



States Can Play a Stronger Role in Promoting Equity and Access in School Choice

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Overview

The evolution of education has provided families an increased opportunity to participate in selecting their children's education. With charter schools, school voucher programs, and inter-district choice, a number of states have steered away from traditional school enrollment structures, offering families more flexibility to choose schools that better meet their needs and preferences. The question of whether and how school choice supports underserved students remains a concern. While many choice policies were not originally intended to further equity as a primary goal, choice advocates have often argued that choice-linked policies can be particularly valuable for historically marginalized and underserved students, including students of color, low-income students, students with disabilities, and English learners. Yet, others contend just the opposite, arguing that choice promotes segregation and lacks accountability to ensure equity.

In this study, we set out to answer the question, *how do state policy makers and education leaders think about school choice policy and how do issues of equity show up in state-level discourse and action?* We draw on 58 interviews with state policy makers and experts in five states conducted from February to June 2019, as well as a wide range of documents. The five states (Colorado, Florida, Louisiana, Michigan, and Oregon) were selected to provide a mix of geography, population, types of choice policies, and the maturity of these policies.

Our findings from these interviews suggest that more could be done to advance equity in school choice policy:

- State policies have not consistently advanced access to schools of choice for historically marginalized students. In particular, states have often not provided:
 - Meaningful **information** about school options
 - Viable **transportation** to schools of choice
 - **Enrollment processes** that enable access

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- Similarly, state policies have not consistently enhanced the supply of high-quality schools of choice. States have not carried out:
 - Intentional **planning** around school openings and closures and school locations
 - Consistent and rigorous **oversight** of school quality
 - Efforts to shape the **quality and distribution of professional educators**
- A small number of state policies did focus on improving school choice equity and access for historically marginalized and underserved student populations, although more research is needed to understand their implementation and impact. For example:
 - Oregon’s “Student Success Act” allows charter schools to apply for additional funding if they serve at least 35% of students from designated groups that have “historically experienced academic disparities” as long as the percentage of students in those categories exceeds the percentage in the local district.
 - Florida’s “Schools of Hope” program allows charter school operators with strong records of improving student achievement to establish charter schools near low-performing Title 1 schools or in an economic empowerment zone.

Interviewees attributed state governments’ inattention to equity to: 1) states’ reluctance to challenge the tradition of local control over schooling, and 2) views that equity-focused efforts are often too expensive; and 3) the limited prioritization of equity. While we cannot determine why equity was not a priority for policymakers or even definitively say whether it was considered during deliberations, we can say that individuals interviewed tended to foreground other priorities and goals for school choice policy – namely that choice was a vehicle for innovation, for allowing markets to operate schools more efficiently, and for ensuring parents freedom to make decisions regarding their children’s education.

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In addition to describing how state policymakers consider and act on improving equity in school choice, this brief offers examples where states have pursued equity and provides options for policymakers to consider.

Background

The Biden administration, the COVID-19 pandemic, and growing national attention to racial injustice have intensified the school choice and equity debate. The health crisis has exacerbated concerns about equitable access to education and threatens to heighten financial constraints on public schools, creating new scrutiny and potential challenges around decisions to invest in choice-based reforms and schools. Conversely, the demand for online learning and greater parental liberty could present new opportunities for choice-based reforms.

At this critical moment, we see growing attention to issues of choice at both the state and national levels, including debates around continued charter school expansion, the adoption or expansion of school voucher programs and tuition tax-credit programs, and the appropriateness of public funding for choice-based virtual schools. A focus on marginalized students pervades these debates. Several states have also passed or are [proposing legislation](#) that could curtail teaching about racism and racial injustice in schools, bringing issues of racial equity front and center in public debate.

While equity is a complex term, here we use it to mean ensuring students from a range of backgrounds have the opportunity to receive a high-quality education. Since underserved students often face more disparities, this may mean allocating more resources to them so they are able to achieve equal opportunity.

