to adjust gradually to declining budgets, as declines in student enrollment lead to proportionate or greater declines in expenses, compensating for proportionate declines in funding. As such, what the Charter Law *expects* to remain roughly constant is *per-pupil* funding. This assumption is consistent with school budgeting best practices, which call for revenue, expenses, and expenditures to be anticipated and calculated year to year on a per pupil basis.³⁵ Doing so allows for reliable year-to-year comparisons and best positions districts to weather inevitable enrollment fluctuations caused by a multitude of reasons, such as family mobility, economic change, baby booms and busts, natural disasters, and public health crises. [Appendix E, B-2, G-5]

“As such, what the Charter Law expects to remain roughly constant is per-pupil funding. This assumption is consistent with school budgeting best practices, which call for revenue, expenses, and expenditures to be anticipated and calculated year to year on a per pupil basis. ”

- ▶ Second, in fact, despite a statewide decline in public school enrollment (Appendix B-2, counting both district and charter schools), and despite steady charter school enrollment growth over the last decade (Appendix B-1), enrollment in district public schools in some Rhode Island districts such as Central Falls, Pawtucket, Providence, and Woonsocket, with the vast majority of the state's charter schools, has held steady from 2009-2010 to 2019-2020 (Appendix B-2). As such, these districts' budgets have *not* experienced dramatic enrollment loss or the funding loss that goes with it. On the contrary, their *overall* enrollment-based funding has remained fairly even while charter growth has *increased* districts' per pupil funding by allowing them to keep 10% to 20% of funding for students they no longer are responsible for educating.
- ▶ It is even possible that charter schools serving Rhode Island's more urban cities and towns—where they rather consistently academically outperform traditional public schools (Appendix D), are greatly oversubscribed with lottery applicants.³⁶ Charter schools that spend less per pupil than traditional public schools (Appendix G-7)—may be paying for themselves by attracting students into the public education system who were not previously attending public school.³⁷ If charter schools draw students into or retain students in the public school system who otherwise would abandon it, that is another way they contribute to the fiscal wellbeing of that system. Because the state provides upwards of 80% of the funding of public school students in those urban areas and ties that funding directly to the number of students enrolled in public schools there (Appendices E-4, G-7), charter schools may be increasing the overall funding available



for public education in those cities and towns and enhancing local taxpayers' willingness to support public (which includes charter school) education as more of them enroll and keep their children in local public (including charter) schools. In these cities and towns, therefore, when "plac[ing] substantial weight on [charter schools'] fiscal impact on the *city or town* . . . and the educational impact on the *students in the district* to ensure that the proposal is economically prudent for the *city or town* and academically prudent for . . . for *all students in the sending district*,"³⁸ it is the legal responsibility of the Commissioner and CESE to support charter growth, as both have done recently.

- ▶ Relatedly, some urban districts are experiencing severe overcrowding in some of their schools. Providence, for example, has seven middle schools with enrollments at or above 122% of capacity.³⁹ This is another combined fiscal and educational challenge that charter schools help districts address, particularly given their proven ability to manage both operational and capital costs at *less than* their sending districts' per pupil expenditures for *operations alone*. Rather than leaving students in overcrowded district schools or requiring districts to take on the fiscal burden of constructing or renting new buildings at public expense, the far more economically and educationally prudent option in cases like this is to authorize additional charter school growth, as the Commissioner and CESE recently did by authoring three new charter schools and expanding another that serves middle school students.⁴⁰
- ▶ The analysis is more complicated in middle-class suburban school districts like Cumberland, Lincoln, and Warwick, which (i) suffered declining enrollment over the last decade as charter school enrollment has grown (Appendix B); (ii) bear a much greater share of the cost of educating students who live there relative to state aid (Appendix E-4, G-7); and (iii) have stronger student performance levels than urban district schools (Appendix D). Even in this regard, however, there is at least the possibility based on anecdotal evidence that charter schools are adding new students to the public education rolls, as well as pulling students out of existing district schools. Between 2010 and 2020, for example, Blackstone Valley Prep—which draws many of its students from (especially low-income areas in) the Cumberland and Lincoln school districts—gained about 2,000 students, while those two school districts' combined enrollment declined by only 500 students (6%). (Appendix B) Given the somewhat better academic performance of low-income students in Blackstone Valley Prep Charter School than in Cumberland's and Lincoln's district public schools (Appendix D), there is at least a possibility that Blackstone Valley Prep is partially paying for itself, much like charter schools serving more urban areas, by attracting low-income students who were not previously enrolled in district schools and are achieving at higher rates than their peers in district schools.



- ▶ Third, studies have provided examples, nationally, that charter management organizations (CMOs) adapted more rapidly and effectively to the COVID-19 crisis than did district public schools, explaining their better ability to retain or grow their enrollment.⁴¹ To the extent Rhode Island’s charter schools on the whole are attracting more students than district public schools, it is possible that charter schools are also partially paying for themselves by using the flexibility, innovation, and responsible risk-taking that the Charter Law intentionally afforded them to attract and retain students who otherwise would depart local school systems, diminishing those systems’ state funding.
- ▶ Fourth, total state funding recently increased (at least prior to the pandemic), despite enrollment declines.⁴² The most fundamental premise for “adverse fiscal impact” arguments—that declining enrollment due to charter growth has left districts struggling with declining budgets (whether measured in total or on a per pupil basis)—has not been true of Rhode Island, although the impact of the pandemic and the associated education crisis could change the situation.
- ▶ A final premise underlying at least some economic unsoundness arguments against charter school proposals is that, apart from per-pupil funding, there is a level of overall funding below which districts cannot go without losing their capacity to educate children effectively. A multitude of studies refute this idea by showing the vast differences among a given state’s school districts or among a given district’s schools in terms of enrollment, overall budget, and per-pupil funding generally do not correlate with equally big differences in the districts’ or schools’ success in educating students, including when student differences are factored in. In general, that is, school districts’ and schools’ academic success is function less of *how much* they have to spend and more of *how, and how well*, they spend what they have.⁴³ The best available proof of this point in Rhode Island is its charter schools, which (i) are intentionally and systematically funded at lower per-pupil rates than district schools—both when considering only operating budgets and, even more so, when considering capital budgets as well—and (ii) rather consistently outperform district schools in terms of their low-income, Black, and Latino students’ demonstrated learning levels. (Appendices D, E, G-5, G-7.)
- ▶ **Financial distress within some Rhode Island school districts would likely exist, even if there were *no* charter schools.**

As detailed in Appendix E, Rhode Island’s funding formula starts with an assessment of the funding level each school district needs to educate its students adequately, based on education funding levels in other New England states. The formula then adjusts that amount based on the demographic and educational status of the students in each district. Finally, the funding scheme allocates the responsibility for funding students at that required level between the state and localities based on a judgment about the funding effort that can reasonably be expected of the relevant town or city, given economic conditions there. The result



is that the state bears upwards of 80% of the funding burden for most larger urban areas, including, for example, Pawtucket, Providence, and Woonsocket. In a recent Senate Report, however,

State Senator Pearson points out that, for years we have shirked our responsibility to be fully transparent and say it out loud: the formula implies there is a local contribution. As long as that local contribution is not being made, we are not meeting the obligations of the formula. The State had not been meeting its obligation for a number of years. That is why we had the phase-in. The State has now made up its share. But we have an assumption about what the communities can and cannot pay. . . If the district cannot meet that obligation, they meet with the State and come up with a plan.⁴⁴

The Senate Report goes on to summarize an analysis of FY2018 documenting a failure to meet the core minimum per-pupil spending amount required under state law on the part of “Woonsocket (\$13.5MM), Pawtucket (\$13.2MM), and Providence (\$6.4MM)” and recommends mandating that localities fully fund their local share as determined by the state’s funding formula.⁴⁵ This suggests local districts have fiscal woes that are much bigger than charter schools. In fact, even after being compensated for students they are no longer spending money to educate (because they now attend charter schools) districts are still coming up short. Notably, Pawtucket’s and Woonsocket’s underfunding levels greatly exceed the amount both districts pay in local tuition for their students attending charter schools.⁴⁶

- ▶ **In evaluating charter proposals’ fiscal impact on local public education, Rhode Island’s Charter Law requires authorizers to give preference to charter proposals that are likely to achieve *greater academic success* than traditional public schools at *less cost*, making them an especially *efficient* use of public dollars. Authorizers are to apply the Charter Law liberally to serve this purpose, with special emphasis on at-risk pupils. [Appendices H1, H2, H3.]**

“The provisions of [the Charter Law] are to be interpreted liberally to support the purposes set forth in this [Law] and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.”⁴⁷ Those purposes and goals and the state’s educational mission are laid out in detail in Appendix G-1. Chief among them is to “increase learning opportunities for all pupils with special emphasis on expanded learning experiences for pupils who are identified as educationally disadvantaged and at-risk.”⁴⁸ The Charter Law aims to “improve pupil learning by creating schools with rigorous academic standards . . . for high pupil performance”⁴⁹ that

- ▶ fulfill the “promise of increased accountability for student achievement in exchange for increased school autonomy”;⁵⁰
- ▶ are “accountable for meeting publicly promulgated, measurable, state and charter-based pupil academic results”;⁵¹ and
- ▶ are “vehicles for research and development in areas such as curriculum,



pedagogy, administration, materials, facilities, governance, parent relations and involvement, social development, instructor's and administrator's responsibilities, working conditions, student performance and fiscal accountability."⁵²

To achieve this objective, the Charter Law requires that “priority of consideration be given to charter public school applications designed to increase the educational opportunities of educationally disadvantaged and at-risk pupils.”⁵³ [Appendices G-1, G-3.]

In June 2019, the Johns Hopkins Institute for Education Policy issued what the *Washington Post* characterized as a “[b]listering report” on the “abject dysfunction and dangerous schools in Providence, R.I.”⁵⁴ The data in Appendix D lay out part of the reason why—a reason that extends beyond the Providence school district to others where there is substantial unmet family demand for access to charter seats. A child in the Providence district’s elementary and middle schools has only an 18% chance of achieving what the state defines as proficiency in reading, and only a 12% chance in math; the analogous chances for a child from a *low-income* background are worse—16% and 10%, respectively. And children in Central Falls face still worse odds, with proficiency rates of only 13% and 8%, respectively. Compare the Achievement First and Highlander charter schools that mainly serve students from Providence; a child in either of those schools—low-income or otherwise—has more than a 4 times greater chance of attaining proficiency in ELA and math. And children in Blackstone Valley Prep, with substantial numbers of Central Falls students, has more than a 3 times greater chance of attaining proficiency in reading and over a 5 times greater chance of achieving math proficiency than if they remain in Central Falls district schools. [Appendix D.]⁵⁵ Under these circumstances, faithful implementation of the state’s Charter Law requires the Commissioner and CESE to give preference to proposals for charter growth that serve these communities, as they recently have done.

As usual, the analysis is different in Rhode Island’s suburban areas, such as Cumberland and Lincoln, where overall student performance levels are high, and higher than in charter schools. Even there, however, Blackstone Valley Prep, which serves students particularly from low-income communities, modestly outperforms district schools in reading and math levels for that category of students. [Appendix D.]

► **For the reasons set out above, where possible, advocates preparing a charter school proposal should demonstrate clearly and with specificity that:**

- The sending district’s existing funding, operating budget, and reserves or any deficit leave the school district financially solvent [Appendix H collects examples of how successful recent applicants for charter growth have demonstrated this and the next 2 points];
- The annual funding the charter proposal seeks is a minuscule proportion of the district’s overall annual budget;
- The charter school’s proposed local funding level is lower than the sending



districts' average per pupil expenditures times the number of students the charter school will enroll and the district no longer will be responsible to educate, plus those students' share of state and federal categorical funding, minus the cost of any services the district will provide to the charter school to educate those students;

- ▶ Funding adjustments specifically targeted to fixed, indirect, “unique,” and transitional costs and phase-in arrangements enable sending districts gradually to adjust their expenditures to match their decreasing enrollment as a result of charter growth;
- ▶ Any residual financial distress beyond that accounted for by a decrease in funding that in fact is less than a proportional decline in students enrolling in charter schools is a function not of the charter growth for which the Charter Law creates a strong presumption but, instead, of the district's own underfunding of its local spending targets under state law;
- ▶ In many districts over the last decade, charter growth has not actually been accompanied by the numeric decline in sending districts' enrollment and total operating dollars (not to mention their per pupil funding) that provides a necessary predicate for “adverse fiscal impact” claims.
- ▶ The charter proposal is economically prudent because it will help alleviate financial difficulties public education faces by:
 - ▶ increasing the per pupil funding for students in district schools;
 - ▶ attracting families and their children into and holding them in the public schools more effectively than district schools, thus also attracting more state funding and taxpayer support for public education for children living in the district; and
 - ▶ achieving higher levels of academic success at lower overall cost, increasing both the effectiveness and efficiency of public education overall.



