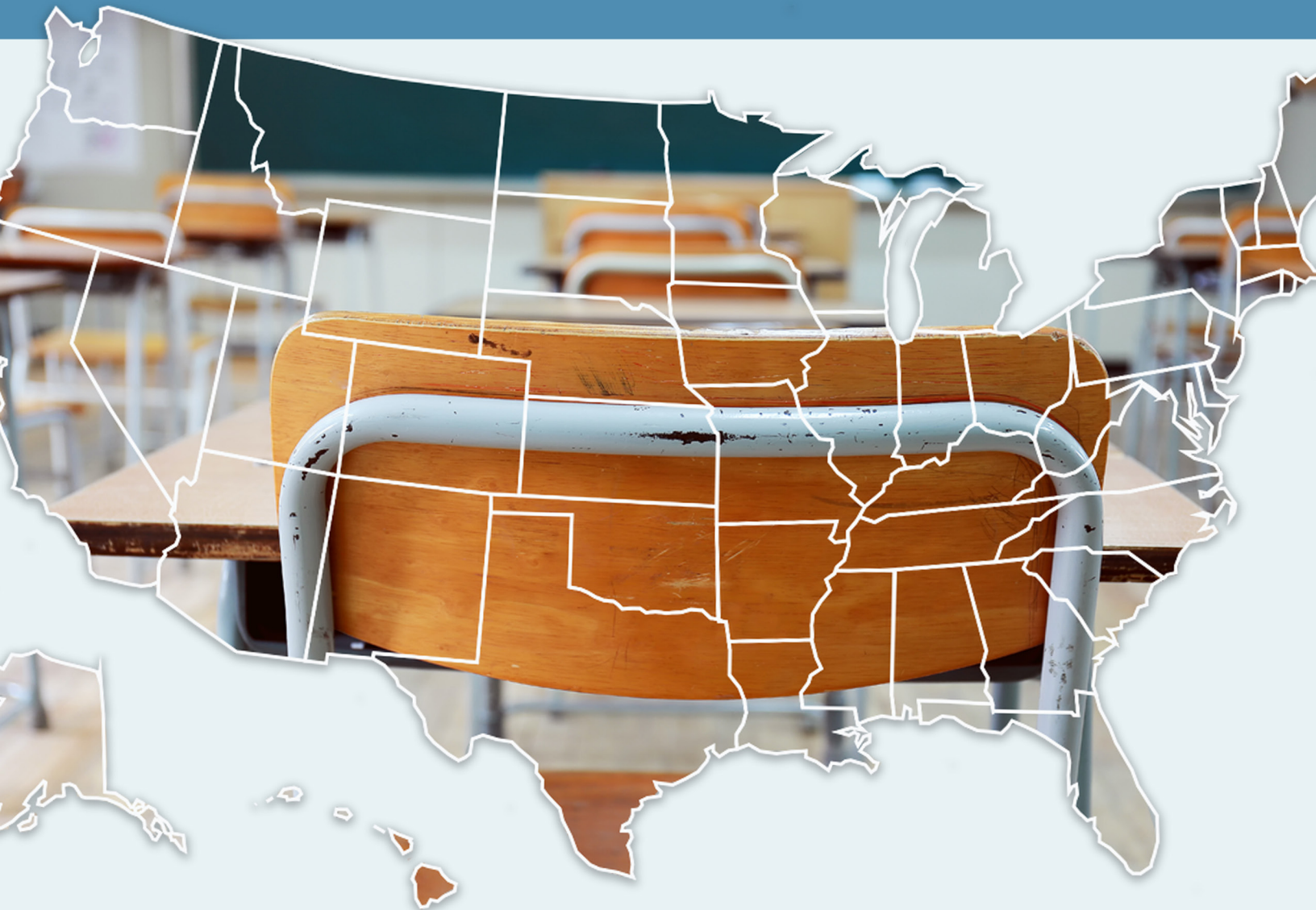


PUBLIC SCHOOLING IN AMERICA

Measuring Each State's Commitment
to Democratically Governed Schools



APRIL 2022



**NETWORK for
PUBLIC EDUCATION**

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INTRODUCTION

In 2018, the Network for Public Education and the Schott Foundation issued a report entitled *Grading the States*.¹ That report examined America's commitment to democracy by grading each state and the District of Columbia on the number of publicly-funded but privately-governed educational "choice" programs it had and whether those programs had sufficient safeguards to protect students' well-being and civil rights. Since then, the march to privatize one of our country's most precious institutions—our public schools—has continued. Indeed, it has intensified.

During the dark days of the Covid-19 epidemic, state legislatures bowed to the pressure of right-wing think tanks and foundations, pushing through charter expansion and voucher legislation with little opportunity for public input. Couched in the language of school choice, new voucher programs were crammed into budget bills or resurrected and passed even after initial defeat. Few included necessary safeguards for taxpayers or families.

While using the rhetoric of parental freedom, the school choice movement has always been no more than a façade for a radical right-wing movement to privatize public education. The ultimate goal of Libertarians and the radical right is the "back to the future" dream of American schooling before Horace Mann.

That dream is described in the *Origins of Government Education in the United States*.² Its author, Matthew Brouillette, describes early American education as a successful "de-centralized network of schools." That description, of course, is false. According to education historian Diane Ravitch, prior to the mid-1800s, there were elite private schools for the rich, church schools for congregants, and

charity schools for the poor. Other children were either home-schooled or not schooled at all. This was not a network. It was an uncoordinated, free-for-all that left most children undereducated.³

After *Brown v Board* declared school segregation laws unconstitutional, Libertarians saw the opportunity to further their cause by taking advantage of racism to promote vouchers. According to Duke University historian Nancy MacClean, "key conservative and libertarian thinkers and foundations, including economists Milton Friedman and Friedrich Hayek, Human Events editor Felix Morley and publisher Henry Regnery, backed the White Southern cause. They recognized that White Southerners' push for "freedom of choice" presented an opportunity to advance their goal of privatizing government services and resources, starting with primary and secondary education. They barely, if ever, addressed racism and segregation; instead, they spoke of freedom (implicitly, White freedom)."

If school privatizers get their way, education would again descend into a scramble with different levels of quality and different price tags. Public funding would be gradually withdrawn. Schooling would revert to a parental, not state, responsibility.

Today, though, the vast majority of families send their children to public schools, even when government-subsidized alternatives are available. The term "public school" is generally not viewed as a pejorative, which is why those who oppose public schools are anxious to either blur the definition ("public charter schools"), refer to public schools as "government schools," or hijack the term to describe privatized systems. During her 2019 appearance at the Education Writers Association, then-Secretary of Education Betsy DeVos attempted to **re-define the very definition**



of public education: “But if every student is part of ‘the public,’ then every way and every place a student learns is ultimately of benefit to ‘the public.’ That should be the new definition of public education.”⁴

The campaign to denigrate one of our country’s most important and beloved institutions did not happen overnight. The strategy was put in motion during the last century. Joseph P. Overton was senior vice-president of the right-wing Mackinac Center for Public Policy in the 1990s until he died in 2003. He is most known for what’s now called the Overton Window—the idea that there is an identifiable span of policy positions deemed acceptable by the general public at any given moment. One can analyze and rebrand extreme policies by slowly shifting this “window.” According to Mackinac,⁵ the example Overton often used to illustrate the gradual manipulation of the window is the changed public perception of school choice. In the 1980s, advocating for charter schools was politically dangerous. As charters became more acceptable, so did school choice, which in turn allowed conservative politicians to advocate for home schooling, private school tax credits, Education Savings Accounts, and charter expansion.