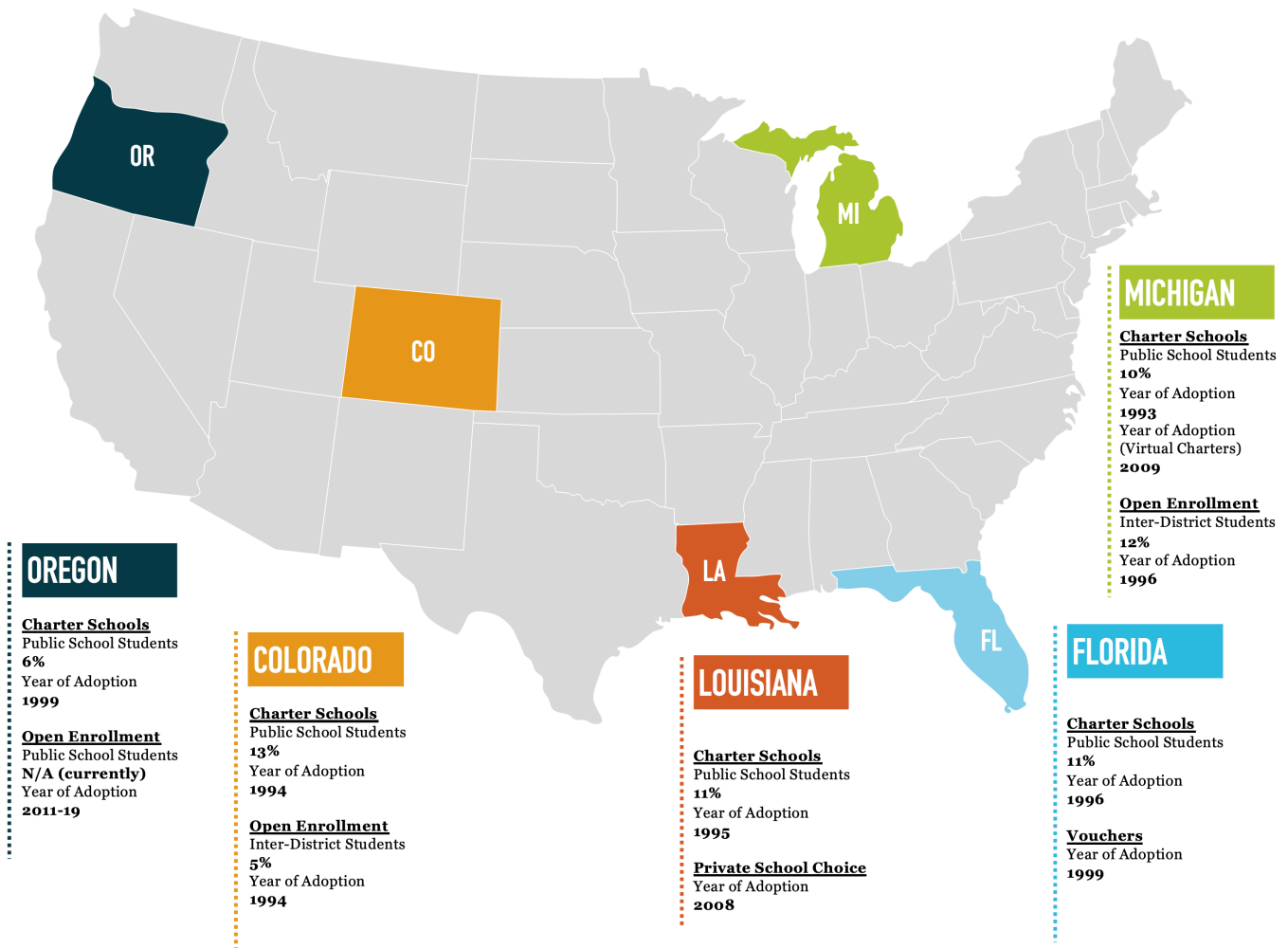
We conducted this research in what interviewees generally described as strong choice settings, although Oregon is somewhat less so. For example, respondents referred to Colorado as a “choice state” in which choice has become so engrained in the education environment that it is “part of the landscape” and “just the way it is.” Similarly, an administrator for the Florida Department of Education noted that:

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[The political climate for choice is] incredibly favorable...It's been pretty consistent since governor Bush was elected, and certainly for the last five or ten years. There are some waves, but the peaks and valleys are all still on the supportive side, it's just whether they are overly supportive and will do basically anything that the proponents are asking for or they're just kind of mildly supportive and are going to be a little skeptical of some things. It's been largely supportive as long as I've been in this work in Florida.

Despite the sense that choice is an integral part of the educational landscape and supported in most of these states, there were signs of political change brewing in four of the five states (LA, OR, MI, and CO). Here, we heard about waning support for choice policies, often associated with an increase in Democratic elected officials.

Figure 1. Core Choice Policies Studied including Year of Adoption and Percent of Participating Public School Students



Note: The years of student enrollment percentages vary based on availability for states and choice options. Colorado charter enrollment is from 2017-18 and open enrollment is from 2016-17. These percentages “may include students assigned across districts for reasons other than parental choice (e.g. special education services).” For the other states, we pulled student enrollment percentages from the following years: Florida (2017-18); Louisiana (2016-17); Michigan (2018-19); and Oregon (2017-18). Colorado and Michigan were the only states in which we were able to identify a specific number of students who participated in inter-district choice.

Choice and State Policy

All five states have charter school and inter-district open enrollment policies that allow students to enroll in district-run public schools outside of the district in which they live, while Florida and Louisiana are the only states with publicly funded private school choice (Figure 1). While there are other forms of choice, such as magnet schools or non-charter virtual schools, we focus on charter schools, inter-district open enrollment, and publicly funded private school choice.

Michigan and Florida, for example, are known, respectively, for having some of the oldest charter school and private school choice programs in the country, while Oregon, with its relatively more recent adoption of school choice policies and a steadily growing number of charter schools, is more representative of the country as whole.

The states also vary in how families participate in choice options. For example, in 2017-18, fewer than 6% of Oregon students attended charter schools and the state did not offer public funding to attend private schools; in contrast, 23% of Louisiana students were enrolled in either charter schools or participated in private school choice in 2016-17. The demographic profile of students enrolled in charter schools also varied across states. Black students in Louisiana and Michigan were substantially more likely to attend charter schools than were White students, while non-Hispanic White students were more likely to attend Oregon charters than were students of color. In Colorado and Florida, the demographic profiles of students were more similar between those attending charters and students in the state overall.

Although choice policies had existed for many years, in all of these states (Figure 1), the political climate suggested ample opportunity for both expansion and revision. With this political backdrop, we asked:

- What policies do states put in place to ensure that high-quality school choice options exist for families of historically marginalized students?
- What policies do states put in place to ensure that families of historically marginalized students have access to high-quality schools of choice?
- What factors affect state policy makers' decisions to use state policy to support access and school quality?

Overall, we find that states were making limited use of policies in key areas that have the potential to enhance equity and access in school choice for historically marginalized students: information, transportation, enrollment systems, planning/oversight, and teacher/school leader policies. Nevertheless, we did identify some examples where policy changes in these areas are central, and we discuss these in the sections that follow.

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How Did We Collect and Analyze the Data?

The research team conducted in-person or telephone interviews with state policy leaders and experts between February and June 2019. On average, researchers completed 12 interviews in each of the five sites (n=58). Interview participants included state legislators; gubernatorial and legislative staff; members of the state board of education; leaders of administrative associations and teacher unions; administrators from the state department of education; and representatives from education, parent, and nonprofit organizations including active supporters and critics of school choice options and broader community-based organizations.