APPENDICES

APPENDIX A. CHARTER SCHOOL DISTRIBUTION (2020-2021)

NUMBER OF CHARTER SCHOOLS IN RHODE ISLAND (INCLUDING MAYORAL ACADEMIES)⁵⁶	32 schools operating, including 1 phasing out and closing, at 36 campuses, with a projected 2021-2022 enrollment of 11,061 students. [As this report was being completed, the state approved the creation of 3 new charter schools and expanded three others, bringing the total authorized to 34, accounting for 1 that is closing. ⁵⁸]	
DISTRIBUTION OF CAMPUS LOCATIONS⁵⁹	Providence 16 (+3 new ones) Cumberland 4 Central Falls 3 Cranston 3	Woonsocket 3 Pawtucket 2 Kingston, Lincoln, Saunderstown, Warren, West Greenwich 1 each
% PUBLIC SCHOOL STUDENTS IN CHARTER SCHOOLS⁶⁰	7.9% of RI public school students attend charter schools: 11,061 out of 140,563 students. ⁶¹	



APPENDIX B-1. CHARTER SCHOOL ENROLLMENT (2010-2020)

	2009-2010	2014-2015	2019-2020	ANNUAL GROWTH ⁶²	LOCATION	COMMUNITIES SERVED
STATEWIDE⁶³	3,452	6,434	10,088	9.41%		
Achievement First RI (5 schools) ⁶⁴		272	1357	37.91%	Cranston, Providence	Cranston, N. Providence, Providence, Warwick
Beacon	225	230	379	5.35%	Woonsocket	Statewide
Blackstone Academy	167	171	355	7.83%	Pawtucket	Central Falls, Pawtucket, Providence
Blackstone Valley Prep, A RI Mayoral Academy (6 schools)	76	1174	2053	11.83% ⁶⁵	Central Falls, Cumberland, Lincoln	Central Falls, Cumberland, Lincoln, Pawtucket
Charette			128	N/A	Providence	Providence
The Greene School		167	202	3.88%	W. Greenwich	Statewide
Highlander (2 locations)	282	393	597	7.79%	Providence (PK-6), Warren (7-12)	Statewide
Hope Academy		36	209	42.16%	Providence	N. Providence, Providence
International	303	325	380	2.29%	Pawtucket	Statewide
Kingston Hill Academy	178	189	240	3.03%	Saunderstown	Statewide
The Learning Community	404	561	578	3.65%	Central Falls	Central Falls, Pawtucket, Providence
NEL/CPS	254	146	168	-4.05%	Cranston	Statewide
Paul Cuffee Charter School (3 locations)	483	779	817	5.40%	Providence	Providence
RI Nurses Institute Middle College		218	271	4.45%	Providence	Statewide
RISE Prep Mayoral Academy			277	N/A	Woonsocket	Burrillville, N. Smithfield, Woonsocket
Segue Institute for Learning	60	240	236	14.68%	Central Falls	Central Falls
Sheila Skip Nowell Leadership Academy		160	159	-0.13%	Providence	Statewide
SouthSide		23	143	44.12%	Providence	Providence
The Compass School	153	167	197	2.56%	Kingston	Statewide
Times2 Academy ⁶⁶	867	843	906	0.44%	Providence	Providence
Trinity Academy for the Performing Arts		174	211	3.93%	Providence	Providence
Village Green Virtual		166	225	6.27%	Providence	Providence



APPENDIX B-2. PUBLIC SCHOOL ENROLLMENT (2010-2020)⁶⁷

DISTRICT NAME	2009-2010	2014-2015	2019-2020	ANNUAL CHANGE
Statewide	141,666	135,525	133,469	-0.59%
Cranston	10,774	10,457	10,475	-0.28%
Central Falls	2,862	2,683	2,878	0.06%
Cumberland	5,025	4,543	4,668	-0.73%
Lincoln	3,355	3,084	3,211	-0.44%
Pawtucket	8,838	9,057	8,784	-0.06%
Providence	23,847	23,907	23,836	0.00%
Warick	10,507	9,227	8,610	-1.97%
Woonsocket	6,086	5,995	6,037	-0.08%

APPENDIX C. STUDENT DEMOGRAPHIC DATA: CHARTER SCHOOLS AND DISTRICTS⁶⁸

	SPECIAL ED.	ELL	FRPL	BLACK	HISPANIC
Statewide	16%	11%	46%	9%	18%
CITIES					
Achievement First RI	8%	21%	75% ³⁸	20%	71%
Learning Community	15%	40%	82%	15%	84%
Highlander	13%	18%	91%	30%	58%
Paul Cuffee	12%	14%	78%	19%	67%
Cranston	15%	7%	40%	5%	30%
Providence	16%	32%	86%	15%	67%
Central Falls	20%	38%	97%	14%	45%
Pawtucket	18%	16%	71%	30%	28%
SUBURBS					
Blackstone Valley Prep	14%	11%	65%	14%	49%
Cumberland	15%	3%	20%	3%	13%
Lincoln	16%	2%	26%	5%	8%



**APPENDIX D. STUDENT ACADEMIC OUTCOMES:
CHARTER SCHOOLS AND DISTRICTS⁷⁰**

	ALL PROFICIENT (ELA)	ALL PROFICIENT (MATH)	LOW INCOME PROFICIENT (ELA)	LOW INCOME PROFICIENT (MATH)	SPECIAL ED. PROFICIENT (MATH)	SPECIAL ED. PROFICIENT (MATH)
Statewide	40%	30%	23%	15%	8%	5%
CITIES						
Achievement First RI	56%	54%	54 %	53%	13%	15%
Learning Community	42%	31%	39%	30%	6%	3%
Highlander	57%	54%	54%	53%	13%	15%
Paul Cuffee	30%	26%	24%	20%	4%	6%
Cranston	18%	12%	16%	10%	4%	2%
Providence	42%	27%	27%	16%	7%	3%
Central Falls	25%	17%	21%	14%	4%	2%
Pawtucket	13%	8%	13%	8%	3%	2%
SUBURBS						
Blackstone Valley Prep	49%	48%	43%	41%	11%	13%
Cumberland	62%	53%	35%	38%	18%	13%
Lincoln	50%	46%	34%	29%	9%	10%



Appendix E. School Funding (FY2019)⁷¹

1. PUBLIC SCHOOLS

1. Total funding: \$2.6B
2. Average statewide per pupil funding: \$17,983 per pupil

2. SCHOOL DISTRICTS WITH A LARGER NUMBER OF CHARTER SCHOOLS (THOSE HIGHLIGHTED IN THE COLUMN ABOVE)

1. Central Falls
 - a. Total funding: \$52.6M
 - b. Per pupil funding: \$19,988 / pupil
2. Cranston
 - a. Total funding: \$172.2M
 - b. Per pupil funding: \$16,711 / pupil
3. Cumberland
 - a. Total funding: \$72.3M
 - b. Per pupil funding: \$15,456 / pupil
4. Lincoln
 - a. Total funding: 59.2M
 - b. Per pupil funding: \$19,096
5. Pawtucket
 - a. Total funding: \$140.9M
 - b. Per pupil funding: \$15,646 / pupil
6. Providence
 - a. Total funding: \$438M
 - b. Per pupil funding: \$18,980 / pupil

3. SAMPLE OF CHARTER HOLDERS IN THE STATE (CHARTER HOLDERS WITH MULTIPLE SCHOOLS COMBINED)

1. Achievement First Mayoral (Cranston, North Providence, Providence, Warwick)
 - a. Total funding: \$19.2M
 - b. Per pupil funding: \$15,679
2. Beacon Charter School (Statewide)
 - a. Total funding: \$6.0M
 - b. Per pupil funding: \$13,908
3. Blackstone Academy Charter (Central Falls, Pawtucket, Providence)
 - a. Total funding: \$6.1M
 - b. Per pupil funding: \$15,714
4. Charette Charter School (Providence)
 - a. Total funding: \$3.2M
 - b. Per pupil funding: \$33,064
5. The Compass Charter School (Statewide)
 - a. Total funding: \$3.2M
 - b. Per pupil funding: \$15,795
6. Highlander Charter School (Statewide)
 - a. Total funding: \$10.3M
 - b. Per pupil funding: \$16,058



7. Hope Academy (Providence, North Providence)
 - a. Total funding: \$2.8M
 - b. Per pupil funding: \$12,552
8. International Charter School (Statewide)
 - a. Total funding:\$5.7M
 - b. Per pupil funding: \$14,805
9. Kingston Hill Academy (Statewidwe)
 - a. Total funding: \$4.5M
 - b. Per pupil funding: \$16,739
10. Paul Cuffee Charter (Providence)
 - a. Total funding: \$13.2M
 - b. Per pupil funding: \$15,930
11. RISE Prep Mayoral Academy (Burrillville, North Smithfield, Woonsocket)
 - a. Total funding: \$9.1M
 - b. Per pupil funding: \$12,698
12. Southside Elementary Charter (Providence)
 - a. Total funding: \$2.2M
 - b. Per pupil funding: \$16,897
13. Times 2 Academy (Providence)
 - a. Total funding: \$11.2M
 - b. Per pupil funding: \$15,033
14. Village Green Virtual Charter (Statewide)
 - a. Total funding: \$3.8
 - b. Per pupil funding: \$14,791

4. METHODS OF FUNDING PUBLIC SCHOOL DISTRICTS⁷²

1. Funding for each district begins with a “Core Instructional Amount” that effectively sets a base amount of per pupil spending.
 - a. The Core Instructional Amount accounts for:
 - i. Instructional staff salaries
 - ii. Student support staff (e.g. nurses, counselors)
 - iii. Technical services, textbooks
 - iv. General district administration (superintendent’s office)
 - v. School-level administration (principal, department chairs)
 - vi. Staff benefits
 - b. The Core Instructional Amount is calculated as an average of recent education spending in RI and the neighboring states of CT, MA, and NH.
 - c. Calculated on a per pupil basis, the **Core Instructional Amount** was \$9,871 for FY2020.⁷³
2. The Core Instructional Amount is supplemented by a “**Student Success Factor**” (SSF). SSF adds an additional 40% of funding for each student in the district who is qualifies for free or reduced lunch (FRLP).⁷⁴
3. The calculation of funding for a specific district then is as follows:

$$\begin{aligned} & (\text{PK-12 RADM} \times \text{Core Instructional Amount}) \\ & \quad + \\ & (\text{PK-12 FRPL} \times \text{Student Success Factor}) \\ & \quad = \\ & \text{Core Instructional \& Student Success Total} \\ & \text{Prior to State and Local Share Calculation} \end{aligned}$$

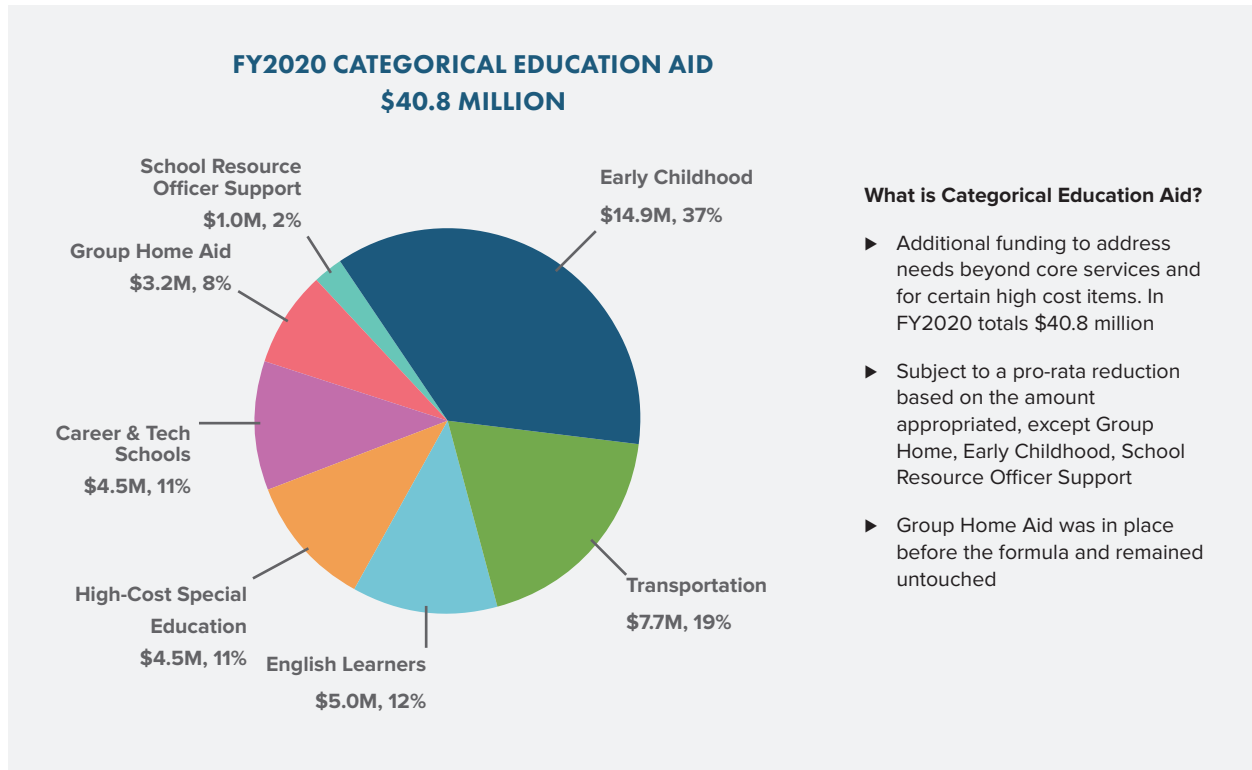
RADM = Resident Average Daily Membership. Counts students based on the district where they reside and gives the district credit for any time that the student is an enrolled member of the district. Charter and state school students are excluded from the district totals.