While many, including those on the left, were enamored with charter schools in their early days, others saw what was coming down the pike. In 1996, then (Detroit) *Metro Times* reporter Curt Guyette referred to charters as a “trojan horse” in an expose entitled, “Born Again Schools: The Right’s Vision for Public Education in Michigan.” Republished in the *Metro Times* in 2016,⁶ the article explains that four foundations (the Richard & Helen DeVos Foundation, the Prince Foundation, the Orville and Ruth Merillat Foundation, and the Cook Charitable Foundation) mounted what Guyette described as a “relentless attack on the state’s education system” while using charter schools to “blur the lines between public and private education.” Two of those foundations (the Richard & Helen DeVos Foundation and the Prince Foundation) are funded by the family of former Secretary of Education Betsy DeVos.

The strategy has worked, not just in Michigan, but nationally.

At first, Wisconsin was the only state that had a voucher program. Today, there are 60 active

voucher programs across 31 states and the District of Columbia, with a few others passed by legislatures but struck down by the courts.

In 1996, charter schools enrolled fewer than 1,000 students. By the end of 2021, fueled in significant part by growth in for-profit online schools, the number had increased to 3.3 million.⁷

The battle to save a cornerstone of our democracy, public education, is not lost. But the privatization movement is no longer in its infancy. The Overton Window has shifted. The privatization of public education is now in its adolescence. It has achieved the full-throated support of the right-wing, which now controls many state legislatures. Conserving public schools and local control is no longer part of a conservative platform: destroying locally controlled public schools via privatized choice is.

“There is no compromising with school privatization advocates. Decades ago, public education advocates felt they could compromise with privatizers by making accommodations for charter schools, with both sides giving a little. Rather than satisfy privatization advocates, this concession simply ratcheted up their new starting position.

That’s because to privatization advocates, there is no compromise. As long as there is publicly-funded education in America, there will be well-funded, radical special interests pushing lawmakers to end that support.”



Charles Siler, former school choice lobbyist

OUR STATE BY STATE RATINGS

The first step in stopping the privatization movement is to understand it. This report takes up where our 2018 report left off. Not only do we grade the states based on their willingness to commit exclusively or primarily to democratically governed public schools open to all, but their willingness to put sufficient guardrails and limits on publicly-funded alternatives to ensure that taxpayers, students, and families are protected from discrimination, corruption and fraud in the programs they have.

In analyzing a state's resistance to the privatization of public education through school choice, we look at the following five major categories, each composed of multiple sub-components:

- » **Expansion of Privatization**
- » **Educational Quality**
- » **Student Rights and Protections**
- » **Accountability and Transparency**
- » **Safeguards for Taxpayer Dollars**

Using the lack of any laws allowing privatization as the baseline, each state was assigned a starting value of 100 points. Points were then deducted based on components. Points were evenly divided between charter (50 points) and voucher (50 points) programs. We then converted overall scores to letter grades. Further information regarding the individual areas of assessment, sources used, and assigned points can be found in [Appendix A](#) of this report.

Two states received an overall grade of A+: Nebraska and North Dakota. Nebraska and North Dakota have neither voucher programs nor charter school laws. One state, Vermont,

achieved a grade of A-

Fifteen states achieved a grade in the B or C range, seven fewer than in 2018. The number of states receiving a D doubled from six to twelve. The number of states with failing scores of F (scores below 60) increased from 17 to 21. The following table lists the states and the District of Columbia in rank order by overall score along with their voucher and charter school ratings. Tables with letter grades can be found on [pages 19-20](#).



STATE RANK	OVERALL SCORE	VOUCHER SCORE	CHARTER SCORE
1. Nebraska	100	50	50
2. North Dakota	100	50	50
3. Vermont	90	40	50
4. Kentucky	84	49	35
5. South Dakota	84	34	50
6. Connecticut	82.5	50	32.5
7. Washington	82	50	32
8. Montana	81	31	50
9. Massachusetts	80.5	50	30.5
10. Kansas	79.5	35	44.5
11. Wyoming	79	50	29
12. New Mexico	78	50	28
13. New Jersey	77.5	50	27.5
14. Virginia	75	33	42
15. Delaware	74	50	24
16. Alaska	73	50	23
17. Maine	73	42	31
18. New York	71	50	21
19. Minnesota	67.5	48	19.5
20. Texas	67.5	50	17.5
21. Oregon	67	50	17
22. Hawaii	66	50	16
23. Illinois	66	38	28
24. Maryland	66	41	25
25. Colorado	65	50	15
26. Rhode Island	65	32	33
27. Idaho	64.5	50	14.5
28. California	61	50	11
29. Michigan	61	50	11
30. Alabama	60	34	26
31. District of Columbia	58	40	18
32. Iowa	58	34	26
33. West Virginia	58	28	30
34. Tennessee	55	33	22
35. Missouri	53	31	22
36. Mississippi	52	23	29
37. Wisconsin	50	31	19
38. Pennsylvania	49.5	29	20.5
39. South Carolina	46	32	14
40. Oklahoma	45	23	22
41. Louisiana	40.5	23	17.5
42. Nevada	40	30	10
43. Arkansas	39	21	18
44. Utah	37	21	16
45. New Hampshire	36.5	11	25.5
46. North Carolina	32	16	16
47. Georgia	31.5	19	12.5
48. Indiana	26	9	17
49. Ohio	23.5	8	15.5
50. Florida	18	6	12
51. Arizona	10	5	5

OVERVIEW: VOUCHERS AND CHARTER SCHOOLS

Traditional Vouchers

The school voucher movement has its roots in racism. It began in the last century with publicly funded vouchers that were designed to allow white children to escape integration in the years following the U.S. Supreme Court's decision in *Brown vs Board of Education*.⁹ State-funded vouchers allowed the creation of so-called "segregation academies" throughout the south. Today, voucher programs continue to increase segregation in our schools.¹⁰

Traditional vouchers are grants of public school funds to support a student's tuition at private elementary or secondary schools. As of January 1, 2022, there were 24 traditional voucher programs across fourteen states and the District of Columbia. Ohio alone has five programs. In the states with traditional voucher programs, vouchers may be used in either religious or non-sectarian schools.

Three states (New Hampshire, Maine, and Vermont) have programs similar to traditional vouchers, called town tuitioning programs. Town tuitioning allows families who do not have a public school in their town to receive a per-pupil allotment to pay tuition at either a neighboring public school or a private school. Although the laws in each of these states prohibit taxpayer dollars from being used at religious schools, that restriction is presently being challenged in the courts.¹¹

For purposes of this report, we included town tuitioning programs as vouchers because these states did not limit the program exclusively to public schools.

Overall, we found 27 voucher programs across 17 states.

Non-traditional Voucher Programs

Many state constitutions have clauses that disallow taxpayer funding of religious schools. To evade these restrictions, state legislatures have devised programs that give money to individual parents or scholarship organizations, rather than directly to schools. These indirect voucher programs include Education Savings Accounts (ESA) and Tuition Tax-Credit Scholarship Programs. A few of the new programs use tax credits to fund ESAs.

Education Savings Accounts or Education Scholarship Accounts (ESAs) are perhaps the most damaging and irresponsible of all voucher programs. They have become the favored program of the Libertarian far-right, whose ultimate goal is for tax dollars to follow the child with the burden of educating children placed on their parents. These programs allow tax dollars (typically 90 percent of what the public school would have spent) to be used toward educational expenses including tuition and fees at private elementary and secondary schools, online programs, support and therapy services, home schooling, and college tuition.

Typically, accounts are established in the student's name and funds are deposited, often on a debit card, for use by the family on approved educational expenses. ESA programs are minimally regulated, with no built-in structures to measure their impact on academic progress. Without significant oversight, they are ripe for fraud and abuse.

As of January 1, 2022, nine ESA programs exist in the following states: Arizona, Florida, Indiana, Mississippi, Missouri, New Hampshire, North Carolina, Tennessee, and West Virginia.



Arizona created the nation's first ESA voucher program to circumvent prohibitions on public funding of religious institutions, which would violate the state's constitution. Under the law, parents can receive a debit card, loaded with funds approximating 90 percent of the tax dollars it would cost to educate their child in a public school. Some parents soon figured out they could buy things for themselves with the money. An audit of the program found the purchase of beauty supplies, sports apparel, TVs, iPads, and laptops. Others withdrew funds and then sent their children to public schools. One family allegedly paid for an abortion using their ESA debit card.