All interviewees were asked to describe: the primary school choice policies in their state; their perceptions of the intent and effects of these policies; and specific conditions that may influence school choice opportunities for students, particularly historically marginalized and underserved students, such as transportation and enrollment policies. While we asked interviewees about all available choice policies, we focused on two primary policies in each state (noted in Figure 1).

What Policies Do States Put in Place to Ensure That High-Quality School Choice Options Exist for Families of Historically Marginalized Students?

The availability of high-quality school options is crucial to ensuring that choice policies serve historically marginalized and underserved students well. Many state policy decisions have the potential to shape school quality, including requirements around oversight, planning, and policies that impact educator quality.

In all five states we studied, **oversight** of school quality relied heavily on existing state accountability systems, especially state testing. Respondents across the states did not describe additional accountability requirements for schools or students participating in *open enrollment*.

Oversight of *private school choice* differed greatly in Florida and Louisiana. Louisiana required voucher-receiving private schools to give students state assessments and schools that failed to receive an “A” or “B” in the state program lost their eligibility to accept new scholarship-receiving students. In Florida, on the other hand, a number of participants at both the state government and the nonprofit organizations that administered tax credit scholarships highlighted the limited state role in oversight of private schools participating in the Florida Tax Credit Scholarship program. While private schools receiving Tax Credit Scholarship funds needed to administer standardized tests (selected by the school) to those students, these test scores were not used to determine which schools were eligible to receive scholarship students. Participants reported that finding these test results in particular schools was often challenging.

Participants in all five states voiced concerns about the quality of *charter school* authorizing, the primary means for ensuring the quality of these schools, and especially the oversight of virtual charter schools. Families of low-income students and students of color are rarely afforded the option to choose schools that are not publicly funded. Given the high percentage of low-income students and students of color in charter schools in every state but Oregon (see Table 1), policies governing the quality of choice schools when these students have few other viable options are crucial for ensuring educational equity. Policies that required closure based on school letter grade scores were one strategy to address this issue in Florida; other states left this more in the hands of local charter school authorizers.

At the state level, there was also minimal **planning** when it came to providing choice school options that matched families’ preferences. One exception was Florida’s “Schools of Hope” program (see box above). Beyond this specific program in Florida, most state leaders reported leaving it up to local leaders to decide where to locate and approve new choice schools.

Across all five states, reported challenges around the quality and retention of **teachers** often mirrored overall concerns about these issues in the broader conversation around public education. Participants identified lower

FLORIDA’S SCHOOLS OF HOPE PROGRAM: LOCATING SCHOOLS IN HIGH NEEDS AREAS

In 2017, the Florida legislature approved the “Schools of Hope” program. This statewide charter school program allows charter school operators with strong records of improving student achievement in Florida or other states to establish charter schools in Opportunity Zones (areas near low-performing Title 1 schools or in an economic empowerment zone). This represents an explicit attempt by state lawmakers to use **planning** around the location of charter schools to enhance access to higher performing schools in areas that generally serve lower-income students and students of color. While the school district remains the authorizer, it has less authority over the approval process than it does with other charter schools.

teacher salaries and less stable positions as difficulties in schools of choice compared to traditional public schools. Participants also identified particular challenges in hiring specialized teachers in schools of choice, with significant implications for meeting the needs of students with disabilities and English learners. A staff member with the Oregon School Boards Association argued that charter schools face challenges in hiring bilingual teachers: “It’s the fact that they don’t pay as much and [are] not being able to hire staff. That’s a concern. ... The ability to recruit and retain teachers who may speak a second language, particularly a language of students who are attending our schools, creates some problems for charter schools.”

States’ efforts to promote teacher quality in choice schools primarily came in the form of certification requirements, which varied greatly as seen in Table 1. While Florida and Michigan mandated state certification for all teachers in charter schools, requirements in Colorado and Oregon varied and Louisiana did not require certification. However, some participants were concerned that changes to policies around certification requirements would affect hiring flexibility, which they identified as important for improving teacher quality.