FRPL = The actual number of PK-12 students receiving Free and Reduced Price Lunch; our poverty indicator



4. Categorical Aid

- a. The state additionally provides districts with aid for certain high-cost conditions and activities, such as a high density of ELL, special education students, transportation, and early childhood programs. This funding is separate from that included in the rest of the calculation.⁷⁵ Special education categorical aid “[r]eimburse[s] districts for instructional and related service costs [of any qualifying student] in excess of five times the combined core and student success factor funding (\$69,100 in FY2020).”⁷⁶



5. State to Local Ratio

- a. The above calculation (excluding categorical aid) determines the total funding amount for a specific district on a per pupil basis (total funding = per pupil after step 3 x total student population). This is referred to as the **Total Foundation Amount**. The next step is to determine the relative funding shares of that total amount that comes from the state and the locality.
- b. This calculation presumes that localities fully fund their share, which is not always the case, as recent state Senate report documents:

“Senator Pearson points out that, for years we have shirked our responsibility to be fully transparent and talk about it out loud: the formula implies that there is a local contribution. As long as that local contribution is not being made, we are not meeting the obligations of the formula. The State had not been meeting its obligation for a number of years that is why we had the phase in. The State has now made up its share. But we have an assumption about what the communities can and cannot pay. The first step in understanding if that is realistic is publishing the number and making sure people understand what that number and obligation is. Massachusetts requires a local contribution. If the district cannot meet that obligation, they meet with the State and come up with a plan. For the time it takes to fulfill the plan the state back fills the money.”



The Senate Report notes that, three of the state’s largest urban districts, all with charter students, are not funding their local share at the amount the state funding formula considers to be “sufficient”: “an analysis of FY2018 showed that the following communities are not even meeting the core minimum per-pupil spending amount: Woonsocket (\$13.5MM), Pawtucket (\$13.2MM), and Providence (\$6.4MM).” The report recommends mandating that localities fully fund their local share as determined by the state’s funding formula.⁷⁷

c. The State Share Ratio is calculated as a function of students in poverty, and the extent of taxable property base in the district relative to the total number of students:

$$\text{State Share Ratio (SSR)} = \sqrt{\frac{\text{SSRC}^2 + \%PK-6\text{poverty}^2}{2}}$$

SSRC(State Share Ratio for the Community) = $1 - (0.475 \times \frac{(\frac{\text{DistrictEWAV}}{\text{DistrictRADM}})}{(\frac{\text{StateEWAV}}{\text{StateRADM}})})$
 EWAV = Equalized Weighted Assesses Valuation as defined pursuant to RIGL 16-7-21
 RADM = Resident Average Daily Membership pursuant to RIGL 16-7-22

%PK-6 poverty = the percentage of students in grades PK-6 whose family income is at or below 185.0 percent of federal poverty guidelines

- ▶ Squaring the factors increases the weight of the largest indicator.

APPENDIX F. STATE CONSTITUTIONAL PROVISION

STATE CONSTITUTIONAL PROVISION GOVERNING PUBLIC EDUCATION

R.I. Const. Art. XII: “The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools and public libraries, and to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education and public library services.”

JUSTICIABILITY OF THE CONSTITUTIONAL PROVISION

In *City of Pawtucket v. Sundlun*, 662 A.2d 40 (R.I. 1995), the Rhode Island Supreme Court ruled that Article XII, quoted above, creates an obligation on the part of General Assembly to provide for public schools, but does not give students or others a “judicially enforceable constitutional right” to education. “The education clause confers no such right,” nor does it guarantee an “equal, adequate, and meaningful education.” *Id.* at 55. “Thus, neither the 1842 Constitution nor the Barnard School Act reflects an intent to create a system that required equitable school funding or that mandated public schools in every town in the state.”⁷⁸ *Id.* at 48.



Appendix G. Rhode Island's Charter School Law § 16-77-1 et seq.

1. THE CHARTER STATUTE'S PURPOSES

Rhode Island's Charter School Law was first adopted in 1995, with significant amendments in 2008 and 2016.

The Charter Law states that –

1. "The purpose of this chapter is to provide an alternative within the public education system by offering opportunities to [certain not-for-profit] entities . . . to establish and maintain a high performing public school program";⁷⁹
2. "The key appeal of the charter school concept is its promise of increased accountability for student achievement in exchange for increased school autonomy";⁸⁰
3. "It is the intent of the general assembly to"
 - a. "improve pupil learning by creating schools with rigorous academic standards . . . for high pupil performance";⁸¹
 - b. "increase learning opportunities for all pupils with special emphasis on expanded learning experiences for pupils who are identified as educationally disadvantaged and at-risk";⁸²
 - c. "[h]old the schools established under this chapter accountable for meeting publicly promulgated, measurable, state and charter-based pupil academic results, and provide the schools with a method to implement performance-based and/or other student-based accountability systems, while providing a means to restrict the expansion of ineffective charter public schools";⁸³
4. "Charter public schools are intended"
 - a. to be vanguards, laboratories, and an expression of the on-going and vital state interest in the improvement of education";
 - b. to "[e]ncourage the use of innovative teaching methods";⁸⁴
 - c. to "be vehicles for research and development in areas such as curriculum, pedagogy, administration, materials, facilities, governance, parent relations and involvement, social development, instructor's and administrator's responsibilities, working conditions, student performance and fiscal accountability"; and
 - d. to "create within the public school system vehicles for innovative learning opportunities";⁸⁵ and
5. "It is the intent of the general assembly to" --
 - a. "provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently";⁸⁶
 - b. "[c]reate opportunities for teachers, including the opportunity to be responsible for the learning program at the school site";⁸⁷
 - c. "[e]ncourage parental and community involvement with public schools";⁸⁸ and
 - d. "[p]rovide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system"⁸⁹
6. "The provisions of this chapter [the Charter Law] are to be interpreted liberally to support the purposes set forth in this chapter and to advance a renewed commitment by the state to the mission, goals, and diversity of public education."⁹⁰ Importantly, this provision directs authorizers and others to interpret the Charter Law, to achieve not only the Law's own objectives but also the "mission, goals, and diversity of public education," in Rhode Island generally, which include and underscore some of the Charter Law's own purposes, including:
 - a. Enhancing academic performance for all students:
 - "secur[ing] to the people the advantages and opportunities of education";⁹¹
 - "ensuring that all students achieve at the high levels needed to lead fulfilling and productive lives, to succeed in academic and employment settings, and to contribute



- to society”;⁹²
- “ensuring that all children achieve at high levels and become lifelong learners, productive workers and responsible citizens;”⁹³
 - “increas[ing] the number of . . . students performing at or above the proficient standard in mathematics, reading and writing in each district and school.”⁹⁴
- b. Enhancing academic performance for at-risk students:
- i. “[i]mproving outcomes for our most vulnerable students and our most underserved communities”;⁹⁵
 - ii. “identifying Rhode Island’s lowest performing schools and student groups in order to support continuous improvement efforts and accelerate teaching and learning for all Rhode Island students”;⁹⁶
 - iii. “[c]losing inequitable gaps in performance and achievement among different groups of students, especially those correlated with poverty, gender, and language background”;⁹⁷ and
 - iv. “iimprov[ing] student achievement with emphasis on closing the performance gaps among groups of students such as the performance gaps correlated with poverty, gender, and language background.”⁹⁸
- c. Enhancing access to high-quality, rigorous schools:
- i. “ensur[ing] that every public school student will have equal access to a high quality, rigorous, and equitable array of educational opportunities from PK-12”;⁹⁹
 - ii. “ensur[ing] that high-quality education is available to all public school students, regardless of where they reside or which school they attend”; and¹⁰⁰
 - iii. “carrying out its [i.e., the Rhode Island Department of Education’s] leadership role” and “responsibility” by “exercis[ing] its authority under state and federal law to intervene in LEAs and schools that are not closing student achievement gaps, are not continuously improving, or are not reaching state performance standards.”¹⁰¹
- d. Overall: Although the Charter Law, as underscored by Rhode Island public education policy generally, identifies a variety of goals, including increased school independence, teacher leadership, and family choice, *chief* among its objectives is the use of *flexibility, innovation and accountability for results* to promote *improved student learning and academic performance*, with special emphasis on *educationally disadvantaged and at-risk students*. Accentuating the particular focus on improving the outcomes of students from underserved communities are statutory and regulatory provisions –
- stating “the intent of the general assembly that priority of consideration be given to charter public school applications designed to increase the educational opportunities of *educationally disadvantaged and at-risk pupils*”;¹⁰²
 - “reserv[ing] half of the 35 charters the statute authorizes to be created in the state “for charter school applications which are designed to *increase the educational opportunities for at-risk pupils*”;¹⁰³ and
 - requiring charter proposals to describe the school’s plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind.¹⁰⁴
7. A final overarching policy of the Charter Law, as underscored by Rhode Island public education policy generally, is economic, as well as academic, prudence¹⁰⁵ and fiscal responsibility. Thus:
- a. The Charter Law’s intends that charter schools serve as “vehicles for research and development in” achieving greater “*fiscal accountability*” in public education;¹⁰⁶ and
 - b. The Charter Law directs the Council on Elementary and Secondary Education, in exercising its exclusive responsibility over the authorization of charter schools, to “*place substantial weight on the fiscal impact* on the city or town; programmatic impact on the sending school district; and the educational impact on the students in the district to ensure that the proposal is *economically prudent* for the city or town and *academically prudent* for the proposed sending school district and for all students in the sending district.”¹⁰⁷
 - c. Rhode Island education policy generally requires the “[t]argeting [of] investments to improve student and school performance”¹⁰⁸ and specifies that “[t]he success of [public education] investments shall be evaluated based on accountability for student and school performance;



accountability in terms of whether the state's investment is sufficiently adequate and equitable to support such improvement in performance; and accountability for district and school expenditures."¹⁰⁹

Recognizing (i) that public education is one of the largest public expenses and thus that the imperative of student learning must be considered in the context of finite public resources, and (ii) the learning needs of "all students"—those in district as well as charter schools—must be considered, the Charter Law and Rhode Island education law generally require both charter school proposers and authorizers to attend to charter schools' *comparative returns on public investment*. In this calculus:

- a. "Returns" are primarily enhanced student academic success, especially for underserved students; additional returns to investment in charter schools include school autonomy, teacher leadership, and family choice;
- b. "Investment" focuses on public dollars.
- c. And the "comparison" is between competing policy options—in the situation at hand in this report, between providing families with the proposed charter option along with the remaining district school options, or providing them only the latter.

2. RESPONSIBLE ACTORS/PROCESS FOR DECIDING ON APPLICATIONS TO CREATE OR EXPAND CHARTER SCHOOLS¹¹⁰

1. The process for establishing, renewing, and expanding charter schools is described [here](#). In general, the RI Commissioner of Education and the state Council on Elementary and Secondary Education (CESE) have exclusive authority to grant, renew, or expand charters. The Commissioner must first recommend the creation or expansion of a charter school to CESE, after which CESE makes a final up-or-down decision.¹¹¹ Important excerpts from the controlling statute (RIGL § 16-77-3.1) include:

"(e) The commissioner is empowered to promulgate rules and regulations . . . set[ting] forth the process for rescission of state approval of a charter public school, including appropriate protections to ensure the continued provision of education services to the students of the charter public school whose charter is rescinded."