Neither the department administering the program nor the Attorney General's Office could do much about the fraud as they were hampered by enthusiastic lawmakers, unwilling to intervene. Both agencies repeatedly noted that with a lack of state oversight, they could only see so much fraud, and rarely could recover any of it. Eventually, Arizona hired a private third party to administer the program. There is mounting political pressure to scrap the vendor arrangement and return the program to one that is less shackled by oversight.

Tuition Tax-Credit Scholarship Programs (TTCs) grant businesses and individual taxpayers credits against their state income taxes for contributions to School Tuition Organizations (STOs). STOs then award tuition grants to families for private schools. The size of the tax credit varies from state to state, with some states awarding a 100 percent, dollar-for-dollar credit. In some cases, the person who donates can also recommend who receives the scholarship. As of January 1, 2022, 21 states have TTCs. Because some have multiple programs, there are 26 programs overall.

Charter Schools

Nearly all charter schools are governed by private, unelected boards that serve without term limits or accountability to the community where their school is located. Most, but not all states require the charter organization to be a non-profit entity. But, again depending on the state, even these non-profit schools can be managed by a for-profit parent organization. There are independent charter schools, as well as national chains of schools under both non-profit and for-profit management. In the case of Arizona, charter schools may be a for-profit entity without a non-profit facade. For a comprehensive understanding of the for-profit charter sector, we recommend our [2021 report](#), *Chartered For Profit: The Hidden World of Charter Schools Operated For Financial Gain*.¹²

Most charters are brick and mortar schools. However, there is a growing sector of online charter schools, often run for profit. These include full-time virtual charters, blended schools (part in-person, part online), and home schools that a charter school sponsors. [This new home-school charter model](#) provides curriculum and sometimes cash to families to create a fully funded home school program, even in states where there are no ESA vouchers.¹³

Forty-five states and the District of Columbia have charter school laws. Forty-three of those states have operating charter schools. The states without charter laws are Montana, Nebraska, North Dakota, South Dakota, and Vermont. During the 2020-2021 school year, charter schools enrolled 10 percent or more of the share of total public and charter students in 12 states. In the District of Columbia, enrollment is nearly split between public and charter schools. However, in eight states, the proportion of students in charters is less than one percent.

Like voucher schools, charter schools enjoy fewer regulations, and less oversight than district public schools. And, as with voucher schools, this has resulted in significant concerns when it comes to accountability, accessibility and academic quality.

SIGNIFICANT FINDINGS

The following are key findings from our analysis. A component-by-component description of our findings by category is included in the next section. [Appendix A](#) at the end of this report identifies the components under each of our five categories and explains how points were deducted from states based on their voucher and charter school policies.

Vouchers: Traditional and Non-traditional Programs

- » Seven states publicly fund home schooling with few if any checks on the quality of instruction or monitoring of student progress.
- » Nineteen states do not require teachers in voucher schools to be certified.
- » Twenty-six states do not require that voucher students take the same state tests as their public and charter school counterparts.
- » Even though some legislatures have enacted voucher programs designed for special education students, only two states ensure that all voucher students with disabilities retain their full rights under IDEA when they move from a public school to a private one. The other 96 percent of states with voucher programs are either silent regarding student rights or require families to sign away their rights under IDEA to get a voucher.
- » Eighty-one percent of states allow voucher schools to discriminate in entrance requirements based on religion. Under the guise of religious freedom, 74 percent allow discrimination based on student and/or *parent* LGBTQ status.
- » Near half (15) of all states with one or more voucher programs do not require background checks for the teachers of voucher-funded students.
- » Seven states do not require voucher schools to follow state health and safety regulations that apply to public schools.
- » More than half of states with vouchers have at least one program that pays out more than 50 percent of what would have been spent to educate the child in a public school. This is especially concerning since most programs now give tax dollars to students who have never enrolled in a public school. For example, [New Hampshire had \\$8 million drained](#) from its coffers after the first year of its ESA program, as the majority of families already enrolling their child or children at a private school signed up for the program, resulting in much higher costs than predicted.¹⁴
- » ESA programs are especially ripe for fraud. [An audit of the Arizona program](#) showed that parents spent over \$700,000 in unallowable purchases.¹⁵





The Individuals with Disabilities Education Act (IDEA) was passed into federal law to protect students with disabilities from discrimination. But some schools that accept vouchers don't want to accommodate students whose disabilities require special, and often expensive additional services. One way to keep costs low is to require students and families to sign away their rights under IDEA.

Another way is to exclude them altogether. One Phoenix-area mother, Pamela Lang whose child has disabilities, qualified for \$40,000 a year in school vouchers, which would more than cover the costs of even the most expensive private schools in the state. But none of them would take her money or her son. Even schools that marketed themselves as catering to special education students found reasons to turn them away.

Secular schools, religious schools, church-affiliated schools, schools run by therapists, big schools, and small schools all turned them away, with one even kicking them out of a tour of the campus. Even charter schools that were required to accept her son by law made it clear they wouldn't do anything to meet his needs if she pressed enrollment.

She wrote about her experience for a local paper, saying, "...choosing private school means signing away your child's right to federal anti-discrimination protections. There are no reliable or consistent standards. Private schools can and do reject or remove a child for any reason, any time. For large parts of the last three years on an ESA, my 12-year old son has sat at home because I couldn't find a willing school. No one mentions this when they glorify ESAs and school choice."

Legislators and policymakers in Arizona are well aware of this issue, and multiple bills have been introduced to ensure students with disabilities can maintain their legal protections when using voucher programs, but none of those bills have ever had more than a hearing.

You can read more of Pamela's story [here](#).

Charter Schools

- » Although charters claim to be open to everyone via a lottery, 40 states give enrollment preferences to students beyond disadvantaged students. Four states allow charter schools to shape enrollment using academic and talent screening. And as the [infographic in Appendix B](#) shows, additional "creaming" strategies are utilized outside of any regulatory oversight or language.
- » In 31 states, charter school students do not have the same rights and protections as public school students in disciplinary and expulsion proceedings.
- » Thirty-three states either do not require that charter school students be taught by certified and licensed teachers or allow so many exceptions that any existing regulations are meaningless.
- » Thirty-seven states allow entirely virtual,

online schools; 32 of those enable for-profit corporations to run them. This is despite the preponderance of the evidence that shows students in such schools make poor academic progress and have extremely low (under 50 percent) graduation rates.¹⁶ A recent report by the Government Accountability Office (GAO) entitled "[The Department of Education Should Help States Address Student Testing Issues and Financial Risks Associated with Virtual Schools, Particularly Virtual Charter Schools](#)," found that 56 percent of virtual schools are run by CMOs, of which 75 percent are for-profit.¹⁷ According to the report, for-profit operations increase financial risk because the profit interest of the management corporation may supersede the school's provision of high-quality education to its students. The report also noted that online schools, regardless of profit status, educate substantially fewer students who



receive free or reduced-priced lunch, have lower participation rates in state assessments compared to brick-and-mortar schools, and have inconsistent and questionable methods of taking attendance.

