10-22-2014

Charter School Facilities Funding

Sarah C. McKenzie
University of Arkansas, Fayetteville

Gary W. Ritter
University of Arkansas, Fayetteville

Vol. 11 Issue 10
October 2014

Office for Education Policy

Charter School Facilities Funding

Summary Points

- Across the country, there is a disparity in funding between charter schools and TPS districts.
- Public open-enrollment charter schools in Arkansas have lesser access to public funds for school facilities than do traditional districts.
- While traditional public school (TPS) districts are able to access funds through local millage, open-enrollment charter schools in the state do not have access to this source of funding.
- Only four states allow charter schools to levy millage for facilities funding; eleven states allow charters to access TPS district buildings in some way.
- Charter schools in Arkansas fund facilities primarily through grants, loans, bonds, and support from private non-profit organizations.
- The funding disparity in Arkansas could be fixed through allowing charters a more pure "first right to refuse" access to TPS district buildings, and/or by providing per-pupil facilities funding.

This Brief

The equity and adequacy of facilities funding for charter schools (as well as traditional public schools (TPS)) is a topic of hot debate in Arkansas and across the country. Proponents of charters argue that charter schools are burdened due to a lack of facilities funding. Other argue that there are great needs in our TPS districts as well, and that these needs should be met first. This brief describes what facilities funding is currently available to charter schools in Arkansas and what other states are doing that we could possibly leverage here in the Natural State.

Traditional Public School and Charter School Facilities Funding Landscape

There are over 6,000 public schools operating under charters in 43 jurisdictions in the country. These schools educate 2.3 million children or about 5% of all public school students.[1] For the purposes of this brief, "charter schools" refers to open-enrollment charter schools.

In general, charter schools operate with less revenues compared to traditional public school (TPS) districts in the same state jurisdiction. According to a 2014 report on 30 states and D.C., only one jurisdiction (Tennessee) had state funding disparity in favor of charter schools (0.1%).[2]

TPS districts typically finance buildings through local property tax millage as well as specific state and federal funds. Mills are property taxes collected annually as a tenth of a penny. For example, a millage rate of 5 assessed on a $100,000 house would be taxed $500. Levies must be approved by district voters.

Charter schools, because they are not directly connected to any taxing authority, typically do not have access to millage (only four states have provisions allowing charter schools to request mill levies). Instead, charter schools are more reliant on loans, grants, and, in some cases, partnership arrangements with TPS districts. Some proponents of charter schools argue for more funding to close the gap, including allowing access to local tax revenues.

Open-enrollment charter schools are governed independently of local school districts and can enroll any student regardless of their residence district. Since open-enrollment charters are rarely tied to residence addresses, they rarely have access to local property tax revenues.

Charter Facilities Funding Available in Arkansas Today

Two previous OEP policy briefs have shown funding differences between charter schools and public schools.[3,4]

Charter schools' lack of access to facilities funding makes up a large portion of the differences in per-pupil funding between charter schools and TPS districts. This is primarily due to the fact that charter schools cannot access two key sources of revenues: local property tax millage and the state facilities fund made available to TPS districts. While there are state grants and loans available to charter schools, these schools cannot access the state facilities fund that provides direct resources to TPS districts.

Whether or not the state of Arkansas is obligated to help fund charter school facilities may hinge in part on whether these entities are treated like TPS districts in terms of adequacy requirements. Some argue that since charter schools are able to waive certain legal requirements, the state does not have the same legal obligation to fund charter schools adequately as it does for TPS districts.

Arkansas has two main types of programs that provide charters access to facilities funding: grants and loans:

Grants

- The **Open-Enrollment Public Charter School Capital Grant Program**: a grant program established by the Arkansas Public Charter Schools Act of 2013 provides funding to repay debts incurred for "academic facilities or equipment, various maintenance, renovation, equipping, new construction, acquisition, improvement, upgrade and repair of real property and facilities and purchase of instructional materials, technology systems, and other academic equipment"[5]