"(g) No more than thirty-five (35) charters shall be granted. At least one-half (1/2) of the total number of charter public schools in the state shall be reserved for charter school applications which are designed to increase the educational opportunities for at-risk pupils."

2. The Charter law recognizes three types of charter schools: Independent Charter Schools, Mayoral Academies, and District Charter Schools, all of which count against the cap of 35.¹¹² Currently, there are no District Charter Schools in Rhode Island.¹¹³ The table below sets out the statutory descriptions of the two types of charter schools Rhode Island currently has and the process by which those schools are established, expanded, renewed, and revoked.



STATUTES GOVERNING CHARTER SCHOOL ESTABLISHMENT, EXPANSION, RENEWAL, REVOCATION

	INDEPENDENT CHARTER SCHOOLS	MAYORAL ACADEMIES
A. WHAT ARE THEY?	RIGL § 16-77.3-1(a) Schools operated by (i) Rhode Island nonprofit organizations in existence for at least two years that for a substantial reason other than to operate a school or (ii) colleges or universities in Rhode Island. ¹¹⁴	RIGL § 16-77.4(a): “[A] charter school created by a mayor of any city or town . . . , acting by, or through, a nonprofit organization established for said purpose . . . that enrolls students from more than one city or town, including both urban and non-urban communities, and that offers an equal number of enrollments to students on a lottery basis.”
B. HOW THEY ARE ESTABLISHED AND, ONCE ESTABLISHED, HOW THEY ARE EXPANDED¹¹⁵ INITIATION OF THE PROCESS; SUBMISSION TO COMMISSIONER	RIGL § 16-77.3.2(a)(1)-(17): To establish an independent charter school, the applicant operator must submit (1) a proposal to the Education Commissioner addressing 17 statutory requirements and (2) financial records to the Auditor General. If the Education Commissioner makes a recommendation to the CESE to establish the charter schools, CESE makes a final up-or-down decision, subject to the Auditor General’s clearance of the charter school’s financial plans if CESE votes to establish the school. ¹¹⁶ <ul style="list-style-type: none"> Charter proposals must be submitted to the Commissioner by December 1 in the year before the proposed fall start date of the charter.¹¹⁷ The Commissioner may disapprove a charter proposal for having “unsatisfactorily met guidelines” laid out in the statute and regulations for the contents of the proposal.¹¹⁸ 	RIGL § 16-77.4-1: “The mayor from each city or town, or in the absence of a mayor, the city or town council via a resolution or ordinance, shall approve the participation in the mayoral academy’s catchment area for a proposed charter or an amendment to a charter for expansion.” The proposal then proceeds in the same manner as an independent charter school; first going to the Commissioner who provides a recommendation to the CESE to make the final up or down decision.
C. HOW ARE THEY ESTABLISHED? DECISION BASED ON THE PROPOSAL	Key aspects of the Commissioner’s and CESE’s decision making processes—see RIGL §§ 16-77.3-3(b-d) (for independent charter schools) and 16-77.4-3(b-d) (for mayoral academies)—include: <p>“(b) After having received a satisfactory proposed charter or expansion, the commissioner will provide for a public-comment period of not less than sixty (60) days, during which he or she will hold at least two (2) public hearings on the proposed charter. . . .”</p> <p>“(c) The commissioner will decide whether to recommend the granting of the charter or expansion to the council on elementary and secondary education within ninety (90) days after the conclusion of the public-comment period.”</p> <p>“(d) If the commissioner recommends the granting of the proposed charter or expansion, the matter shall be referred to the council on elementary and secondary education for a decision on whether to grant a charter or expansion. . . . The decision of the council on elementary and secondary education, complete with reasons and conditions shall be made available to the public and to the applicant.”</p> <p>“(f) [CESE shall place] substantial weight on the fiscal impact on the city or town; programmatic impact on the sending school district; and the educational impact on the students in the district to ensure that the proposal is economically prudent for the city or town and academically prudent for the proposed sending school district and for all students in the sending district.”</p>	
D. WHEN AND HOW ARE THEY RENEWED?	Under RIGL §§ 16-77.3-3(d) (for independent charters) and 16-77.4-3(d) (for mayoral academies): “Charter public school approval for establishment or continuation shall be for up to a five-year (5) period. At the conclusion of each five-year (5) period, the council on elementary and secondary education may conduct a subsequent review of the . . . charter. If the council on elementary and secondary education does not conduct such a review, the charter shall renew for another five-year (5) period.” ¹¹⁹ <p><i>Charter schools’ fiscal and programmatic impact on towns cites/towns and districts are not statutory factors in renewal decisions.</i></p>	

3. FACTORS BEARING ON CHARTER GROWTH DECISIONS

- The Charter Law requires the proposal for a new or expanded charter to include 17 categories of information.¹²⁰ The Charter Law provides only four directives to guide the Commissioner’s discretion in “decid[ing] whether or not to recommend the granting of the charter or expansion”¹²¹ and CESE’s discretion in deciding how to rule on a recommendation if one is made:¹²²
 - “In considering a proposed charter, or an amendment to a charter for expansion, the council on elementary and secondary education shall consider all relevant information, including but not limited to the requirements of regulations and law.”¹²³
 - “In considering a proposed charter, or an amendment to a charter for expansion, the council on elementary and secondary education shall place substantial weight on the [proposed charter school’s or proposed expansion’s] fiscal impact on the city or town; programmatic impact on the sending school district; and the educational impact on the students in the district to ensure that the proposal is economically prudent for the city or town and academically prudent for the proposed sending school district and for all students in the sending district.”¹²⁴
 - “It intent of the general assembly that priority of consideration be given to charter public



school applications designed to increase the educational opportunities of educationally disadvantaged and at-risk pupils.”¹²⁵

d. “The provisions of this chapter [the Charter Law] are to be interpreted liberally to support the purposes set forth in this [Law] and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.”¹²⁶

2. As is laid out in more detail in Appendix G-1 above, when aggregated, these considerations identify two interlocking sets of principles the Charter Law requires the Commissioner and CESE to consider in deciding on charter proposals:

a. Charter proposals and charter authorizers should aim to achieve a variety of goals set forth by the General Assembly, the state’s Constitution, and state education law and policy generally, including increased school independence, teacher leadership, and family choice. Among those policies, however, the most important is the use of charter school *flexibility, innovation and accountability for results* to promote *improved student learning and academic performance*, with special emphasis on *educationally disadvantaged and at-risk students*.

b. In pursuing that goal, however, charter proposal and authorizers must be economically, as well as academically, prudent,¹²⁷ “[t]argeting investments to improve student and school performance,”¹²⁸ ensuring both “accountability for student and school performance” and “accountability for district and school expenditures,” and making those judgments on behalf of “all students” (with special emphasis on at-risk students)—whether in district or in charter schools.

c. As such, the Charter Law and Rhode Island education law generally require charter school proposers and authorizers to assess the charter proposal’s comparative returns on public investment—with “returns” focused primarily on enhanced student learning and secondarily on school autonomy, teacher leadership, and family choice; with investment focused on public dollars; and with the comparison in this case being between providing families with the proposed charter option along with the remaining district school options, or providing only the latter.

d. In making this calculus, decision makers should consider that family “demand” for charter seats in Rhode Island (as indicated by the number of families who enter charter school lotteries) exceeds the available supply of charter seats by a factor of nearly 6. This deficit includes many families whose children are educationally “at risk.” Given that families’ judgments among available school options are a salient measure of the those options’ relative academic quality (the Charter Law’s primary concern) not to mention their relationship to the goal of family choice (a secondary concern), the large unmet demand for charter seats should count for a lot in considering the competing choices.

4. RESPONSIBLE ACTORS, PROCESSES, STANDARDS OF REVIEW FOR APPEALS FROM CHARTER GROWTH DECISIONS

Decisions by the Commissioner not to recommend approval of a charter proposal are appealable to CESE. See Appendix G-2.c below. Charter proposers evidently may appeal CESE decisions to the Superior Court of Providence County under one of two potentially applicable provisions in Rhode Island’s Education Code:

- RIGL § 16-39-4 (a provision in the Education Code’s chapter on “controversies in school matters”) provides that “[j]udicial review may be obtained by any aggrieved party as provided in chapter 35 of title 42” (Rhode Island’s Administrative Procedure Act (APA)).
- RIGL § 16-60-10 (a provision in a section entitled “Council on Elementary and Secondary Education”) also provides that “the provisions of [the APA] shall apply to this chapter.”

Under Rhode Island’s APA, “questions of law—including statutory interpretation—are reviewed [by courts] de novo”¹³² while courts accord substantial deference to agency findings of fact. In reviewing agency factfinding, a court may remand, reverse, or modify a decision that is either “clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record”¹³³ or “arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”¹³⁴

In preparing this report, we did not identify any published judicial opinion reviewing a CESE or Commissioner’s decision denying (or granting) a charter proposal.



5. SOURCES/ AMOUNTS OF CHARTER FUNDING

1. “[C]harter schools are funded pursuant to the charter schools are funded like other districts with the state share being that of the sending district for each student [enrolled in the charter school] plus the local contribution being the local per pupil cost of the sending district.”¹³⁵
2. “The local share of education funding,” often referred to as the “local tuition rate “shall be paid to the charter public school . . . by the district of residence of the student and shall be the local, per-pupil cost calculated by dividing the local appropriation to education from property taxes, net of debt service, and capital projects, as defined in the uniform chart of accounts by the average daily membership for each city and town . . . for the reference year.”¹³⁶
 - a. As is noted in Appendix E-4, the Pawtucket, Providence, and Woonsocket districts are not actually funding their students at the level defined as sufficient by the state’s funding formula, so their per pupil “local contribution” to charter students, like their contribution to their retained students, is below sufficiency.¹³⁷
 - b. The local tuition rate paid to the charter school is the same for all students, whether or not they qualify for FRPL benefits or are English learner or special education students.¹³⁸ Some students—e.g., those qualifying for FRPL benefits, English learners, and special education students—cost more than average to educate. To the extent that the proportion of FRPL students going to charter schools is higher or lower than their proportion among district-educated students, the local tuition rate, respectively, under- or over-compensates charter schools. To the extent that the proportion of English learners and special education students is higher or lower than their proportion among district-educated students, charter schools likely have, respectively, higher or lower per pupil expenses for educating their students. This latter issue is partially mitigated, however, by the state’s categorical funding for districts’ high density ELL population and special education which, as is discussed in item 4 just below, compensates districts more fully than charter schools for these students.
3. The state contribution to charter schools is the per pupil amount of the state’s share of the Total Foundation Award designated for each sending district (see Appendix E-4) multiplied by the number of students the charter school receives from that district.¹³⁹ Unlike the local contribution, the state contribution to charter schools is weighted by the number of charter students who qualify for FRPL benefits, which partly avoid issues arising when the proportions of students with particular needs going to charter schools and remaining in the district are different.¹⁴⁰
4. As is noted in Appendix E-4, important state categorical funding streams—e.g., for high density ELL populations, special education students, transportation, and early childhood programs—are not part of the Total Foundation Award, flow separately to school districts, and are not part of districts’ local tuition funding for charter schools. Although these state funds are available to charters directly from the state, charter schools only rarely to meet the statutory qualifying density and other requirements for such funding. In FY19, for example, charter schools received a total of only \$279,353 in categorical funds (about \$28 per pupil enrolled in all Rhode Island charter schools), all of which were designated to accommodate added costs of educating ELL students. By contrast, school districts received \$14.8 million for such funding in FY 2019 (about \$113 per pupil enrolled in all district schools in the state).¹⁴¹ Overall, charter schools, which educate over 7% of the state’s public school students, received less than 2% of all categorical aid, including none for high-cost special education students or for transportation.¹⁴²
5. Typically, the state uses the prior year’s enrollment as a reference point in determining the current year’s state aid.¹⁴³ Because charter schools often phase in, adding one grade each year, their enrollment can increase rapidly from one year to the next in ways that the reference year amount underestimates. “If the October 1 actual enrollment data for any charter public school shows a ten percent (10%) or greater change from the prior year enrollment which is used as the reference year average daily membership, the last six (6) monthly payments to the charter public school will be adjusted to reflect actual enrollment.”¹⁴⁴ This adjustment evidently applies to both the state and local contributions, but is only partial in that it covers only half of the cost of charter school enrollment increases of 10% or more. This feature of the funding scheme moderates the fiscal impact of sudden drops in *district* enrollment from an outflux of students to charter schools, by enabling the district to retain 50% of the local tuition payment for those students. See bullet 7



below and the next section (6) of this Appendix G for additional ways in which Rhode Island law moderates districts' charter-induced transition costs are moderated.