- » Thirty-seven states and D.C. allow for-profit corporations to run non-profit charter schools, including via “sweeps” contracts that allow tax dollars and control to be funneled to the for-profit that runs the day-to-day operation of the school. In five states (Arizona, Florida, Michigan, Nevada, and Ohio), for-profits run over 30 percent of the charter schools in the state.
- » Forty-one states allow schools to contract with businesses owned by charter school board members, and in 19 states those related party transactions are not required to be disclosed.
- » Under the guise of “innovation,” the lack of public transparency is well documented and appalling. Only one state, Ohio, makes the contracts between charter schools and their management companies accessible on the state department of education website. The lack of transparency also extends to the management corporations, known as Charter Management Organizations (CMOs) or Education Management Organizations (EMOs) that in some cases run virtually every aspect of the school. Forty-one states have no requirement that for-profit or nonprofit management corporations open their books—even to the administrators and board of the charter school it is running, and 37 states do not require that the CMO annually report to the charter school, or to the state, how it spends public funding.
- » Fraud and mismanagement are one of the common reasons that charter schools shut

down. Whether cooking the books on attendance or outright theft, fraudulent practices result in schools being shuttered, sometimes with little warning.¹⁸ Since January 2019, we have been logging stories of charter scandals that appear in local and national media. Twenty states have accrued at least 25 stories in the press that have described charter school malfeasance and abrupt closures. Topping the list was the state of California, with 141 such reports. In second place was Pennsylvania with 96, followed by Florida (88) and Louisiana (83).

Wagma Mommandi and Kevin Welner of the National Education Policy Center and the University of Colorado co-authored *School’s Choice: How Charter Schools Control Access and Shape Enrollment* (Teachers College Press, September 10, 2021) The book was based on their careful research into how policies and practices adopted by charter schools work to shape enrollment, thus dispelling the claim of charter advocates that enrollment is randomly determined by lottery.

The authors identified numerous factors that influence who enrolls and remains in charter schools. These factors tend to shape student bodies with children who are easier to teach and families who are more involved. The graphic in [Appendix B](#), included with the authors’ permission, identifies some of the ways that charter schools are able to legally influence who attends their school before, during, and after enrollment.



CATEGORICAL FINDINGS

What follows are brief descriptions of how the states fared under our research and analysis of policies and practices for both voucher programs and charter schools in five key areas. **Appendix A** at the end of this report reviews the components under each of our five categories and explains how points were deducted from states based on their traditional and non-traditional voucher and charter school programs.

Category #1: Expansion of Privatization

Some states have taken a measured approach when expanding privatized choice. Others have been more reckless, indicating a clear and purposeful intent to all but eliminate public schooling. We included components to measure if the state was engaging in a full-throated attempt to move to a fully privatized market-based system of publicly funded education. For voucher programs, points were lost based on

the number of programs enacted, the proportion of students who participated in such programs, eligibility constraints, family income restrictions, programs pending court challenges, programs that gave families tax credits for home-schooling or private school tuition, and whether vouchers could be used at religious institutions.

For states with charter schools, points were lost based on high proportions of students in charter schools. Points were also lost due to irresponsible laws regarding charter authorization. State laws assign the role of licensing charter schools to one or more agencies, which may include public school districts, private or government agencies, universities, nonprofits, or private corporations established solely for the purpose of authorizing charters. Authorizers are also tasked with oversight of the schools they license, for which they generally receive a substantial fee, giving them a vested interest in authorizing schools and



For the first time I really began to think about the impact of the decision I'd made on everybody else. By pulling away from the public system, I was leaving less for the kids who'd been left behind, including the ones who couldn't get into private schools, or who got kicked out because they didn't conform to what the schools wanted. The more I saw, the more it bothered me. I was using public dollars to perpetuate discrimination in the name of school choice. I decided that I could no longer accept school vouchers for my children because it was unethical.

Dountonia Batts, former voucher parent

Read Dountonia's story on the Public Voices for Public Schools website, [here](#).



later keeping them open. Multiple authorizers often result in schools “authorizer shopping,” that is, having their applications rejected by one authorizer and then bringing the same application to another. States lost points based on the number of authorizers allowed to approve charter schools, whether school districts have the power to authorize charters (points were lost if they did not) and whether authorization decisions by school districts can be overturned on appeal. Points were also lost for mandates that charters be co-located in public school buildings thus squeezing public school space, and an absence of a cap that effectively limits charter growth.

Based on our analysis, five states stood out as having laws and policies apparently designed to spread privatized school choice at the expense of public schooling. These are Arizona and Florida (each lost 38 points), Indiana and Ohio (each lost 32 points), and Georgia (26 points).

At the other end of the spectrum, are the states that lost five or fewer points, which demonstrate a more cautious approach. They are Connecticut, Kansas, South Dakota, Vermont, Washington, and Wyoming. Nebraska and North Dakota do not allow either vouchers or charter schools.

Category #2: Educational Quality

Unfortunately, there are states that in the name of flexibility and innovation have charter and voucher laws and policies associated with lower quality opportunities for students. In the name of choice, these states are willing to let noncertified teachers and unregulated schools educate children with taxpayer dollars. We penalized states with voucher programs that do not require voucher schools to be accredited and allow voucher students to be taught by uncertified teachers. Points were also lost if vouchers are allowed for home schools. Finally, points were lost if voucher students are not required to take the same tests as their counterparts in public and charter schools, precluding a fair assessment of student progress in voucher programs. While advocates in test-free voucher states will quickly label public schools as failing based on test scores, they deliberately obscure the performance of their own voucher programs.

States with charter programs lost points if teacher certification is not required or if exemptions make their certification requirement meaningless. Points were also lost if the states allow full-time virtual charter schools, due to the proven ineffectiveness of these schools.¹⁹

The state with the least apparent interest in ensuring their students receive a quality education in their privatized alternatives is



I’d been working as a parent advocate for a group pushing for education equity, and when I had a chance to talk to one of our funders, the CEO of the Opportunity Trust, Eric Scroggins, I rattled off a list of ideas I had for turning the district around. Things like smaller class sizes, wrap-around services, highly-certified teachers, and literacy initiatives.

“That won’t work,” he responded. “We have to burn it down.” I didn’t want to burn it down. My kids were in those schools.

Gloria Evans Nolan, former school choice advocate

Read Gloria’s story on the Public Voices for Public Schools website, [here](#).



New Hampshire, which lost 11 points in areas including no required background checks for teachers, not requiring voucher schools to adhere to state health and safety codes that apply to public schools, not requiring voucher students to take state assessments, and others. States that followed closely behind were Arizona, Florida, and North Carolina (10 points), and Indiana (9) points.

Category #3: Student Rights and Protections

One historic advantage of publicly funded and democratically controlled K-12 schools is that they are required to actively protect students from discrimination and protect the rights of students with disabilities. We found that most state voucher programs do not have responsible

safeguards in this area. And despite the ubiquitous rhetoric of welcoming all students, we found that in most states with charter schools, state laws allow charters, through policies and practices, to cull their student body, resulting in access for some at the expense of others.

We penalized voucher states that do not ensure that all students with disabilities retain their rights under the Individuals with Disabilities Education Act (IDEA) in one or more of their voucher programs. We also penalized states that allow discrimination based on religion or LGBTQ status of students and/or parents. States that do not require background checks for teachers, do not require random selection entrance requirements, and do not require schools that enroll voucher students to follow state health and safety guidelines lost points.

One of the major issues with voucher programs is that they place children in risky and harmful situations with little to no oversight.

That lack of oversight is by design, as these programs are meant to simply be siphons for public education funding, not high-quality educational programs that protect all students. Some states don't require background checks for private school operators and staff, and some online charter programs have exploited loopholes to create micro-charter and micro-private schools that don't have statutory background check requirements.

Even when states do have some minimum laws on the books, they aren't interested or able to effectively oversee the programs. That's how a Florida private school principal who was under investigation for molesting a student at his school was able to simply open another school under a different name to keep collecting state voucher money. And when he was charged with felony molestation and forced to close his second school? He simply opened a third and was approved to collect voucher funds again.





Since I first attended KIPP as a student nearly two decades ago, the number of charter schools across the country has exploded. There are 326 operating in New York alone. And while these schools receive state and federal money, they are mostly run like private schools. This structure has made it virtually impossible to hold schools accountable for misconduct. Despite research on the harmful effects of no excuses policies like what I endured, major charter school networks have not evolved. What changes have been made have been cosmetic.