Table 1. Teacher Certification Recruitments Across Choice Sectors

	Do teachers in charter schools need to be certified?	Do teachers in virtual schools need to be certified?	Do teachers in private schools receiving funding through private school choice programs need to be certified?
Colorado	It depends. District and charter school teachers must be certified unless school or district has received a waiver.	Yes. Supplemental online courses must be taught by a certified teacher.	N/A
Florida	Yes. Teachers must be certified.	Yes. Teachers must be certified in both virtual charter schools and the statewide Florida Virtual School.	No.
Louisiana	No. Teachers must have at least a B.A.	No mention.	Yes. Only for the School Choice Program for teachers of certain students with exceptionalities.
Michigan	Yes. Outside of specific rules for higher education authorizers, all schools must use certified teachers.	Yes.	N/A
Oregon	Partially. At least a half of the total full-time equivalent teaching staff must be certified.	At least 95% of hours need to be taught by a certified teacher.	N/A

Note: N/A indicates that there are no private schools that receive public funding in these states. While teacher certification guidelines vary across states, certification is not a reliable predictor of educator quality.

What Policies do States Put in Place to Ensure that Families of Historically Marginalized Students Have Access to Schools of Choice?

Choice advocates argue that, in theory, market pressures from parents who are choosing schools (and bringing “dollars” with them) can lead to higher quality schools that better meet the needs and preferences of those families. However, such pressures require that families be well-informed about school offerings and quality. In addition, families need to be able to access their desired choices, which can be helped by the availability of inexpensive or free transportation, simplified enrollment systems, and streamlined processes that are easy to access and navigate.

Although families in all five states had access to **information** about student achievement based on state test scores (with the exception of private school choice in Florida), participants reported that most state-level information about school quality, school options, and application/enrollment processes was difficult to interpret or inaccessible. This difficulty with interpretation and accessibility threatened to create troublesome inequities among families, especially for those who have limited technology access. For example, a member of the Colorado State Board of Education noted, “You can get on the Colorado Department of Education website and get information and do comparative analysis. *You’ve got to be a little bit sophisticated to be able to do all this.*”

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Participants identified **transportation** as one of the most significant barriers for families of underserved and historically marginalized students who wanted access to schools of choice. While policy makers pointed to specific local strategies in places such as New Orleans and Denver, state policy in this area was limited and varied. For example, Oregon required charter schools to provide transportation for students living within the same school district, while such requirements were either absent or left in the hands of schools or charter school authorizers in the remaining states. Comments from a member of the Michigan Superintendents Association about transportation and equity in the case of open enrollment echoed what we heard elsewhere:

If you’re a student in poverty, it’s going to be tough for you to travel 30 miles every day to attend a different school district and all the things that come with that. I think [open enrollment] is a very segregating policy in some ways, but on the other hand, it’s been embraced and is certainly part of the fabric of our state right now.

Some states’ policies included **enrollment** priorities for certain schools of choice (e.g., for historically underserved students or students from low-performing schools). Aside from enrollment priorities or the use of enrollment lotteries, state policy was largely silent on enrollment for choice schools. One notable exception was in Oregon (see box), where policy makers sought to intertwine attention to enrollment, oversight, and funding in order to further equity.

ATTENDING TO EQUITY VIA ENROLLMENT, OVERSIGHT, AND FUNDING IN OREGON

Oregon has taken specific steps to encourage and support charter schools to serve students from particular groups: low-income students, “Racial or ethnic groups that have historically experienced academic disparities including American Indian/Alaska Native, Black/African American students, Hispanic/Latino, and Native Hawaiian/Pacific Islander,” and students with disabilities. In 2016, the state introduced weighted lotteries for charter schools, giving schools the opportunity – if they served students from two or more of these demographic groups – to prioritize those students in their lotteries. However, it was not clear that districts had widely implemented this option. In 2019, the state went beyond granting schools the option of weighted lotteries to providing some charter schools (excluding virtual charters) with additional funding as part of the Student Success Act. Embedded within the law were provisions for charter schools to apply for “Student Investment Account Grants” if they served at least 35% of students who fell into the above categories, as long as the percentage of students in those categories exceeded the percentage in the district in that same category. Here, funding served as an incentive to encourage charter schools to enroll historically marginalized students.