6. Rhode Island adopted its current Funding Formula (see Appendix E-4) in 2010 (effective FY 2012), in order to “provid[e] stable and predictable funding and address[] the inequities between districts that developed in the absence of a formula.” In 2014, the Governor and General Assembly undertook a series of efforts, supported by a special legislative commission (with representatives from school boards, superintendents, teachers unions, and charter schools, among others) to respond to concerns “that new inequities” among districts and between them and charter schools had “emerged as unintended consequences” of the new formula. An “impetus for this study was concern regarding the required local share of funding for charter schools.” Issues addressed included whether districts' funding of charter schools took sufficient account of (i) districts' “fixed” costs (ones not sensitive to the number of students a district educates); (ii) “expenses borne exclusively by districts,” including for particular categories of high-cost students, and (iii) “[t]he extent to which the local share of funding to districts is shifted to charter schools impacts district out-year sustainability.”¹⁴⁵ As the table in this Appendix, section 6 below indicates, a major motivation for the concern about local funding has been the relatively recent penetration of Rhode Island charter schools like Blackstone Community Prep and especially of mayoral academy charter schools into more middle-class suburban school districts like Cumberland and Warwick.¹⁴⁶ Because those districts have fewer low-income students, they receive much smaller proportions of their education funding from the state. Recently, therefore, those districts not only began experiencing charter schools' impact on their enrollment (previously felt mainly by urban districts) but also were contributing a greater share of their local tax receipts to charter school than urban districts.

7. To address these fiscal impact problems, the General Assembly in 2016 (effective in 2017) adopted several changes to the funding structure, including:

- a. A “reduction to the local per pupil funding paid by the district of residence to charter public schools This reduction shall be equal to the greater (i) of seven percent (7%) of the local, per-pupil funding of the district of residence . . . or (ii) the per-pupil value of the district's costs”¹⁴⁷ so-called “‘unique’ costs, offset by those same costs to charter schools.”¹⁴⁸ The statute defines these unique costs as ones for: “non-public textbooks, transportation for non-public students, retiree health benefits, out-of-district special-education tuition and transportation, services for students age eighteen (18) to twenty-one (21) years old, pre-school screening and intervention, and career and technical education, tuition and transportation costs, debt service and rental costs.”¹⁴⁹
- b. An “additional reduction” (of roughly \$1,000/pupil in FY 2021) to the local per pupil funding paid by the district of residence “to mayoral academies with teachers who do not participate in the state teacher's retirement system . . . equal to the per-pupil value of teacher retirement costs attributable to [the] unfunded [pension] liability.”¹⁵⁰
- c. An increase in state funding for districts of 5% of their local tuition rate per pupil for each student the district sends to a charter schools.¹⁵¹ “The additional state aid shall be for the purpose of assisting local school districts to undertake the indirect costs borne by a district when its student attends a charter public school.” Charter schools do not receive this additional 5% in state aid granted to the district.¹⁵²
- d. A temporary 3 years of “additional state aid” to districts that send more than 5% of their students to charter or other out-of-district schools in the amount of \$175 per pupil sent to non-district schools in FY 2017, \$100 per pupil in FY 2018, and \$50 per pupil in FY 2019. “The additional aid shall be used to offset the adjusted fixed costs retained by the districts of residence.”¹⁵³
- e. A recent Rhode Island Senate Report also recommends an additional adjustment under which, “for new charter enrollments, the local tuition due to a charter school would be 100 percent when the receiving charter is outperforming the sending school. When the sending school is outperforming the receiving charter, the local tuition paid by the sending LEA shall be no more than 50 percent of the local tuition calculation.”¹⁵⁴

8. By law, the “local tuition rate that the district pays charter schools is the per pupil share of the district's *operating*, but not its *capital*, budget: the local tuition rate per-pupil cost is “calculated by dividing the local appropriation to education from property taxes, *net of debt service*, and



*capital projects.*¹⁵⁵ Unlike district schools, that is, Rhode Island charter schools do not operate in buildings owned and maintained by the municipalities and “must pay to lease or purchase space” out of their “public operating funds,” which as the Rhode Island Department of Education has acknowledged, absent non-public sources of funding will require them “to decrease spending on academic and other programming.”¹⁵⁶ Districts may negotiate with charter schools to pay for rental of district buildings or district-provided custodial services.¹⁵⁷

6. WAYS THE LAW MODERATES CHARTER SCHOOLS’ FISCAL IMPACT ON SCHOOL DISTRICTS

As is laid out in more detail in the preceding section (5) of this Appendix G, above, state law moderates charter schools’ fiscal impact on district schools in the following ways, moving from more to less important:

1. State law caps the total number of charters statewide at 35, only 1 more of which remains to be authorized. [Appendix A.]
2. State law funds charter schools at a lower rate per pupil than students in district schools, considering all (including capital) expenses and usually gives the sending district the benefit of the differential:
 - a. The sending district and state are spared any responsibility for charter schools’ capital expenses, including debt service on the purchase of property, rent, and building maintenance. [Appendix G-5, bullet 8.]
 - b. In 2016, the General Assembly reduced the local tuition payment to no more than, and potentially a good bit less than 93% of the district’s per pupil operating expenses to cover districts’ “unique” costs that are not easily diminished when enrollment declines. [Appendix G-5, bullet 7(a).]
 - c. Districts sending students to mayoral academy charter schools where teachers are not part of the state pension system receive an additional reduction in local tuition in an amount that recently has worked out to be about \$1000 per student to avoid the impact of “unfunded [pension] liabilities.” [Appendix G-5, bullet 7(a).]
 - d. In addition to all state aid to education paid to a local district, the state pays for 5% of the district’s local tuition to charter schools “for the purpose of assisting local school districts to undertake the indirect costs borne by a district when its student attends a charter public school.” No similar state aid is paid to charter schools. [Appendix G-5, bullet 7(c)].
 - e. During a recent 3-year period of relatively high charter growth, the state made an additional payment to the local district sending students to charter schools of \$175 (Y1); \$100 (Y2) and \$50 (Y3) per student sent “to offset the adjusted fixed costs retained by the districts of residence.” [Appendix G-5, bullet 7(c)]
 - f. Districts sending students to charter schools experiencing enrollment growth of 10% or more compared to the prior year are relieved of 50% of the first year’s local tuition payment for the additional number of students attending those charter schools, also moderating districts’ transition costs in years of high growth in charter enrollment. [Appendix G-5, bullet 5.]
 - g. Districts’ local tuition payments to charter schools are based on average per pupil expenditures. To the extent that charter school students are on the whole more costly to educate than students the district retain, charter schools effectively increase the per pupil funds available for their retained students. (Conversely, if charter schools on the whole receive students who are *less* costly to educate than the district average, they impose a hidden tax on district.) [Appendix G-5, bullet 2(b)]
 - h. Districts receive the benefit of several types of categorical funding for which charter schools do not qualify—although the extent to which that funding exceeds the districts’ actual expenses for services not provided to or performed by charter schools is unclear. [Appendix G-5, bullet 4.]
3. After being authorized to operate and to expand, charter schools in Rhode Island typically phase-in at one grade per year, providing further time for school districts to revise staffing, programs, and other services to declining enrollment.¹⁵⁸
4. The Charter Law requires the Commissioner and CESE in exercising their discretion whether



to approve the establishment or expansion of charter schools to “place substantial weight on the fiscal impact on the city or town; programmatic impact on the sending school district; and the educational impact on the students in the district to ensure that the proposal is economically prudent for the city or town and academically prudent for the proposed sending school district and for all students in the sending district.”¹⁵⁹

5. Through the Commissioner’s “responsibility” and power, with the approval of CESE, to take over chronically failing school districts, the Rhode Island Department of Education can both help bring order to the district’s fiscal affairs (one of the purposes of the state takeover statute) and also provide other forms of state aid to alleviate the district’s fiscal distress.¹⁶⁰ The state’s recent takeover of Providence provides an example, enabling the City, in the estimation of its mayor, previously an opponent of additional charter growth on fiscal impact grounds, to embrace additional charter growth given (i) reduced “worries about the district’s finances” as a result of the takeover and (ii) the quality of recent proposals to expand one existing mayoral academy and create another one.¹⁶¹ Following the state take-over, the Commissioner has recommended and CESE has approved the creation of 3 and the expansion of at least 4 charter schools serving Providence—all in conjunction with the state’s 5-year plan to turn Providence schools around.¹⁶²

7. STATE AND LOCAL CONTRIBUTIONS (FY22 ESTIMATES): SELECTED SCHOOL DISTRICTS AND CHARTER SCHOOLS¹⁶³

DISTRICT/ CHARTER	ENROLLMENT	FRPL ENROLLMENT	PERCENT FRPL	STATE PER PUPIL CONTRIBUTION	LOCAL PER PUPIL CHARTER TUITION RATE	TOTAL PER PUPIL CONTRIBUTION	STATE SHARE OF TOTAL CONTRIBUTION
A. SCHOOL DISTRICTS							
Cranston	10,168	4,095	40.3%	\$6,736	\$5,613	\$12,348	54.5%
Cumberland	4,597	913	19.9%	\$4,443	\$7,037	\$11,480	38.7%
Pawtucket	8,595	6,112	71.1%	\$11,007	\$2,653	\$13,660	80.6%
Providence	22,458	19,259	85.8%	\$12,391	\$1,892	\$14,283	86.8%
Warwick	8,616	2,817	32.7%	\$4,552	\$7,474	\$12,026	37.9%
Woonsocket	5,888	4,589	77.9%	\$11,887	\$2,063	\$13,950	85.2%
B. CHARTER SCHOOLS							
Achievement First	1,988	1,482	74.2%	\$11,383	\$2,423	\$13,806	82.4%
Achievement First from Providence only	1,710	Not Available		\$12,058	\$1,841	\$13,899	86.8%
Blackstone Valley Prep	2,247	1,470	65.4%	\$9,967	\$3,541	\$13,418	74.3%
Blackstone Valley Prep from Cumberland only	443	Not Available		\$4,829	\$7,650	\$12,479	38.9%
C. TOTALS							
District Total	129,502	59,413	45.9%	\$6,953			
Charter Total	11,061	7,701	69.6%	\$10,703		Not Available	
State Total	140,563	67,114	47.7%	\$7,248			



APPENDIX H. 2020 NEW CHARTER AUTHORIZATIONS & EXPANSIONS: LOCAL FISCAL IMPACT ANALYSIS

CHARTER SCHOOL	TOTAL SEATS	CITIES AND TOWNS SERVED	LOCAL FISCAL IMPACT ANALYSIS
NEW CHARTER SCHOOL AUTHORIZATIONS			
Excel Academy	2,186	Central Falls, Providence, N. Providence	<p>Prepared by Dr. Kenneth Wong¹⁶⁴</p> <ul style="list-style-type: none"> • Presents tables comparing each sending districts' local per pupil tuition payments to charter school in Y1 compared to state, federal and total per pupil contributions • Presents tables showing each of three sending districts' local share of per pupil expenses compared to total funding in Y3, Y5, Y7, and Y9 at scale. • Presents table showing school's total funding at scale as % of sending districts' total funding: 7.6% for Central Falls, 7.1% for Providence, 6.1% for N. Providence; Y1 estimates: .58% for Central Falls, .54% for Providence, .46% for N. Providence • Concludes based on tables that: "the school's estimated impact on the local share and the total district funding in the three cities seems reasonable and prudent." • Notes that with state takeover of Providence school district, "addressing the fiscal impact of new charter school seats on the City of Providence now rests with the Commissioner of Elementary & Secondary Education"
Nuestro Mundo	414	Providence	<p>Prepared by RIDE¹⁶⁷</p> <ul style="list-style-type: none"> • Presents table comparing sending district's local per pupil tuition payments to charter school to state, federal, and total per pupil funding of the charter school in Y1 • Presents table calculating the sending district's total annual local tuition payment to charter school as a % of sending district's total expenditures in Y1-Y5: Y1 .13%; at scale: .40%)
Providence Prep	252	Providence	<p>Prepared by Dr. Kenneth Wong¹⁶⁶</p> <ul style="list-style-type: none"> • Compares Providence's local contribution upon school's opening at 50% of total enrollment to (i) to Providence's total operating budget (<.005%) and (ii) amount Providence spends for parochial school textbooks annually (\$16,500 less) • Describes schools "fiscal impact" as "comparable to [Providence] opening a new middle school" • Notes that with state takeover of Providence school district, "addressing the fiscal impact of new charter school seats on the City of Providence now rests with the Commissioner of Elementary & Secondary Education"