Frances Scarlen Martinez, former KIPP student, parent and teacher

Read Frances' story on the Public Voices for Public

Charter states lost points if they do not require charter schools to follow the same disciplinary and expulsion guidelines as public schools. States also lost points if they give enrollment privileges to groups other than returning students, district students, and disadvantaged students. Points were lost if the state does not fund student transportation to the charter school, similar to their public school counterparts.

The state that did the worst job overall of protecting students' rights and safety was North Carolina, which lost fifteen points. It was followed by Arkansas (14 points), New Hampshire (13.5 points), Georgia (12.5 points), and Arizona, Indiana, and South Carolina, which each lost twelve points.



In 2016, Great Hearts Academies, a chain of charter schools, rolled out a new policy targeting transgender kids. Written with the help of Alliance Defending Freedom, an anti-LGBTQ law foundation with close ties to the charter network's founder, Great Hearts' "Biological Sex and Gender Policy" was the most anti-trans student policy in the country. The ignorance of the new policy was striking, but for me, the issue was personal. My youngest daughter is transgender. Thanks to this policy, it would be impossible for her to go to this school, be successful, and be herself.

Robert Chevaleau, former charter school parent

Read Robert's story on the Public Voices for Public Schools website, [here](#).



Category #4: Accountability and Transparency

Voucher states were penalized if any of their programs have limited or no public financial transparency and if student achievement results are not made public. Charter school states lost points for charter renewal periods that exceed five years, if there is no requirement that an educational service provider report to the charter board on how it spends the public funds it receives from the charter school, if the Education or Charter Management company's contracts with its schools are not readily available to the public, and if there is no requirement that the charter school have access to its operator's records.

The states with both vouchers and charters that lost the most points on accountability and transparency were Arizona and Georgia, which each lost 11 points, followed by Arkansas, Indiana, Mississippi, North Carolina, and Utah. Each of these states lost ten points.

The maximum number of points states with charters, but no vouchers, could lose was seven. There are 16 states that lost full points for their charter program alone—Alaska, Arizona, Arkansas, California, Georgia, Illinois, Indiana, Maryland, Michigan, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Texas, and Utah.

Category #5: Safeguards for Taxpayer Dollars

School choice programs divert tax dollars ordinarily directed to public schools to privately-operated ones. The presence of these alternative programs increases the burden on the taxpayer, who must now fund two, three, or even more parallel schooling systems. But they also raise the burden on the state for ensuring that taxpayer funds are used responsibly. Without dramatically increased funding in state education budgets, the added costs of these alternative systems strain the capacity of public schools to provide adequate educational resources to *their* students—still the majority of students in every state.

Non-traditional voucher programs (ESAs and Tuition Tax-Credits) create even more challenges because these alternative voucher programs often send taxpayer dollars to private schools on a larger scale than traditional voucher programs. ESAs allow funds to go for advantages such as horseback riding “therapy” and even college tuition. And when every tax dollar you give to a private school scholarship fund is given back to you, that is not charitable giving by an individual; but rather a gift of public funds paid for by all taxpayers in the state.

In our analysis, voucher states lost points for providing voucher dollars to all students



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In 2020, as my first child entered kindergarten, with Arizona already ranked near the bottom in education, I watched the governor promoting private schools. I saw funds going to schools that not every student could access. I worried about AZ education. How far could it fall? What would happen to my kids? Would they be able to compete with the rest of the nation? Would they be able to stay in the public schools? Or would they be pushed into schools that only accepted certain demographics? What more could “school choice” do to hurt us? It kept me awake at night.

Hayley Stenger, public education advocate

Read Hayley's story on the Public Voices for Public Schools website, [here](#).



regardless of income, including students currently enrolled in private schools. With such a policy, the states are making a gift of taxpayer dollars to wealthier families well able to afford private school tuition costs. States also lost points for any program that provided more than 50 percent of public school education costs on a voucher. If the state's tax credit program gave a 100 percent tax credit, meaning that every dollar donated reduced the tax bill of the individual or corporation by the same amount, points were lost, and points were lost if there was no tax credit cap or if it exceeded \$2,000 a year.

Public schools are obliged by law to be responsible stewards of taxpayer dollars. State laws and regulations around transparent public reporting, regulations on related party transactions, auditing requirements, bidding requirements, budget referendums, and FOIA laws help ensure that the public can monitor how their tax dollars are spent, thus reducing the opportunity for mismanagement, theft, and scandal.

News reports on the misappropriation of taxpayer funds by charter operators and vendors, as well as fraud, mismanagement, and theft,

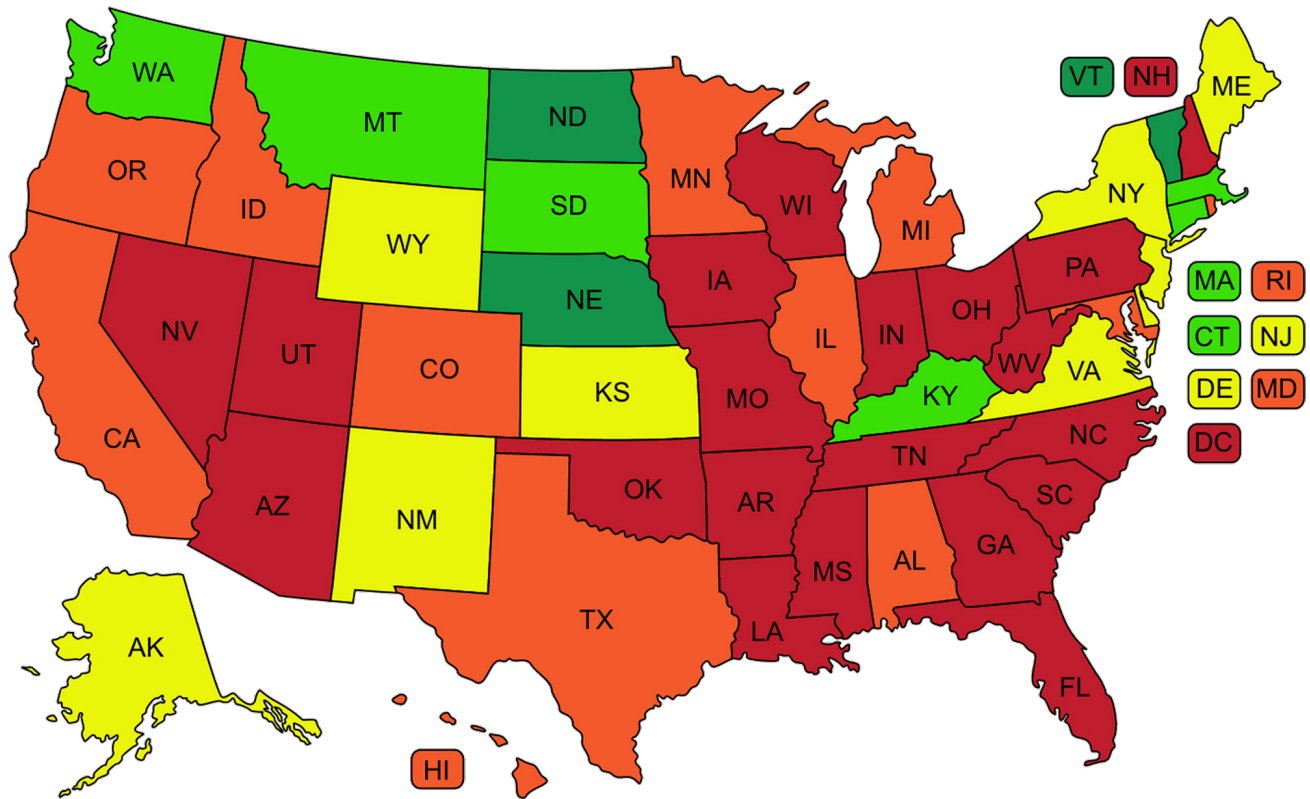
are published on a near-daily basis. In addition, some states have grossly mismanaged federal dollars received through the Federal Charter Schools Program by giving large sums to schools that never opened or that shut down a few years after receiving the funds.²⁰

Charter states lost points if they gave federal Charter School Program (CSP) grants to unauthorized schools, had a five-year charter failure rate of over 20 percent, and if there were 25 or more published accounts of charter school scandals in the state between 2017 and January 2022.