What Factors Affect State Policy Makers’ Decisions to Use (or Not Use) State Policy to Support Access and School Quality?

Our findings demonstrate that states took limited action to create policy that had the potential to increase access to high-quality schools of choice for historically marginalized student groups. This fact did not go unnoticed by respondents, who raised significant equity concerns. A staff person with the Colorado School Boards Association noted:

A very large number of the charter schools in Colorado serve and explicitly are designed to serve middle class or even upper middle-class students. There are more than a handful who are, for all practical purposes, college prep programs for high income families. And out of the way we’ve written our laws and the way they’re structured, there’s no reason for them not to do that.

Many noted that the lack of state action with regard to issues of information, enrollment, and transportation placed heavy burdens on families wishing to participate in choice programs, particularly families of historically marginalized and underserved students. Reported state inaction addressing school quality – such as failure to ensure qualified teachers and funding to support the needs of the most vulnerable students – raised further concerns about the ability of school choice policies to meet the needs of diverse students.

Interviewees suggested several factors are affecting state policy makers’ decisions in these areas, including the availability of state funds, state norms and political climate, and individual beliefs of policy makers. Below, we consider these points in more detail.

Funding. In several states, interviewees noted that the inadequacy of state funding for publicly funded schools thwarted efforts to expand or promote greater equity in choice policy. In Colorado, many pointed to a law limiting increases in state revenue as an obstacle to properly funding schools and ensuring equitable access to choice schools. For example, inadequate state funding for public education could limit the ability of state policy makers to better regulate charter authorizers, provide meaningful and accessible information to parents, and require the availability of student transportation.

In Colorado and Michigan, in particular, advocates of charter schools seeking equal funding relative to district-run schools were challenged by others (including teacher union representatives) who saw charter expansion as “draining” funding from already strapped traditional public schools. Respondents more aligned with district-run public schools spoke of the financial stress that traditional districts experienced in the presence of school choice and their subsequently reduced ability to provide adequate student services. In this way, respondents suggested choice was undercutting equity, especially the adequacy of services and support in traditional districts that service underserved communities.

State norms and political climates. According to interviewees, state norms and political climates greatly shaped state policy decisions. Most notably, in states where local control of policies was the norm, policy makers may have resisted efforts to impose state regulation, such as an effort in Colorado (which failed due in part to local control concerns) to allow districts to provide transportation to students living outside district boundaries. Conversely, the prior presidential administration’s advocacy for expanded school choice may have led some states to be more receptive to choice.

In interviews across all five states – Colorado, Florida, Louisiana, Michigan, Oregon – influential stakeholders reported that at their inception, school choice policies were often not explicitly designed to serve the needs of historically marginalized students. For example, one state policy maker in Michigan said that state policy makers did not explicitly set out to, for example, “help the African American males in Detroit... we also wanted to make sure that anyone could benefit from it at the same time.” While we are unable to discern whether evoking local control reflects a true support for this principle or a possible mechanism for deflecting responsibility for state action, a related analysis found that policymakers tended to talk about school choice in terms of values including liberty, innovation, and efficiency.²

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Federal policy. One notable influence on discussions of equity involved grants from the federal Charter School Program (CSP) which were pushing state leaders to explicitly attend to the needs of underserved populations. Specifically, the guidelines for these later CSP grants included “priority points” awarded for state applications that included explicit attention to *reducing disparities for historically underserved students*. In response, respondents in both Oregon and Colorado (two states participating in CSP) described efforts to more explicitly center equity and historically underserved students in state level trainings and processes for charter school operators receiving these funds.