APPENDIX H. 2020 NEW CHARTER AUTHORIZATIONS & EXPANSIONS: LOCAL FISCAL IMPACT ANALYSIS

CHARTER SCHOOL	TOTAL SEATS	CITIES AND TOWNS SERVED	LOCAL FISCAL IMPACT ANALYSIS
APPROVED CHARTER SCHOOL EXPANSIONS			
Achievement First RI	2,628	Providence, N. Providence	<p>Prepared by RIDE¹⁶⁷</p> <ul style="list-style-type: none"> • Presents table comparing sending districts' local per pupil tuition payments to charter school to state, federal, and total per pupil funding of charter school • Presents tables calculating each sending district's total annual local tuition payment to charter school as % of each sending district's total annual operating expenditures in Y1, Y5, and at scale: e.g., Y1 .10% for N. Providence and .17% for Providence; at scale 1.48% for N. Providence and 2.42% for Providence)
Nurses Middle College	228	Statewide	<p>Prepared by RIDE¹⁶⁸</p> <ul style="list-style-type: none"> • Presents table with 9 sending districts' total annual local tuition payments to the charter school, as well as the local, state, federal, and total per pupil contributions, at scale: districts' total annual contributions range from 80K to 2.7M (the latter for Providence representing an estimated .62% of Providence's overall annual operating expenses).
Segue Institute	360	Central Falls	<p>Prepared by RIDE¹⁶⁹</p> <ul style="list-style-type: none"> • Presents table comparing sending districts' local per pupil tuition payments to charter school to state, federal, and total per pupil funding of charter school • Presents tables calculating sending district's total annual local tuition payment to charter school as % of district's total expenditures in Y1, Y2, and Y3: Y1 .24%; at scale .71%
TOTAL	6,068		

IMPLICATIONS OF THE ABOVE APPROACH TO ADDRESSING FISCAL IMPACT

Through these actions and in the cited Local Impact Analyses, the Commissioner and CESE have established the following three-step analysis of charter proposals' local, including fiscal, impact:

- **Step 1:** Compare the academic performance of the districts and schools from which the new or expanded charter school would draw students to the charter school's own track record of performance—or, if it is new, to the charter school's realistic academic performance commitments—particularly in regard to educationally disadvantaged and at-risk students.
- **Step 2:** If that academic comparison significantly favors the charter school, determine whether a charter school proposing an expansion has in the past and commits to continuing—or, if the charter school is new, it now commits—to provide those services at a local per pupil spending rate at least somewhat below the sending district's own per pupil spending rate. (In regard to this step, it is important to keep in mind that the charter school must use the funds in question to cover capital as well as operating expenses, while the district applies the comparable funds only to its operating expenses, with additional funding used for its capital needs.)



- **Step 3:** If both the academic and fiscal comparisons favor the charter school, determine whether the sending district's annual local funding for the charter proposal, both in the charter school's first year of existence and at scale, comprises only a small proportion of the district's total annual operating funds. If so, approve the charter proposal if it meets the Charter Law's other requirements. Since 2017, when the Charter Law first directed the Commissioner and CESE to place substantial weight on this consideration, they have been satisfied (i) by Y1 funding levels for the proposed charter school that are less than 1% of the district's funding levels for its remaining students, and (ii) by at-scale charter-funding levels that are less than 8% of the district's operating funds for its remaining students. There are three caveats in regard to this third step:
 - This step focuses entirely on the proposal's separate fiscal impact on each sending district, not on the proposals' combined impact on all districts nor on the proposal's impact on a given district combined with the impact on that district of the same school's or other charter schools' previously authorized seats. The Commissioner's and CESE's approvals of successive expansions of the Achievement First RI charter school in 2019 and 2020 illustrate the point—both of which separately analyzed the impact of the proposal on each sending district, and the latter of which considered the impact of only that proposed expansion, not of that and the previous year's expansion, nor of that and the charter school's pre-existing seats. The Charter Law itself requires this practice by making clear that it is “[i]n considering a proposed charter, or an amendment to a charter for expansion,” that “substantial weight” is to be given to “fiscal impact,” “to be sure that the proposal is economically prudent.”¹⁷⁰
 - The 1% and 8% figures reflect practice to date, but the Commissioner and CESE have not defined Y1 and at-scale ceilings, which could be higher than the numbers noted here.
 - The recent practices described here apply to charter school proposals that mainly affected larger urban school districts with large numbers of economically disadvantaged students and relatively low local funding rates; the Commissioner and CESE have not yet made clear how they will analyze the local impact of charter proposals affecting more middle class suburban school districts with considerably higher local fund rates.



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1. Data presented in this report are the most up to date available as of December 2020.
2. See Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (reporting that CESE had approved 3 new charter schools and the expansion of 3 others).
3. RI Dep't of Educ., Final Order of Control and Reconstitution and Decisions Establishing Control Over the Providence Public School District (Oct. 15, 2019), <https://www.ride.ri.gov/InsideRIDE/AdditionalInformation/ProvidencePublicSchools2019Review.aspx>.
4. RIGL § 16-77.3-3(f).
5. RIGL § 16-77.3.3(e).
6. RIGL § 16-77-6.1(c).
7. RIGL § 16-77-3.1(b).
8. RIGL § 16-77.3-3(f).
9. RIGL §§ 16-71-1(a)(iii), 16-71-1(b).
10. RIGL § 16-77-3.1(b).
11. RIGL § 16-77.3-3(f).
12. RIGL § 16-72-5(b) (emphasis added).
13. See Linda Borg, Achievement First Seeks Another Big Expansion in Providence, Providence Journal (Sept. 28, 2020), <https://www.providencejournal.com/story/news/coronavirus/2020/09/28/achievement-first-seeks-another-big-expansion-in-providence/42701679/> (describing 2019 approval of an expansion of the Achievement First RI charter school); See Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (describing 2020 approval of 3 new charter schools and 3 charter expansions).
14. See Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (quoting Commissioner Angélica Infante-Green: “‘Parents of color don’t have a lot of choice,’ she said. ‘We should not be closing opportunities.’ . . . Students in charter schools, she said, contribute to improving the district [Providence]. ‘They are not dropping out.’”). Appendix H collects the local fiscal impact analyses for all six proposals for new and expanded charter schools that CESE approved in December 2020.
15. For examples of these arguments, see RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 57-59 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>; RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 12, 16-17 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>; Linda Borg, Achievement First Seeks Another Big Expansion in Providence, Providence Journal, Sept. 28, 2020, <https://www.providencejournal.com/story/news/coronavirus/2020/09/28/achievement-first->



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- [seeks-another-big-expansion-in-providence/42701679/](https://www.providencejournal.com/story/news/education/2020/11/10/critics-say-charter-school-plan-would-strip-millions-providence-schools/6232586002/); Linda Borg, New Providence Charter School Proposal Draws Tough Criticism, Providence Journal, Nov. 10, 2020, <https://www.providencejournal.com/story/news/education/2020/11/10/critics-say-charter-school-plan-would-strip-millions-providence-schools/6232586002/>; Dan McGowan, Why Mayor Elorza Changed his Tune on Charter Schools in Providence, Boston Globe, Sept. 30, 2020, <https://www.bostonglobe.com/2020/09/30/metro/why-mayor-elorza-changed-his-tune-charter-schools-providence/>; Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019 (noting that a “shortage of available seats” in Rhode Island charter schools has recently “hampered” their “year over year growth,”); Eli Sherman, RI Communities Fear Costs as over 10,000 Students Apply for Charter Schools, Boston Globe, Sept. 4, 2019).
16. See Boston Consulting Group, Transforming Philadelphia’s Public Schools (Aug. 2012), https://www.crpe.org/sites/default/files/BCG-Summary-Findings-and-Recommendations_August_2012.pdf (“[W]hen students transfer from [Philadelphia] District-operated to charter schools, the District has typically cut just 50 percent of the expenses associated with those students. The fixed costs, such as for building utilities and the maintenance and school leadership, have remained with the District.”). Note that the “fixed costs” identified here are (i) partly for capital expenses that in Rhode Island are funded by revenue sources that are separate from those used by districts to fund and thus unavailable to charter schools and (ii) are “fixed” only for a time, until the number of buildings, utilities, school personnel, etc. are reduced in keeping with the enrollment decline).
 17. RIGL § 44-35-10.
 18. RIGL § 44-5-2.
 19. RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 19 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf> (reporting testimony of a representative of the RI School Superintendent Association that “[s]pecial education is included in the tuition districts pay to charter schools, but charter schools do not have the same special education costs.”).
 20. RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 12 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
 21. Qualifying this statement, however, are the facts that (i) low-income students make up only 20% of Cumberland’s enrollment but 65% of the enrollment of Blackstone Community Prep’s—the charter school serving that community—and (ii) Blackstone Valley Prep’s low-income students modestly outperform low-income students in Cumberland. See Appendices D, G-7.
 22. RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 17 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf> (reporting testimony of a representative of the RI School Superintendent Association that “[s]pecial education is included in the tuition districts pay to charter schools, but charter schools do not have the same special education costs.”).
 23. Linda Borg, Achievement First Seeks Another Big Expansion in Providence, Providence Journal, Sept. 28, 2020, <https://www.providencejournal.com/story/news/coronavirus/2020/09/28/achievement-first-seeks-another-big-expansion-in-providence/42701679/>.
 24. Linda Borg, Board Approves Elorza’s Plan to Dramatically Increase Size of Achievement First,



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- Providence Journal, Oct. 7, 2019, <https://www.providencejournal.com/news/20191007/board-approves-elorzas-plan-to-dramatically-increase-size-of-achievement-first> (noting Achievement First's plan to expand by 90 students a year).
25. RIGL § 16-77.3-3(f).
 26. RIGL §§ 16-71-1(a)(iii), 16-71-1(b).
 27. RIGL § 16-77-3.1(b).
 28. RIGL § 16-77.3-3(f).
 29. Local-impact analyses on which the Commissioner and CESE have relied recently and which reflect their recent practice are collected in Appendix H.
 30. See generally Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.com, Nov. 4, 2019, <https://www.wpri.com/news/education/over-10000-ri-students-in-charter-schools-for-first-time/> (displaying table entitled “RI Charter School Demand Exceeds Supply” noting that, in 2019-2020, Rhode Island charters enrolled 10,088 students in 2019-2020, and received 10,317 additional applications for only 1,823 available charter seats).
 31. RIGL § 16-77.3-3(f) (emphasis added).
 32. This last practice is not legally required but is nearly uniform practice in Rhode Island.
 33. See, e.g., Jesse Levin et al., Districts’ Use of Weighted Student Funding Systems to Increase School Autonomy: Findings from a National Study (Final Report 2019); Carmel Martin et al., A Quality Approach to School Funding (Ctr. for Am. Prog. Nov. 13, 2018), <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>; Karen Hawley Miles, Breaking the Vise of Declining Enrollments, in *Getting the Most Bang for the Education Buck 125* (Frederick M. Hess & Brandon L. Wright eds. 2020); Marguerite Roza & Paul Hill, How Within-District Spending Inequities Help Some Schools to Fail, *Brookings Papers on Educational Policy* (2004).
 34. See, e.g., RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 19 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf> (reporting testimony of a representative of the RI School Superintendent Association that “[s]pecial education is included in the tuition districts pay to charter schools, but charter schools do not have the same special education costs.”).
 35. See, e.g., Jesse Levin et al., Districts’ Use of Weighted Student Funding Systems to Increase School Autonomy: Findings from a National Study (Final Report 2019); Carmel Martin et al., A Quality Approach to School Funding ((Ctr. for Am. Prog. Nov. 13, 2018), <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>; Karen Hawley Miles, Breaking the Vise of Declining Enrollments, in *Getting the Most Bang for the Education Buck 125* (Frederick M. Hess & Brandon L. Wright eds. 2020); Marguerite Roza & Paul Hill, How Within-District Spending Inequities Help Some Schools to Fail, *Brookings Papers on Educational Policy* (2004).
 36. See generally Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019, <https://www.wpri.com/news/education/over-10000-ri-students-in-charter-schools-for-first-time/> (displaying table entitled “RI Charter School Demand Exceeds Supply” noting that, in 2019-2020, Rhode Island charters enrolled 10,088 students in 2019-2020, and received 10,317 additional applications for only 1,823 available charter seats).
 37. For evidence that, nationally, charter schools get substantial proportions of their enrollment from