Overall, Arizona and Ohio had the worst records when it came to fiscal irresponsibility. Both states lost eleven points. Florida followed, losing nine points. Missouri lost seven points, followed by Indiana, Montana, and Utah, which lost six points each.

States with the worst records of scandal, charter churn, and wasted federal Charter Schools Program dollars include California, Florida, Minnesota, Ohio, and Texas. These states lost the maximum number of points.





OVERALL GRADES

State	Grade	State	Grade	State	Grade	State	Grade
Alabama	D-	Illinois	D	Montana	B-	Rhode Island	D
Alaska	C-	Indiana	F	Nebraska	A+	South Carolina	F
Arizona	F	Iowa	F	Nevada	F	South Dakota	B
Arkansas	F	Kansas	C+	New Hampshire	F	Tennessee	F
California	D-	Kentucky	B	New Jersey	C+	Texas	D+
Colorado	D	Louisiana	F	New Mexico	C+	Utah	F
Connecticut	B-	Maine	C-	New York	C-	Vermont	A-
Delaware	C	Maryland	D	North Carolina	F	Virginia	C
District of Columbia	F	Massachusetts	B-	North Dakota	A+	Washington	B-
Florida	F	Michigan	D-	Ohio	F	West Virginia	F
Georgia	F	Minnesota	D+	Oklahoma	F	Wisconsin	F
Hawaii	D	Mississippi	F	Oregon	D+	Wyoming	C+
Idaho	D	Missouri	F	Pennsylvania	F		



CHARTER GRADES

Alabama	F
Alaska	F
Arizona	F
Arkansas	F
California	F
Colorado	F
Connecticut	D
Delaware	F
District of Columbia	F
Florida	F
Georgia	F
Hawaii	F
Idaho	F
Illinois	F
Indiana	F
Iowa	F
Kansas	B+

Kentucky	C-
Louisiana	F
Maine	D-
Maryland	F
Massachusetts	D-
Michigan	F
Minnesota	F
Mississippi	F
Missouri	F
Montana	A
Nebraska	A
Nevada	F
New Hampshire	F
New Jersey	F
New Mexico	F
New York	F
North Carolina	F

North Dakota	A
Ohio	F
Oklahoma	F
Oregon	F
Pennsylvania	F
Rhode Island	D
South Carolina	F
South Dakota	A
Tennessee	F
Texas	F
Utah	F
Vermont	A
Virginia	B
Washington	D
West Virginia	D-
Wisconsin	F
Wyoming	F

VOUCHER GRADES

Alabama	D
Alaska	A+
Arizona	F
Arkansas	F
California	A+
Colorado	A+
Connecticut	A+
Delaware	A+
District of Columbia	B-
Florida	F
Georgia	F
Hawaii	A+
Idaho	A+
Illinois	C
Indiana	F
Iowa	D+
Kansas	C-

Kentucky	A+
Louisiana	F
Maine	B
Maryland	B-
Massachusetts	A+
Michigan	A+
Minnesota	A
Mississippi	F
Missouri	D-
Montana	D-
Nebraska	A+
Nevada	D-
New Hampshire	F
New Jersey	A+
New Mexico	A+
New York	A+
North Carolina	F

North Dakota	A+
Ohio	F
Oklahoma	F
Oregon	A+
Pennsylvania	F
Rhode Island	D
South Carolina	D
South Dakota	D+
Tennessee	D
Texas	A+
Utah	F
Vermont	B-
Virginia	D
Washington	A+
West Virginia	F
Wisconsin	D-
Wyoming	A+

CONCLUSION

In 2012, the Cato Institute, a think tank that promotes Libertarian policies, published a Public Schooling Battle Map, which logs disagreements in communities on matters such as curriculum and book banning, as well as school policies regarding personal identities based on race and gender. Cato, which calls public schools “government-run schools” believes they should be replaced by a patchwork marketplace so that every parent can find a school whose values most align with their own. Democratically elected governing boards, and community debates around local education policy seem particularly odious to them. What most Americans view as democracy in action, Cato views as cacophony and strife—or at least that is the excuse they use to justify their disdain for public programs.

The director of Cato’s Education Policy Center, Neal McClusky, describes the debate that occurs when school boards are democratically elected with **emotionally loaded terms** such as “pugilistic,” “combat” and “strife.”²¹ Community disagreements are not viewed as healthy discourse during which compromises are often found, but rather as “political combat.”

The following statement is taken from the Cato website:

The prevailing narrative about government-run schools is that they are the linchpin of democracy. These “common schools,” the argument goes, harmoniously bring together people from various racial, ethnic, and religious backgrounds and instill in their children the civic values necessary for a pluralist democracy.

In reality, however, government schooling often forces citizens into political combat. Different families have different priorities on topics ranging

from academics and the arts to questions of morality and religion. No single school can possibly reflect the wide range of mutually exclusive views on these fundamental subjects.

In a market-based education system, parents can select the school most closely aligned with their priorities. By contrast, when these questions are decided through a political system, such as elected school boards, parents with differing views must struggle against each other to have the school reflect their views. Inevitably, some parents will lose that struggle. To add insult to injury, all citizens are forced to pay for the government-run schools through their taxes, even when those schools are antagonistic toward their most deeply held values.²²

It is a dark view of humanity, one that rejects the ability of members of a pluralistic society to enter into a common enterprise. Each parent, according to Cato, should take their child to a corner protected from hearing ideas with which they disagree.

The claim that such a policy would bring peace and harmony is without basis. Take a look at today’s media wars: the education of our nation via cable news and online services that cater to audiences based on their political values has not brought harmony. As citizens flock to the news station that best represents their point of view, emotions are inflamed as rhetoric has escalated. If value-driven education were to begin in kindergarten, tolerance would plummet, and our democracy would crumble.

Despite Cato’s posturing, proponents of school choice have no interest in promoting tolerance and peace. The destruction of public education is the end they seek. Right-wing organizations like The Heritage Foundation have seized upon



current controversies in the public square to openly push the school choice agenda. They do not want peace; they want anger and controversy to further their ends. Their **recent post**, “Time for the School Choice Movement to Embrace the Culture War,” openly urges the privatization movement to exploit conservative parents’ fears and misinformation regarding the teaching of history in order to push the school choice agenda.²³ As in the last century, school choicers exploit racism in order to further their cause. And as Professor Maurice Cunningham’s research shows, dark money from right-wing groups that want to undermine public education is funding the astro-turf groups that stir up confusion and controversies.²⁴

What would occur if the proponents of market-based school choice achieved their goal? This report card, with its description of the laws and practices of existing publicly-funded privatized systems gives us insight into what parents and taxpayers might expect if the pushers of so-called school choice achieve their desired end.

We could expect a publicly-funded, uncoordinated, free-for-all parading as an education system with the following characteristics:

- » Schools that exclude students based on religion and LGBTQ status along with schools that have behavior, talent and academic screens. Schools that are not obliged to give students with disabilities full rights under IDEA.
- » Schools run by for-profit organizations that minimize classroom spending to enhance profits.
- » Segregated schools via selection requirements, behavioral requirements, and religious and political views.
- » Schools without elected boards, governed with no community input.
- » Schools where related corporations are allowed to freely do business with the school, without bidding or public oversight.
- » Schools with uncertified teachers.
- » Schools able to evade health and safety regulations, including background checks for employees.
- » Schools allowed to discipline and expel students without due process.
- » Schools with no obligation to provide

- free or reduced-price lunch or to provide transportation to and from the school.
- » Schools that have no obligation to track the progress of students in a standardized way or to share the success (or failure) of their academic strategies with the public.
- » Completely unregulated home-based schooling with few avenues to monitor the quality of instruction or the safety of the child.