Loans

- The **Open-Enrollment Public Charter School Facilities Loan Fund**: open-enrollment public charter schools may borrow money directly from the Division of Public School Academic Facilities and Transportation.[6]
- **Arkansas Development Finance Authority (ADFA)** Program: a credit enhancement program that guarantees certain bonds using interest earnings derived from investments of the state.[7] Through this program, Jacksonville Lighthouse Charter School secured $4.5 million in "A" rated bonds that carried a lower interest rate and lowered the burden on the school.[1] Nine other jurisdictions in the country have some sort of credit enhancement program.[1]
- The **New Markets Tax Credit Program**: a tax credit program established in 2000 with the goal of assisting revitalization efforts in low-income communities. The Hope Enterprise Corporation, for example, has gained $8 million in NMTC allocations to support charter school facilities in Arkansas, Louisiana, Mississippi, and Tennessee.[8] Across the country, NMTC funds dedicated to charter school facilities projects has totaled about $1.7 billion or 16% of the NMTC allocations to date.[1]
- **Conduit Financing**: a financing arrangement in which a government or other qualified agency uses its name in an issuance of fixed income securities for a non-profit organization's large capital project.[9] In Arkansas, charter schools can access financing through the ADFA's **Capital Improvement Revenue Bonds** program (at least $15 million has been accessed through this program).[1]
- **Guaranty Programs**: charter schools can apply for ADFA's bond guaranty program which makes amortization payments if the borrower is unable to.[10]
- **Q-Bond Programs**: Arkansas' open-enrollment charter schools are eligible to apply for federal Q-bond programs such as the **Qualified School Construction Bond Program (QSCB)**[11] and the **Qualified Zone Academy Bond (QZAB) Program**.[12]

Other Potential Sources of Facilities Funding

Federal grants

The **Credit Enhancement for Charter School Facilities Program (Credit Enhancement Program)** has provided almost $256 million in grants since 2001, and in 2013, provided $12 million in grants to three organizations working to help charter schools obtain facilities.[13]

The **State Charter School Facilities Incentive Grants Program (also known as the Per-Pupil Facilities Aid Program)** has provided over $142 million in grants since 2004 ($10 million in 2013).[14]

In addition, the Community Facilities Program administered by the U.S. Department of Agriculture has provided over $500 million in grants, loans, and guarantees for charter school facilities in rural communities.[15]

Per-pupil facilities funding

Of the 43 jurisdictions with a charter law, only 13 jurisdictions provide per-pupil facilities funding, including only 3 over $1,000 per pupil (Arizona, Minnesota, and DC), and only 4 between $250 and $1000.[1]

Facilities use or sharing arrangements

Two states (California and New York) require school districts to provide space for charter schools, while another 9 states require district facilities be made available to charter schools either through publishing a list of unused facilities or offering "right of first refusal" to charter schools for the purchase or lease of district buildings.[1] "Right of first refusal" arrangements give charter schools the option to enter into a transaction (lease or purchase) of a district facility before the owner of that facility is entitled to enter into a transaction with a third party.

Local tax millage

Only four states (Colorado, Florida, New Mexico, and Washington) allow charter schools to tap into local taxing authority through mill levy provisions.[1] Colorado's General Assembly passed a law in 2013 allowing charter schools to ask their authorizing school districts to include a ballot question on authorizing additional local revenues for the charter school. Mill levies may not exceed 1 mill or ten years in duration. So far, six school districts in Colorado have included charter school requests in their ballot questions, resulting in several funding projects.[1]

In Florida, school boards may levy up to 2 mills for district schools, including charter schools. Funds raised through the levy are administered by the school district, which may opt to share with local charter schools, so these are not necessarily designated funds.[1] In New Mexico, not only are charter schools allowed to request local tax millage, but the TPS districts have been required to provide an equitable share of local tax funding with charter schools for public school buildings since 2007 and for capital improvements since 2009.

In Washington, open-enrollment charter schools are not immediately eligible to receive levy funding and can only access these funds after a new levy is passed, which can take about one to four years after a school start-up.[1]

Private non-profit organizations

Twenty-nine private non-profit organizations provide charter school facilities funding through either direct financing ($2.1B) or New Markets Tax Credit (NMTC) allocation ($1B).[1] This funding can come in a variety of forms, includ-

Innovative Facilities Funding Options

- **Right of first refusal and providing space to charter schools**
  - ◊ According to LISC, 11 states (California, Indiana, Iowa, Maine, Maryland, Mississippi, New York, North Carolina, South Carolina, Washington, and Wyoming) make district facilities available to charter schools either through requiring published lists of available buildings, offering charter schools the **right of first refusal** to lease or purchase, or in the case of two areas (California and New York City) requiring school districts provide space.[1]
- **Per-pupil facilities funding:**
  - ◊ According to LISC, 13 states offer some sort of per-pupil funding for charter facilities.
  - ◊ Only 3 of these provide funding of over $1,000 per-pupil.
- **Credit Enhancement Programs:**
  - ◊ According to LISC, 9 states have some sort of Credit Enhancement Program.
  - ◊ Arkansas's credit enhancement program, Arkansas Development Finance Authority (ADFA), guarantees certain bonds using interest earnings derived from investments of the state.
  - ◊ *Colorado's Moral Obligation Program* allows "qualified charter schools" that carry an investment-grade rating to attach the state's Moral Obligation pledge to their debt.
  - ◊ *Texas* allows charter schools to access the state's Permanent School Fund (PSF), which is triple-A rated.
  - ◊ *Utah's Charter School Credit Enhancement Program* promises to provide funds to a Charter School Reserve Account that can be used to assist borrowers in financial distress (a moral obligation rather than a legal one).