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- students who formerly home schooled or were in private and parochial schools, see Ctr. on Reinventing Pub. Educ., Charter Schools and District Enrollment Loss 4 & n.5, 9-10 (May 2019), <https://files.eric.ed.gov/fulltext/ED595191.pdf>; Abraham Lackman, The Collapse of Catholic School Enrollment: An Unintended Consequence of the Charter School Movement, Albany Gov't L. Rev. 6 (2013)
38. RIGL § 16-77.3-3(f) (emphasis added).
 39. Kenneth Wong, Providence Preparatory Charter School Local Impact Analysis (Oct. 25, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/BrownUEP_%20Local%20Impact%20Analysis_PVDCharter.pdf?ver=2020-11-05-205502-547.
 40. Kenneth Wong, Providence Preparatory Charter School Local Impact Analysis (Oct. 25, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/BrownUEP_%20Local%20Impact%20Analysis_PVDCharter.pdf?ver=2020-11-05-205502-547 (making the above argument in favor of authorizing Providence Preparatory Charter School, a new charter school serving Providence middle-school students); see Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (reporting that CESE had approved 3 new charter schools (Excel Academy RI, Nuestro Mundo Charter School, and Providence Preparatory Charter School) and the expansion of 1 other (Achievement First RI) that serve Providence middle school students).
 41. See, e.g., Baker A. Mitchell, Why Many Charter Schools Were Better Prepared for Covid-19, RealClearEducation, May 29, 2020, https://www.realcleareducation.com/articles/2020/05/29/why-many-charter-schools-were-better-prepared-for-covid-19_110428.html (concluding that charter schools responded more effectively to the pandemic because they “typically are more nimble and less bureaucratic than traditional public schools . . . and rely more heavily on technology than traditional public schools”); Gregg Vanourek, How Big Charter Networks Made the Switch to Remote Learning, Educ. Next, <https://www.educationnext.org/how-big-charter-networks-made-switch-to-remote-learning/> (finding that “leading charter-school networks . . . shifted nimbly and effectively to remote learning” early in the pandemic, getting “up and running with online instruction within days of the [shutdowns],” distributing “tens of thousands of devices and Internet hotspots...[and] offer[ing] a robust mix of live and recorded instruction”—in contrast to 86 public school districts the study analyzed, which were significantly slower in establishing comprehensive remote learning plans and monitoring student progress).
 42. RI Dep’t Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>; RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 1 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>; See generally U.S. Census, Spending Per Pupil Increased for Sixth Consecutive Year (May 11, 2020), <https://www.census.gov/newsroom/press-releases/2020/school-system-finances.html>.
 43. See Carmel Martin et al., A Quality Approach to School Funding ((Ctr. for Am. Prog. Nov. 13, 2018),



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- <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>; Adam Tyner, The Relationship Between School Funding and Student Outcomes, in Getting the Most Bang for the Education Buck 35 (Frederick M. Hess & Brandon L. Wright eds. 2020). See also U.S. Dep't of Educ., Expenditures per Pupil for Elementary and Secondary Public Schools, <https://nces.nsf.gov/indicators/states/indicator/public-school-per-pupil-expenditures> (reporting data on per pupil spending by all individual public schools in the nation, by state and district, providing part of the data needed to show that many higher performing schools in Rhode Island have lower per pupil funding than many lower performing schools with similar demographic characteristics).
44. RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula 9, 22 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
 45. RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula 9, 22 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
 46. See RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>.
 47. RIGL § 16-77-3.1(b).
 48. RIGL § 16-77-3.1(c)(2).
 49. RIGL § 16-77-3.1(c)(1).
 50. RIGL § 16-77-3.1(a).
 51. RIGL § 16-77-3.1(c)(6).
 52. RIGL § 16-77-3.1(b).
 53. RIGL § 16-77-6.1(c).
 54. Valerie Strauss, Blistering Report Details Abject Dysfunction and Dangerous Schools in Providence, R.I., Wash. Post June 26, 2019, <https://www.washingtonpost.com/education/2019/06/26/blistering-report-details-abject-dysfunction-dangerous-schools-providence-ri/>.
 55. For data on the large proportion of Providence or Central Falls students served by Achievement First, Highlander, and Blackstone Valley Prep, see RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>.
 56. R.I. Dep't of Educ., Rhode Island's Charter Public Schools, <https://www.ride.ri.gov/StudentsFamilies/RIPublicSchools/CharterSchools.aspx#1977598-list-of-charter-public-schools>. One of the 32 authorized charter schools, Time2 Academy began phasing out in 2020-21.
 57. RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873> (source for all FY2022 estimates; per pupil rates calculated by dividing totals by student enrollment; local contribution calculated by subtracting state from total).
 58. See Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (reporting that CESE had approved 3 new charter schools (Excel Academy RI,



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- Nuestro Mundo Charter School, and Providence Preparatory Charter School) and the expansion of 3 others (Achievement First RI, RI Nurses Institute Middle College Charter School, and Segue Institute for Learning).
59. R.I. Dep't of Educ., Rhode Island's Charter Public Schools, <https://www.ride.ri.gov/StudentsFamilies/RIPublicSchools/CharterSchools.aspx#1977598-list-of-charter-public-schools>. The charter schools listed here are located in the listed towns. It is important to note, however, that Rhode Island charter schools may be authorized to enroll students from multiple communities and school districts. As a result, most of the charter schools in the state enroll students from more than one community, with about a third enrolling students from communities statewide. Three charter schools have multiple locations (e.g., for elementary, middle, and high school)—two with multiple campuses in Providence, the third with one campus in Providence and another in Warren. For more information on where Rhode Island charter schools are located and the communities from which they draw students, see Appendix B-1 below. Although this report does not do so, it is possible, using through a painstaking analysis of information reported by the RI Department of Education to determine how many students in each district attending charter schools and which charter schools they attend. See RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>.
60. Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019.
61. RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>.
62. See Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019 (noting that a “shortage of available seats” in Rhode Island charter schools has recently “hampered” their “year over year growth,”).
63. Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019, <https://www.wpri.com/news/education/over-10000-ri-students-in-charter-schools-for-first-time/>.
64. R.I. Dep't of Educ., Rhode Island's Charter Public Schools, <https://www.ride.ri.gov/StudentsFamilies/RIPublicSchools/CharterSchools.aspx#1977598-list-of-charter-public-schools> (listing charter schools, their locations, and communities from which they draw); R.I. Dep't of Educ., October 1st Enrollment for LEAs 2006-2020, <http://www.eride.ri.gov/FileExchange/fredDetails.aspx?fileID=40143&download=no>.
65. Annual growth in this case is since 2015.
66. At the charter school's request, Times2 Academy is permanently phasing out starting in 2020-2021. See Linda Borg, R.I. Charter School Times2 Failing to Deliver, State Finds, Providence Journal, Feb. 18, 2019, <https://www.providencejournal.com/news/20190218/ri-charter-school-times-failing-to-deliver-state-finds>.
67. Kids Count, 2020 RI Kids Count Factbook: Public School Enrollment and Demographics Table 2 (2020), <http://www.rikidscount.org/Portals/0/Uploads/Documents/Factbook%202020/Individual%20Indicators/enrollment-demographics-2020fb.pdf?ver=2020-04-03-103700-250> (2019-2020 data); School Building Authority at RI Dep't of Educ., Demographic Summary Report App. B. (June 2017) (2009-2010 and 2014-2015 data); R.I. Dep't of Educ., October 1st Enrollment for LEAs 2006-2020, <http://www.eride.ri.gov/FileExchange/fredDetails.aspx?fileID=40143&download=no>. The 4 Rhode Island cities listed here



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are the ones with largest number of charter schools. The charter and school district data include only students attending, respectively, charter and traditional public schools.

68. R.I. Dep't of Educ., October Enrollment 2020-2021 Generated Report, <http://www.eride.ri.gov/reports/reports.asp> (providing 2020-2021 data for Special Education, ELL, Black, and Hispanic students); R.I. Dep't of Educ. FY 2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873> (providing 2020-2021 data for FRPL student) “State Total” data include all public school students, whether in charter or traditional public schools. Because most RI charter schools enroll students from multiple sending school districts, comparing their charter and district demographic make up is possible (see data here: RI Dep't Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873>) but is difficult. To facilitate comparisons, this table (1) focuses on the state's five largest charter schools and networks (which are highlighted), constituting 59% of total state charter school enrollment, and the six school districts (indicated without highlighting) that are the sending school districts for most or all of those charter schools' students; and (2) first lists urban charter schools and the urban school districts from which they mainly draw their students, then do the same for the suburban charter schools and the suburban districts from which they draw most of their students. Note, though, that the Blackstone Valley Prep charter network is a mix of students from the two suburban districts listed below it (Cumberland and Lincoln) as well as the two urban districts listed above it (Central Falls and Pawtucket)—hence the grey shading to indicate the mix of urban and suburban students in the Blackstone Valley Prep charter network. State charter school totals are not available.
69. R.I. Dep't of Educ., Report Card, <https://reportcard.ride.ri.gov/>. All data are for the 2018-2019 school year.
70. For a description of how the data here are displayed, see end not 68 above.
71. RI Dep't of Educ., FY19 Per Pupil Expenditure Chart 6.30.2020.pdf, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/School-District-Financial-Data/FY19%20Per%20Pupil%20Expenditure%20Chart%206.30.2020.pdf?ver=2020-06-30-150513-970>. Amounts in this table exclude debt service and capital projects.
72. RIGL § 16-5-30 (“Withholding of aid for infraction of laws or regulations – Report to general Assembly”); RIGL § 16-7-16 (“Definitions”); RIGL § 16-7-17 (“Time of payment of state's share of the basic program and approved Expenditures”); RIGL § 16-7-20 (“Determination of state's share”); RIGL § 16-7-21 (“Determination and adjustment of equalized weighted assessed valuation”); RIGL 16-7-22 (“Determination of average daily membership”); RIGL § 16-7-2-3 (“Permanent foundation education aid established; RIGL § 16-7-2-4 (“Determination of state's share”); RIGL § 16-7-2-5 (“Charter public schools, the William M. Davies, Jr. Career and Technical High School, and the Metropolitan Regional Career and Technical Center”); RIGL § 16-7-2-6 (“Categorical programs, state funded expenses”); RIGL § 16-7-2-7 (“Transition plan”); RIGL § 16-7-2-9 (“Applicability”) see RI Dep't of Educ., Funding Formula Guide (Spring 2018), <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/State-Education-Aid-Funding-Formula/Guide%20with%20flow%20charts%204.13.2018.pdf>; Kenneth Wong, Toward a Coherent System of Allocating State Aid to Public



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- Schools (Brown Univ. Educ. Dep't 2015), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/State-Education-Aid-Funding-Formula/FundingFormulaWorkingGroup/Mtg1-11_3_presentation_final.pdf.
73. Education Aid (2020), <http://www.rilin.state.ri.us/sfiscal/Other%20Documents/FY2020%20Education%20Aid.pdf>. See Kenneth K. Wong, The Design of the Rhode Island Funding Formula 5-7 (Oct. 2015), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/State-Education-Aid-Funding-Formula/FundingFormulaWorkingGroup/Mtg1-11_3_presentation_final.pdf
74. Many observers have argued this measure does not accurately reflect the varying level of educational and thus fiscal challenges that districts face. A recent Rhode Island Senate report has proposed calculating SSF based on districts' proportion of English Language Learner students (ELLs) and students with Individual Education Plans (IEPs), as well as FRLP students. See RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula 10 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
75. RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula: Funding Formula 101 Overview at 7 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
76. RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula: Funding Formula 101 Overview at 8 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>. For statutory details and definitions of eligible expenses for categorical funds see RIGL §16-72-6.
77. RI Senate, Special Legislative Task Force to Study Rhode Island's Education Funding Formula 9, 22 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
78. City of Pawtucket v. Sundlun, 662 A.2d 40, 48, 55 (R.I. 1995), reaffirmed in Woonsocket School Committee v. Chafee, 89 A.3d 778 (R.I. 2014).
79. RIGL § 16-77-3.1(a).
80. RIGL § 16-77-3.1(a).
81. RIGL § 16-77-3.1(c)(1).
82. RIGL § 16-77-3.1(c)(2).
83. RIGL § 16-77-3.1(c)(6).
84. RIGL § 16-77-3.1(c)(3).
85. RIGL § 16-77-3.1(b).
86. RIGL § 16-77-3.1(c).
87. RIGL § 16-77-3.1(c)(4).
88. RIGL § 16-77-3.1(c)(7).
89. RIGL § 16-77-3.1(c)(5).
90. RIGL § 16-77-3.1(b).
91. R.I. Const. Art. XII.
92. 200-RICR-20-10-1 (Rhode Island Basic Education Plan) § 11.2.A.2.
93. RIGL § 16-71-1(A).
94. RIGL § 16-72.