This is neither hyperbole nor fear-mongering. Taxpayers are already supporting schools as described above.

Now imagine that such schools were a community’s *only* choice. Imagine each parent got an “allowance” to shop, and as time went on, that allowance got smaller and smaller as legislatures slashed budgets, forcing parents to supplement tuition to enroll their child in a better school. Imagine that in some places— poor, rural and remote— the *only* choices might be an online school or home school. After all, the market goes where the customers are and where they have the ability to pay. Imagine the quality of the schools that would take the children that no other school wants.

Public education, with all of its flaws, like democracy itself, is the best system for securing our future and the well being of our nation and its children. May this report serve as a wake-up call. We truly are a nation at risk, at risk of losing a precious public good, a cornerstone of our democracy, our public schools.



APPENDIX A

Grading Criteria and Sources

What follows are our five categories with both voucher- and charter-related components under each, along with an explanation of how we deducted points from each state, beginning from a 100-point baseline.

In conducting our analysis of states' actions to protect and defend public education, we sought the most recent information we could obtain from reliable sources. If there was an update to the law that was known to us, it was included.

CATEGORY #1: EXPANSION OF PRIVATIZATION

Traditional and non-traditional voucher programs

Total number of programs: States lost 1 point for each active voucher program operating in the state.

Participation rate: Two points were deducted if the student participation rate in all voucher programs exceeds 5 percent as a proportion of the number of students in the state's public and charter schools. One point was deducted if that proportion is between 1-4 percent. Source documents were EdChoice's *ABCs of School Choice, 2021 Edition* and their *August, 2021 roundup* of new and expanded school choice programs.

Eligible students: Additional points were deducted, as explained below, based on the number of subgroups eligible to participate in each voucher program--Vouchers, Tax Credit Scholarships and Education Savings Accounts. States lost points for each voucher program type (traditional, tax-credit or ESA) based on the number of sub-groups allowed to participate. For example, if a state has three ESA programs, which cumulatively allowed five sub-groups to participate, that resulted in a

loss of three points. The sources consulted were EdChoice's *ABCs of School Choice, 2021 Edition* and the American Federation for Children Growth Fund's *2021 School Choice Guidebook*.

Points were deducted as follows:

- » At least 5 sub-groups eligible for a program — 3 point deduction
- » 3-4 sub-groups eligible for a program — 2 point deduction
- » 1-2 sub-groups eligible for a program — 1 point deduction

Overall eligibility: States lost an additional point for each voucher program type (traditional, tax-credit or ESA) if that type had at least one program in which the percentage of students in the state eligible for a given program is 10 percent or more. The source consulted was EdChoice's *ABCs of School Choice, 2021 Edition* and state databases.

Personal tax credits to families for private and home schools: States lost one point if it had a tax-credit program that gives funds directly to families for private schools and home schools. The source consulted was EdChoice's *ABCs of School Choice, 2021 Edition*.

Allows funding for religious schools: States lost 1 point for each voucher program type (traditional, tax-credit or ESA) if that type had at least one program that allowed public funds to be spent on education in a religious school. The source consulted was state law.

Charter Schools

Participation rate: States lost 1-8 points based on the percentage of students enrolled in charter schools as a proportion of students enrolled in both public and charter schools. Points were deducted as follows:



CATEGORY #2: EDUCATIONAL QUALITY

Traditional and non-traditional voucher programs

State accreditation required of private school directly or indirectly accepting voucher funds: States lost 1 point for each voucher program type (traditional, tax-credit or ESA) if that type had at least one program that doesn't require state accreditation. State accreditation information was derived from the American Federation for Children Growth Fund's [2021 School Choice Guidebook](#) and the U.S. Department of Education Office of Innovation and Improvement Office of Non-Public Education's [State Regulation of Private Schools](#) database.

Requirements for teacher certification: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that allows students to be taught by uncertified teachers. Teacher certification requirement information for voucher programs was derived from EdChoice's [ABCs of School Choice, 2021 Edition](#) and the U.S. Department of Education Office of Innovation and Improvement Office of Non-Public Education's [State Regulation of Private Schools](#) database.

Funding for home schooling: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that funds loosely regulated home schools. Home school funding information was derived from the American Federation for Children Growth Fund's [2021 School Choice Guidebook](#) and review of state laws.

State testing requirements: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program in which students are not required to take the same tests as their counterparts in public and charter schools. Testing requirement information was derived from the EdChoice [ABCs of School Choice, 2021 Edition](#) Tax-Credit Scholarships Rules & Regulations table on pgs. 143-144.

- » Less than 1 percent of all students - 1 point deduction
- » 1 percent-4 percent of all students - 2 point deduction
- » 5 percent-9 percent of all students - 5 point deduction
- » 10 percent or more of all students - 8 point deduction

The percentage of students enrolled in charter schools was derived from the National Alliance for Public Charters School's [Measuring Up To The Model: A Ranking Of State Public Charter School Laws](#), Twelfth Annual Edition, February 2021 and their report, [Voting With Their Feet](#), Table 1. Enrollment data was for the 2020-2021 school year.

Controls on charter school growth: States lost 3 points if there is no cap on the number of charters allowed, and 2 points if there is a cap but the cap is inconsequential because it allows for expansive growth. Growth cap information was derived from the National Alliance for Public Charter Schools' [Charter Law Database](#).

Number of charter school authorizers: States lost 1 point if multiple authorizers can approve charter schools, and 4 points if there are 3 or more authorizers. Multiple authorizer information was derived from the National Alliance for Public Charter Schools' [Charter Law Database](#). States lost an additional 2 points if the school district is not an authorizer, or district authorization can be overturned on appeal. District authorizer information was derived from the National Alliance for Public Charter Schools' [Charter Law Database](#).

Obligation to give public school space: States lost 2 points if districts must provide physical space for charter schools either rent free or via co-location. We conducted a review of charter school laws to determine if districts must provide space.



Charter Schools

Use of uncertified teachers: States lost 3 points if their charter program fails to require teachers to be certified. If a state's charter program allows exceptions to the certification requirements of public school teachers to the extent that it makes the requirement nearly meaningless, the state lost 2 points. Teacher certification requirements were derived from the National Alliance for Public Charter Schools' [Charter Law Database](#).

Allows virtual charters: States lost 2 points if they allow full-time virtual charter schools. Virtual charter school information was derived from the National Alliance for Public Charter Schools' [Charter Law Database](#).

CATEGORY #3: STUDENT RIGHTS AND PROTECTIONS

Traditional and non-traditional voucher programs

In one or more programs, parent waives their child's rights under IDEA, or the law is silent on IDEA protections: States lost 2 points if they have a voucher program of any kind that fails to ensure that all students with disabilities retain their rights under the Individuals with Disabilities Education Act (IDEA). States lost 1 point if their program deliberately provides most IDEA rights. Information was obtained from The National Council on Disability [2018 report](#) as well as a review of state laws for recently added programs.

In one or more programs, schools may discriminate based on religion: States lost 1 point for each voucher program type (traditional, tax-credit or ESA) if that type had at least one program that allows schools to discriminate in enrollment based on religion. Information was obtained from our prior report, [Grading the States, A Report Card on our Nation's Commitment to Public Schools](#) as well as a review of state laws for recently added programs.

In one of more programs, school may discriminate based on LGBTQ student or family status:

States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that does not prohibit discrimination based on the LGBTQ status of students and/or parents. Information was obtained from our prior report, [Grading the States, A Report Card on our Nation's Commitment to Public Schools](#) as well as a review of state laws for recently added programs.

Random selection requirement: States lost 1 point for each traditional or tax-credit type that had at least one program that does not have a random selection requirement. Random selection requirement information was derived from a careful reading of EdChoice's [ABCs of School Choice, 2021 Edition](#) and from the American Federation for Children Growth Fund's [2021 School Choice Guidebook](#).