ing grants, loans, guarantees, real estate development, and technical assistance. Of the $2.1B in direct financial support, $940 million, or almost half, has been paid back in full. There is a low default rate on this financing. Eighteen organizations have allocated $1B of their NMTC funds on behalf of charter school facilities.

District-charter compacts

Some innovative partnerships have recently been developed between charter schools and traditional public school districts. These partnerships aim to be mutually beneficial relationships. In some, charter schools take up residency in empty or underutilized district buildings. Charters benefit from reduced start-up or facilities funding costs, but districts can benefit in several ways as well: collaboration in professional development, spillover of positive charter school culture, and in some cases the ability to "claim" the higher test scores of charter students. For example, a YES Prep charter school in Aldine, TX partners with the local school district, and the higher-scoring YES Prep students count toward the district average.[16]

The Gates Foundation provides funding for district-charter "compacts" in 20 cities (usually in the form of $100,000 planning grants). These grants pay for joint professional development, designing a universal enrollment system, establishing metrics to be used with all students, creating more personalized learning environments for students, and implementing the Common Core State Standards.[17]

This movement is growing. Just this month, policymakers in Florida announced a new initiative to fuel district-charter collaboration through financial incentives, shared resources, and best practices. As part of these partnerships, districts may provide facilities to charters in exchange for professional development and shared innovation.[18] In addition, New York Governor Andrew Cuomo recently said that charters in New York City will now have access to public school facilities at no charge or the city will subsidize their school space.[19]

Recommendations and Predictions for the 2015 General Session

In recent years, policymakers have wrestled with charter school issues of one sort or another during each legislative session. During the 2015 session, if the legislature takes up the issues of facilities funding for charter schools, there are several models across the country that may serve as a guide. In places where public school facilities are vacant while nearby charter schools are in need of space, a **district-charter compact** (like those highlighted above), or "shared-space" strategy seems like an obvious solution. Currently, Arkansas law provides charter schools the first right of refusal to lease at fair market value any public school facilities that are unused. However, according to Arkansas Code § 6-23-501, TPS districts are exempt if they receive a better offer for the facilities through an open bid process.[20] Nevertheless, while there are challenges associated with this strategy, it has proved feasible in other states.

A second plausible strategy would involve the state's public school facilities funds being made all available to all public schools, including open-enrollment charters. Of the 43 states with a charter law, just under one-third allow charters to access **per-pupil facilities funding** provided by state resources.

Whether Arkansas lawmakers pursue one of the above strategies, or an innovation not mentioned here, it is likely that the 2015 session will involve some legislative work aimed at ensuring that students in all Arkansas public schools - charters and TPS - have access to adequate school facilities.

State Spotlights

Tennessee has the most equitable system in terms of state funding for charter schools.[2]

Funding for Tennessee charter schools come from a variety of sources. Tennessee is one of only 13 jurisdictions that provide state per-pupil funding for facilities (although this is small, between $100 and $300 per student). An interesting thing to note about Tennessee is that charter schools in the state don't have many other options: they don't have access to district facilities, capital grant funding, loan programs, or credit enhancement.[1]

New Mexico has one of the lowest disparities[2]

New Mexico is one of only 4 states that allow charter schools to levy local taxes through mill levy provisions. Starting in July 2009, school districts are required to include charter school capital improvements in the local tax funds. In addition, the Public School Buildings Act in New Mexico allows districts to impose a tax up to ten mills and up to six years to erect, remodel, make additions to, provide equipment for, or furnish public school buildings, and starting in July 2007, districts were require to provide an equitable share with charter schools.