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95. RI Dep't of Educ., School Improvement, <https://www.ride.ri.gov/InformationAccountability/Accountability/SchoolImprovement.aspx>.
96. RI Dep't of Educ., School Improvement, <https://www.ride.ri.gov/InformationAccountability/Accountability/SchoolImprovement.aspx>.
97. RIGL § 16-71-1(A)(2).
98. RIGL § 16-72.
99. 200-RICR-20-10-1 (Rhode Island Basic Education Plan) § 1.1.2.A.1.
100. RI Dep't of Educ., Basic Education Program, <https://www.ride.ri.gov/InformationAccountability/Accountability/BasicEducationProgram.aspx>.
101. 200-RICR-20-10-1 (Rhode Island Basic Education Plan) § 1.1.3.B.2.
102. RIGL § 16-77-6.1(c) (emphasis added).
103. RIGL § 16-77-3.1(g) (emphasis added).
104. 200-RICR-20-05.2.2.2(D). Note that charter schools' academic performance, particularly with traditionally underserved students, is also the weightiest factor the Commissioner and CESE consider in making charter renewal decisions, see 200-RICR-20-05-2.5.3(B) (weighting most heavily "the success of the school's academic program as defined by the academic goals established in the charter for increasing academic achievement for all [other than very small] groups of students . . . including" students who economically disadvantage, from major racial and ethnic groups, with disabilities and with limited English proficiency") and also is an important basis in charter revocation decisions, see RIGL § 16-77-3.4(a)(5) (allowing revocation if a charter school, "[a]fter three (3) consecutive years of operation, is not a 'high-performing charter school,' defined as a charter public school that has demonstrated overall success, including: (i) Substantial progress in improving student achievement").
105. See RIGL § 16-77-3(f) (directing charter authorizers to proceed in an "economically prudent . . . and academically prudent" fashion).
106. RIGL § 16-77-3.1(b).
107. RIGL § 16-77-3(f) (emphasis added)
108. RIGL § 16-71-1(a)(iii).
109. RIGL § 16-71-1(b).
110. RIGL § 16-77-3-1 et seq.; Board of Regents' Regulations Governing Rhode Island Public Charter Schools, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/inside-ride/Laws-Regulations/Charter-School-Regulations.pdf>.
111. RIGL §§ 16-77-2-3(c), 16-77-3-3(c), 16-77-4-3(c), 16-77-5.1(b). Rhode Islands' governor appoints both CESE members and the Commissioner and thus can exercise considerable sway over charter decisions.
112. RIGL § 16-77.3.2(a); RI Dep't of Educ., Rhode Island's Charter Public Schools, <https://www.ride.ri.gov/studentsfamilies/ripublicschools/charterschools.aspx#1977601-starting-or-expanding-charter-schools>.
113. District Charter Schools are schools the local school board converts to charter schools. RIGL § 16-77.2-1.
114. See RI Dep't of Educ., Rhode Island's Charter Public Schools, <https://www.ride.ri.gov/studentsfamilies/ripublicschools/charterschools.aspx#1977601-starting-or-expanding-charter-schools>.
115. The process for expanding an independent charter and mayoral academy is the same process as the process for the initial grant of a charter. RIGL §§ 16-77.3-3, 16-77.4.
116. Authorization of new independent charters but not mayoral academies, includes a detailed review



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by the RI auditor general of the proposed charter's financial plan "Final approval for operation of the independent charter school shall not be granted by the council on elementary and secondary education until the auditor general has approved the financial plan." RIGL §16-77.3-2(b). This requirement applies to the fiscal health of the proposed charter school, not the host school city(ies)/ town(s) or school district(s).

117. 200-RICR-20-05.2.2.1.
118. 200-RICR-20-05.2.2.3(E). The required proposal contents are set out in RIGL § 16-77.3.2 for independent charter schools and in RIGL § 16-77.4.2 for mayoral academies, and for both in 200-RICR-20-05-2.2.2(A)-(D) and in 200-RICR-20-05-2.2.4(B).
119. An example of the Commissioner's evidence gathering in support of renewal consideration, with (in this case) a recommendation to renew the charter for 3 years, can be found here.
120. RIGL §§ 16-77.3.2(a)(1)-(17).
121. RIGL § 16-77.3.3(c).
122. RIGL § 16-77.3.3(d).
123. RIGL § 16-77.3.3(e).
124. RIGL § 16-77.3.3(f).
125. RIGL § 16-77-6.1(c).
126. RIGL § 16-77-3.1(b).
127. RIGL § 16-77.3-3(f).
128. RIGL § 16-71-1(a)(iii).
129. RIGL § 16-71-1(b).
130. RIGL § 16-77.3.3(f) (emphasis added).
131. Eli Sherman, Over 10,000 RI Students in Charter Schools for First Time, WPRI.Com, Nov. 4, 2019, <https://www.wpri.com/news/education/over-10000-ri-students-in-charter-schools-for-first-time/> (displaying table entitled "RI Charter School Demand Exceeds Supply" noting that, in 2019-2020, Rhode Island charters enrolled 10,088 students in 2019-2020, and received 10,317 additional applications for only 1,823 available charter seats).
132. Retirement Board of Employees' Retirement System v. Corrente, 174 A.3d 1221, 1235 (R.I. 2017).
133. RIGL § 42-35-15(g)(5).
134. RIGL § 42-35-15(g)(6).
135. RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 57 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>; see RIGL § 16-7.2-5.
136. RIGL § 16-7.2-5(b).
137. FY2020 local tuition rates for all sending districts may be found here.
138. RIGL §16-7.2-5(b)). See RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 57 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>.
139. RIGL § 16-77.1-2(a).
140. FY2020 state aid for charter school students from each sending district can be found here.
141. RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 116, 120 (Sept. 2018),



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- <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>; see RIGL § 16-7.2-5.
142. RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 105 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>. FY2022 requested categorical aid by district and charter school can be found here.
143. RIGL §§ 16-7.2-3(b), 16-7.2-5(a)
144. RIGL § 16-7.2-5(a)
145. RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 57-59 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>.
146. See Eli Sherman, RI Communities Fear Costs as over 10,000 Students Apply for Charter Schools, Boston Globe, Sept. 4, 2019 (discussing concerns among residents of Cumberland, a middle-class suburb: “In Cumberland, the situation of mayoral academies [a form of charter schools] was presented as a no-cost option to start a small school in Cumberland, and what it’s turned into is a very expensive second school system,” said state Sen. Ryan Pearson, a Cumberland Democrat who previously served on the school committee there.”).
147. RIGL § 16-7.2-5(c).
148. RI House of Representative Fiscal Advisory Staff, Rhode Island Education Aid 58 (Sept. 2018), <http://www.rilin.state.ri.us/housefiscalreport/Special%20Publications/2018%20Session/Education%20Aid%20-%202018%20Edition.pdf>.
149. RIGL § 16-7.2-5(c).
150. RIGL § 16-7.2-5(c). See RI Dep’t Educ., FY 2021 Local Share Per Pupil – Charter Schools, Davies, Met School, and UCAP, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/School-District-Financial-Data/FY-21-local-tuition-rates-6-2-20.pdf?ver=2020-06-02-164239-563> (noting the reduction for this purpose which were substantial: about \$1000 per pupil for FY 2020).
151. RIGL § 16-71-2(b). Thus, if a district’s local tuition rate is \$10,000, the state will compensate the district \$500 above its normal state aid for each student the district sends to a charter school.
152. RIGL § 16-71-2(a).
153. RIGL § 16-7.2-5(e).
154. RI Senate, Special Legislative Task Force to Study Rhode Island’s Education Funding Formula 12 (Jan. 28, 2020), <http://www.rilin.state.ri.us/Reports/Funding%20Formula%20TF%20full%20report.pdf>.
155. RIGL § 16-7.2-5(b) (emphasis added).
156. RI Dep’t of Educ. Office of College and Career Readiness, Rhode Island Charter Public Schools: Frequently Asked Questions (FAQs), bullet #10, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/FAQs.pdf>. Charter schools may be able to access capital funds through the state’s “Necessity of School Construction” process, <https://www.ride.ri.gov/FundingFinance/SchoolBuildingAuthority/NecessityofSchoolConstruction.aspx#37711414-stage-4--funding>. See also RIGL §16-77.1-4 (offering charter schools up to \$150,000 in interest free start up loans if federal funds for that purpose are unavailable or fully expended).



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157. RIGL § 16-77.2-5(c) (emphasis added).
158. See, e.g., Kenneth Wong, Providence Preparatory Charter School Local Impact Analysis (Oct. 25, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/BrownUEP_%20Local%20Impact%20Analysis_PVDCharter.pdf?ver=2020-11-05-205502-547 (noting that proposed new charter middle school would phase-in one year at a time over three years, with 50% of its overall enrollment impact in Y1); RI Dep't of Educ., Achievement First Rhode Island Local Impact Analysis for Charter Expansion Request (Nov. 16, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/AchievementFirst_RIDE_LIA_PVD_NP.pdf?ver=2020-11-16-103921-327 (noting that proposed charter expansion affected grades K-12 would phase in over 12 years, with 8% of its overall enrollment impact in Y1).
159. RIGL § 16-77.3-3(f).
160. The Crowley Act, RIGL §§ 16-71-1, 16-71-5 (with the goals of “[c]losing inequitable gaps in performance and achievement among groups of students, especially those correlated with poverty, gender, and language background” and “tracking investments to improve student and school performance,” permitting state takeover and “reconstitution” of school districts, including “restructuring” the district’s “governance, budget, program, personnel” and “may recommend the provision of additional district, municipal and/or state resources”).
161. Dan McGowan, Why Mayor Elorza Changed his Tune on Charter Schools in Providence, Boston Globe, Sept. 30, 2020, <https://www.bostonglobe.com/2020/09/30/metro/why-mayor-elorza-changed-his-tune-charter-schools-providence/> (“‘Not having to take into account the finances and how we’re going to balance the budget, it’s a much a different consideration for me,’ Elorza told the Globe on Monday. ‘Now it comes down to: Are they [charter schools] delivering for students? And the answer is unequivocally yes.’”).
162. See Donita Naylor, Three Charter Schools Get State OK to Expand, Three More to Start in Providence, Providence Journal, Dec. 16, 2020, <https://www.providencejournal.com/story/news/education/2020/12/16/state-gives-ok-for-6-charter-schools-to-expand-or-open-in-providence/3907147001/> (quoting Commissioner Angélica Infante-Green: “‘Parents of color don’t have a lot of choice,’ she said. ‘We should not be closing opportunities.’ . . . Students in charter schools, she said, contribute to improving the district [Providence]. ‘They are not dropping out.’”).
163. RI Dep’t Educ., FY2022 Preliminary Formula Calculations, <https://www.ride.ri.gov/Portals/0/Uploads/Documents/Funding-and-Finance-Wise-Investments/Funding-Sources/FY-22-Formula-calcs-request-11-20-20.pdf?ver=2020-11-23-142957-873> (source for all FY2022 estimates; per pupil rates calculated by dividing totals by student enrollment; local contribution calculated by subtracting state from total).
164. Kenneth Wong, Local Impact Analysis on Excel Academy Rhode Island (EARL) Charter Application (Nov. 25, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/BrownUEP_%20Local%20Impact%20Analysis_Excel%20Academy.pdf?ver=2020-11-30-161600-613.
165. RI Dep’t of Educ., Nuestro Mundo Local Impact Analysis for New Charter Request (Oct. 2020),



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- https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/NuestroMundo_RIDE_LIA.pdf?ver=2020-11-05-205500-750.
166. Kenneth Wong, Providence Preparatory Charter School Local Impact Analysis (Oct. 25, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/BrownUEP_%20Local%20Impact%20Analysis_PVDCharter.pdf?ver=2020-11-05-205502-547.
167. RI Dep't of Educ., Achievement First Rhode Island Local Impact Analysis for Charter Expansion Request (Nov. 16, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/AchievementFirst_RIDE_LIA_PVD_NP.pdf?ver=2020-11-16-103921-327.
168. RI Dep't of Educ., Nuestro Mundo Local Impact Analysis for New Charter Request (Oct. 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/NuestroMundo_RIDE_LIA.pdf?ver=2020-11-05-205500-750.
169. RI Dep't of Educ., Segue Institute for learning Local Impact Analysis for Charter Expansion Request (Nov. 5, 2020), https://www.ride.ri.gov/Portals/0/Uploads/Documents/Students-and-Families-Great-Schools/Charter-Schools/Proposals_Under_Review/Local%20Impact%20Analyses/Segue_RIDE_LIA.pdf?ver=2020-11-05-205502-250.
170. RIGL § 16-77.3-3(f) (emphasis added).