Required background checks for teachers and employees: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that fails to require background checks for teachers and employees. Background check requirement information was derived from the American Federation for Children Growth Fund's [2021 School Choice Guidebook](#).

Mandate to meet state and/or local health and safety requirements: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that fails to meet state and/or local health and safety requirements. Deductions were made based on the American Federation for Children Growth Fund's [2021 School Choice Guidebook's](#) Accountability Check tables which reported whether programs were required to meet health and safety requirements.

Charter Schools

Adherence to state regulations on discipline, which may include refusal of admission: States lost 1 point if their charter program fails to follow state disciplinary regulations. Sources



consulted were *Grading the States, A Report Card on Our Nation's Commitment to Public Schools*; the Education Commission of the States 50-State Comparison, *Charter Schools: What rules are waived for charter schools?* as well as the West Virginia charter school law.

Enrollment preferences: States lost 1 point if their charter program permits a sibling enrollment preference, and 2 points if they permit additional preferences such as preferences for board members' children. States lost 3 points if their charter program allows academic or talent screening. No points were deducted for enrollment preference for disadvantaged students. The source consulted was the Education Commission of the States 50-State Comparison, *Does the state specify the students who may be given enrollment preference?*

Provision of transportation: States lost 1 point if their charter program does not mandate that charter schools provide transportation for students. They lost .5 points if transportation is mandated, but the district must bear the cost. The source consulted was the Education Commission of the States 50-State Comparison, *Does the state specify who must provide transportation to charter school students?*

CATEGORY #4: ACCOUNTABILITY AND TRANSPARENCY

Traditional and non-traditional voucher programs

Public transparency on student performance: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that had limited to no public transparency on student performance. Mandates for transparency on student performance were derived from the American Federation for Children Growth Fund's *2021 School Choice Guidebook's* Accountability Check tables which reported whether programs were required to publicly report results.

Financial transparency: States lost 1 point for

each voucher type (traditional, tax-credit or ESA) if that type had at least one program that fails to provide basic financial reporting. Financial transparency information was derived from the American Federation for Children Growth Fund's *2021 School Choice Guidebook's* Accountability Check tables. For voucher programs we looked at the Annual Financial Reporting and Proof of Financial Viability columns. If programs require both transparency measures, they did not lose the point. For tax credit programs we looked at the Annual Financial Reporting, Donations and Scholarships Details Reporting and Proof of Financial Viability columns. If programs require all three measures, they did not lose the point.

Charter Schools

Renewal period greater than 5 years: States with charter programs that allow for renewal periods greater than 5 years lost one point. Renewal information was derived from the National Alliance for Public Charter Schools' *Charter Law Database*.

Transparency on spending and funding by educational service providers (ESP) and charter boards: States lost 2 points if their charter law fails to require educational service providers to be fully transparent to the charter school's board. ESP transparency information was derived from the National Alliance for Public Charter Schools' *Charter Law Database*.

Transparency on EMO/CMO contracts: States lost 2 points if their charter school program does not require EMO/CMO contracts to be made available to the public. EMO/CMO contract transparency was derived from our review of state education department websites.

Access to educational service providers (ESP) records: States lost 1 point if their charter school program does not require ESPs to give charter schools access to their records. ESP record information was derived from the National Alliance for Public Charter Schools' *Charter Law Database*.



CATEGORY #5: SAFEGUARDS FOR TAXPAYER DOLLARS

Traditional and non-traditional voucher programs

Family income limits: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program for which the family income limit for participation exceeds 150 percent of the federal poverty level. Family income limits were derived from the American Federation for Children Growth Fund's [2021 School Choice Guidebook](#).

Receives over 50 percent of per pupil funding spent on public school students: States lost 1 point for each voucher type (traditional, tax-credit or ESA) if that type had at least one program that receives over 50 percent of public school student per pupil funding. Per pupil spending amount information was derived from EdChoice's [ABCs of School Choice, 2021 Edition](#). The "Value as a Percentage of Public School Per-student Spending" amounts were used.

Tax credit of 100 percent: States lost 1 point if their tax credit program gives a 100 percent tax credit, meaning that every dollar donated reduced the tax bill of the individual or corporation by the same amount, because that means that all state taxpayers, in fact, bear the cost of reduced state revenue. The amount of tax-credit given was derived from EdChoice's [ABCs of School Choice, 2021 Edition](#)'s description of each state's tax credit law.

Tax credit cap exceeds \$2,000 per family and/or corporation: States lost 1 point if their tax credit program cap exceeds \$2,000 a year and 2 points if there is no cap at all.

Charter Schools

Availability of Federal Charter Schools Program (CSP) grants to unauthorized schools: States lost 1 point if they give CSP grants to unauthorized schools. CSP grant information was derived from

the Network for Public Education report *Asleep at the Wheel; How the Federal Charter Schools Program Recklessly Takes Taxpayers and Students for a Ride*.

Five or fewer year closure rate: States lost 2 points if 20 percent or more of that states' charter schools have closed within five years or less. Charter closure rates were derived from the Network for Public Education report *Broken Promises: An Analysis of Charter School Closures From 1999 – 2017*.

Charter school scandals during the last five years: States lost 1 point if 25 or more charter school scandals have been published since 2017. The Network for Public Education interactive database, [Another Day Another Charter Scandal](#) was consulted.

Point allowance: The two states that only allow districts to authorize charter schools (Kansas and Virginia) received a 10-point bonus for their charter laws. The flaws that exist in their laws are mitigated by the good judgment of the district. For example, no district will allow a for-profit to run a school, despite no provision in the law to prohibit it.





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- » *Broken Promises: An Analysis of Charter School closures from 1999-2017* <https://networkforpubliceducation.org/brokenpromises/>
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West Virginia Code. Chapter 18: Article 5G—Public Charter Schools <http://www.wvlegislature.gov/wvcode/code.cfm?chap=18&art=5G>



APPENDIX B

SCHOOL'S CHOICE

How Charter Schools Control Access and Shape Enrollment



BEFORE ENROLLMENT



Description and Design: Which Niche?

Charter schools' description and design may influence applicant pools by indicating the students they seek to serve.



Location, Location, Location: Decisions About Site & Transportation

Decisions about location are sometimes highly strategic and the location of schools can remove those schools from parents' choice sets.



Narrow-Casting: The Power of Marketing and Advertising

Marketing can shape a school's enrollment by reaching and appealing to preferred audiences while avoiding and discouraging undesired audiences.

DURING ENROLLMENT



Hoop Schemes: Conditions Placed on Applications

When charter schools are in charge of their own applications they may impose a daunting array of conditions that shape the pipeline that leads to enrolled students.



The Steering Wheel: The Art of Dissuading Applications

During initial discussions, charter schools can steer potential applicants away suggesting that other schools can better meet a family's needs.



Send Us Your Best: Conditions Placed on Enrollment

During the acceptance stage, charter schools can make enrollment decisions that shape their student population.



Putting in the Hours: Requiring Parents to Volunteer

Mandatory work commitments can turn away families that cannot afford to, or simply do not want to, make the time commitment.



Not in Service: Language Learners, Special Education & FRPL

When a charter school does not have the instructional personnel or other services for particular students they will be discouraged from enrolling.

AFTER ENROLLMENT



The Fitness Test: Counseling Out

Counseling out usually involves a targeted discussion, nudging certain students and families to consider different school options after they have enrolled in a charter school.



Pass Interference: GPAs and Grade Retention

Grade retention policies, placement tests and minimum GPA requirements are all ways in which charter schools can push students out.



No Excuses: Discipline and Punish

Harsh disciplinary regimes that demand conformity and "sweat the small stuff" serve to push students out.



Irreplaceable: Backfilling Student Attrition

Families facing housing and employment insecurity are denied access when schools refuse to take in students during the school year or at certain grade levels.



Show Me the Money: The Price of Attendance

Burdensome fines, dues, and fees can discourage students and families who can ill afford the added costs.

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