The state's funding mechanism, the Public School Capital Outlay Fund (PSCOF) , in which charters can access state funds by the same mechanism as TPS districts, actually dates back to 1978. The state's Public School Capital Outlay Council (PSCOC) also can provide grants. This per pupil amount has increased steadily from $300 in FY 2005 to about $740 in $2014. The PSCOC has awarded over $62 million through the Lease Payment Assistance Program over the past 5 years. New Mexico also allows direct legislative appropriates for specific projects (in 2014 there were almost $27 million in these appropriations). In addition, New Mexico charter schools can access tax-exempt financing and Q-Bond Programs.[1]

Office for Education Policy

For more information about this policy brief and other education issues in Arkansas, contact us:

Office for Education Policy
211 Grad Ed Building
Fayetteville, AR 72701
Phone: (479) 575-3773
Fax: (479) 575-3196
oep@uark.edu

Visit Us Online:

officeforeducationpolicy.org
officeforedpolicy.com

EXECUTIVE DIRECTOR:
Gary W. Ritter, PhD

MANAGING DIRECTOR:
Jennifer W. Ash

RESEARCH STAFF:
Kaitlin P. Anderson
Sarah B. Moore
Denice Pugh
Charlene A. Reid
Evan T. Rhinesmith

UNIVERSITY OF ARKANSAS

References

[1]Abraham, et al. (September 2014). *2014 Charter School Facility Finance Landscape.* Local Initiatives Support Corporation. Retrieved from: http://www.lisc.org/docs/resources/effc/2014CSFLandscape.pdf

[2]Batdorff, et al. (April 2014). *Charter School Funding: Inequity Expands.* School Choice Demonstration Project, Department of Education Reform, University of Arkansas. Retrieved from: http://www.uaedreform.org/wp-content/uploads/charter-funding-inequity-expands.pdf

[3]Office for Education Policy. (February 3, 2014). *Traditional Public School and Charter School Funding.* OEP Policy Brief (Vol. 11, Issue 1). Retrieved from: http://www.officeforeducationpolicy.org/wp-content/uploads/TPS-Charter-Funding-Updated.pdf

[4]Office for Education Policy. (May 9, 2012). *Traditional and Charter School Funding in Arkansas.* OEP Policy Brief (Vol. 9, Issue 3). Retrieved from: http://www.officeforeducationpolicy.org/downloads/2012/05/traditional-and-charter-school-funding-in-arkansas.pdf

[5]Act 1228. (2013) Arkansas 89th General Assembly. ftp://www.arkleg.state.ar.us/acts/2013/Public/ACT1228.pdf

[6]Division of Public School Academic Facilities and Transportation Rules Governing the Open-Enrollment Public Charter Schools Facilities Loan Program and the Charter School Capital Grant Program (2014) Retrieved from: https://www.google.com/search?q=open-enrollment+public+charter+school+facilities+loan+fund&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a&channel=fflb

[7]Arkansas Development Finance Authority. http://www.arkansas.gov/adfa/

[8]Hope Credit Union. http://www.hopecu.org/index.php/alerts/alerts-fraud-alerts/32-news/press-release

[9]Investopedia. http://www.investopedia.com/terms/c/conduitfinancing.asp

[10]ADFA Bond Guaranty Program. Arkansas.gov. http://www.arkansas.gov/adfa/programs/bgp.html

[11]Charter Schools and Qualified School Construction Bonds. National Charter School Resource Center, Safal Partners. Retrieved from: http://www.charterschoolcenter.org/newsletter/march-2013-charter-schools-and-qualified-school-construction-bonds

[12]Qualified Zone Academy Bonds. US Department of Education. http://www2.ed.gov/programs/qualifiedzone/index.html

[13]Credit Enhancement for Charter School Facilities Program. US Department of Education. http://www2.ed.gov/programs/charterfacilities/index.html

[14]State Charter School Facilities Incentive Grants. US Department of Education. http://www2.ed.gov/programs/statecharter/index.html

[15]Community Facilities Loans and Grants. United States Department of Agriculture. http://www.rurdev.usda.gov/hcf_cf.html

[16]Whitmire, Richard. (2014) *Inside Successful District-Charter Compacts.* Education Next, Fall 2014. Retrieved from: http://educationnext.org/inside-successful-district-charter-compacts/

[17]Bill and Melinda Gates Foundation. http://www.gatesfoundation.org/Media-Center/Press-Releases/2014/01/Gates-Foundation-Announces-Additional-District-Charter-Compacts

[18]Prothero, Arianna. (Oct. 14, 2014) *Often Foes, Some Districts and Charters Forge Partnerships.* Education Week. Retrieved from: http://www.edweek.org/ew/articles/2014/10/15/08collaboration.h34.html

[19]Rees, Nina. (Sept. 22, 2014) *Charter Schools Deserve Equal Funding.* http://www.usnews.com/opinion/blogs/nina-rees/2014/09/22/new-york-families-file-lawsuit-over-underfunded-public-charter-schools

[20]Arkansas Law 6-23-501. Retrieved from: http://www.arkansased.org/public/userfiles/Learning_Services/Charter%20and%20Home%20School/Charter%20School-Division%20of%20Learning%20Services/