Individual beliefs and mindset. Finally, individual policy makers’ beliefs – particularly about equity and the underlying causes of inequity – may have also contributed to the varied policy decisions observed across states. For example, some respondents clearly voiced individualistic – and at times deficit-oriented – beliefs. In discussions about whether policy design supported equity and access, participants made assumptions about why some students were less likely to meet challenges with success. They often pointed to perceived deficits found in students and communities. For example, a Michigan legislator argued that the locations where charter schools are most common have, “abject poverty kids that come to school with multiple barriers to success. I think that

2. Allbright, T.N., Marsh, J.A., Kennedy, K., Daramola, E.J., Nelson, H., & Jabbar, H. (2021). All Things to All People: How State-Level Policy Actors Frame School Choice. Presented at the AERA Annual Meeting. (Conference held virtually).

those are hard to overcome given any amount of money.” This raises the possibility that the beliefs of some policy makers could limit attention to systems-level barriers that could be addressed by state policy.

In contrast, some respondents embraced a more structural assessment of inequality, identifying the effects of institutional racism and power on educational opportunities and outcomes. A Florida respondent noted that, in Florida education, “I just think we have huge class and race and ethnicity challenges. And they’re institutional, they’re systemic, and a lot of it has to do with power...” Similarly, one participant in Michigan indicated that schools of choice often served historically marginalized students, which they viewed as a result of schools in communities of color facing particular challenges because of “the original sin” of “a highly segregated education system.” It is possible that similar conceptions of inequity made some state policy makers more likely to take policy actions that directly enhance equity and access for historically marginalized students.

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Discussion

We find that state policies are used only minimally to enhance equity and access to choice schools for historically marginalized students. Here, we suggest some questions that state policy makers may want to consider as they continue to grapple with the ongoing debate over school choice and equity in the COVID-19 era:

- **Oversight:** How might state leaders ensure accountability for learning across all school types, including charter schools, voucher-receiving schools, and any new options that are sustained post-pandemic? What standards might be applied to ensure the quality of online learning?
- **Information:** What new information demands do parents have? Can the state provide that information in easy-to-access ways to help parents in the process of selecting schools of choice as well as, potentially, whether to enroll students in in-person or remote learning?
- **Enrollment:** What state actions could be taken to better ensure that schools of choice provide equitable access and admission to students from historically marginalized groups, and that local enrollment processes are not overly burdensome to families?
- **Transportation:** How might state and federal funds be further leveraged to ensure that students without private means of transportation attain equitable access to schools of choice?
- **Teachers:** Given the pre-COVID-19 challenges of attracting and retaining teachers, particularly teachers in specialized fields in choice schools, how might the state support these schools? Given that the health crisis has disproportionately affected communities of color who continue to face systemic racism and structural inequality in their daily lives, how can the state ensure that educators in choice schools are prepared to address and take seriously the differentiated needs of students and do so in culturally relevant ways?

The COVID-19 crisis, alongside increasing attention to issues of racial justice, has heightened attention to issues of educational equity as well as further straining educational budgets in ways that may create pressure to alter or even limit choice options. On the other hand, the growth in remote learning and other varied options have increased attention to learning modality as another aspect of choice. Since the research we present here was conducted prior to the pandemic, our findings offer insights around the baseline policies and conditions existing across states prior to the outbreak. The issues discussed throughout this brief are likely to persist and are worthy of consideration in policy discussions over equity and access in the choice sector.

About the National Center for Research on Education Access and Choice (REACH)

Founded in 2018, REACH provides objective, rigorous, and applicable research that informs and improves school choice policy design and implementation, to increase opportunities and outcomes for disadvantaged students. REACH is housed at Tulane University with an Executive Committee that includes researchers from Tulane, Michigan State University, Syracuse University, and the University of Southern California.

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