

TO: Sen. John J. Flanagan, Chair, New York State Senate Committee on Education
FROM: Alison Lubin and Dennis Robillard
DATE: May 4, 2015
RE: Public School Facility Cost Relief

We recommend that New York State amend its charter school law to promote charter school usage of unused or underutilized district schools and other public buildings. Districts would receive rent revenue from the charter schools for the space that is used. This proposal would reduce the fiscal burden on charter schools' facilities budgets while also creating a path for district schools to recoup some of their lost revenue that comes with the operation of charter schools in their district. As it is currently constructed, both charter schools and district schools are negatively affected by the facilities implications in the law. Charter schools are forced to spend over 10% of their funding on facilities, while district schools are often left with unused space and no systematic way to monetize it.

Charter School Context in New York State

The New York Charter School program was established in 1998. It established charter schools as a means of providing high quality education alternatives to students in traditional public schools who may be better served in different settings. In theory, the addition of these charter schools would also introduce a “competitive dynamic to prompt lower performing districts to improve their practice.”^{1,2}

Currently, there are 248 charter schools in New York State (NYS) that serve approximately 92,000 students. They are mostly in urban districts, with New York City operating the vast majority at 210. As of February 2015, there is a cap of 460 charters statewide, leaving over 200 additional charters available to be opened (counting 20 that have been approved, but have not yet opened).³

As a form of public education, charter schools are entitled to funding from the district on a per pupil basis, as well as additional funding for special needs students, English language learners, and students that live in poverty. They are also able to solicit additional money through private donations and grants. However, they are not entitled to the state building aid set aside for constructing, purchasing, or leasing structures for school purposes.⁴ Additionally, charter schools are not able to raise facilities revenue through the traditional public bond system.

In 2014, the New York State Charter Law was amended to allow charter schools to use public school spaces in New York City only. Charter schools are now able to co-locate or utilize an unused school or public building at no cost. Typically, co-location means a charter school has its own floors in an existing public school building and shares common spaces (e.g., cafeteria or gymnasium) with the traditional public school. This is already a common practice. For instance,

¹ Winters, 2014

² Holley, Egalite, and Lueken, 2006

³ Charter School Office, New York State Dept. of Education, 2015

⁴ State University of New York, State Dept. of Education, 2015

during the 2011-2012 school year, 58% of public schools (both district and charter) were housed within co-located space in NYC.⁵ This means that, in the majority of cases, NYC traditional public schools are co-locating with each other. Outside of New York City, there are no other instances of charter schools co-locating in the state; the charter schools are independently responsible for facilities funding.

If the NYC school district is unable to provide an acceptable space for the charter school, the charter school receives rental assistance from the district in addition to the per-pupil funding. This policy has been particularly contentious as of late, with charter school proponents calling for an expansion of the policy and detractors calling on charter schools to fund themselves and not be subsidized by the traditional public schools.

More broadly, charter schools wishing to purchase or build a facility are eligible to obtain tax-exempt financing, but must use a conduit agency, because it is against NYS law to promise their per pupil revenues to secure bond payments.⁶ In practice, this financing is scarcely used. The credit risk associated with small organizations with limited credit histories and insufficient revenue streams leads to high, and often unaffordable interest rates for charter school entities. Ultimately, charter schools most often opt to rent space.

Without financial assistance for facilities, charter schools typically lack many amenities that are implicit when thinking of a school building, including gyms, libraries, kitchens, music rooms, and cafeterias. For example, in the Capital Region (Albany and Troy), only 15% of charter schools report having a gymnasium, 23% report having an auditorium, and 38% have science labs in the building.

A 2011 report on the amount of money spent on facility ownership and ongoing costs (e.g., rent, debt service, maintenance) found that charter schools in the Capital, Central, and Western regions of New York reported spending a total of between \$3,557,570 and \$14,291,228 per year,⁷ or an average of \$2,350 per student⁸. Without access to the state infrastructure aid and complicated access to bond issuance procedures, charter schools must finance their facilities with their operating funds, specifically per pupil revenue allotments from the district. This means less money for teachers (size or salary), social services (e.g., social workers), extracurricular classes (e.g., art, music, foreign languages), and staff professional development.⁹ Charter schools do receive donations as well, but that typically amounts to less than 5% of total revenue.¹⁰

⁵ New York City Charter Schools Center, 2013

⁶ Searcy and Bifulco, 2011

⁷ New York City Charter Schools Center, 2013

⁸ Ibid.

⁹ Ibid.

¹⁰ Searcy and Bifulco, 2011

The Problem

The problem that this proposal seeks to address is twofold:

- School districts lose per-pupil funds when students enroll in charter schools, leaving existing school buildings under-enrolled, without a systematic means to leverage their underutilized space for revenue. While school districts have the option to sell unused or underutilized space, they often choose not to do so due to a desire for enrollment flexibility, difficulty marketing old school space and the administrative costs of selling a building.
- Due to insufficient funding for facilities, charter schools outside of New York City struggle to remain fiscally viable. This ultimately has negative consequences on both the charter school students and district students, in the event a charter school cannot balance its budget and is shut down.

Charter schools in New York State are a small, but growing faction of public education, and there is a growing citizen demand for them. A comprehensive revised facilities funding structure can both support this mission, as well as mitigate the financial hardships imposed on school districts by the presence of charter schools.

Proposal Specifics

We propose that a variation of the 2014 Charter School Law amendment be enacted statewide to all cities with more than 100,000 residents (see Appendix I). Each year, the local school district would be responsible for creating and publicizing a comprehensive list of the available unused or underused school space. Charter schools in these districts would then submit requests for space (either co-location or for unused school buildings located in the district). After reviewing the request, districts would then report an offer of space, and, if found suitable by the charter school, it would use its own funding to pay rent to the school district.

The amount of rent would be equivalent to the cost that the district spends each year to keep and maintain the vacant or underutilized school spaces or 5% of the district per-pupil funding amount,¹¹ whichever is greater. This rent will be less than the 13% of per-pupil funding that charter schools currently spend on facilities¹² (see Table 1) and will also help to alleviate the fiscal burden of charter schools on the district's budget. For example, in Albany, our policy would amount to \$703.60 additional revenue per student for the district and \$1,125.76 in savings for the charter school (see Appendix 2 for example). We believe that this amount represents meaningful savings to the charter schools, as well as meaningful revenue to the districts.

In the event that the offer is not suitable to the charter school, the charter school may appeal to an already-established state board for review. This process will ensure that districts do not

¹¹ For the purposes of calculating rent, district per-pupil funding is the base student amount and does not include additional state or federal funds for ELL, low-income, or special education.

¹² Searcy and Bifulco, 2011

inflate their annual maintenance costs for unused or underused space. If the appeal is granted, the district must make an additional or modified offer to the charter school, changing either the offered space or rent. If the appeal is not granted, the charter school may accept the original offer or pursue another facility at its own expense. Lease agreements between the district and charter school will be reevaluated and renewed every five years in line with the renewal process for charter schools.

If the district has no suitable space for a charter school (i.e. all district space is being fully utilized or the charter school has a unique mission that requires special facilities that are not available), then the charter school can apply to a grant from already-established New York State Stimulus Fund Grants Program,¹³ with a newly implemented “preferred” status. This program provides a total of \$3.1 million dollars per year towards charter school facilities across NYS, with the maximum grant at \$200,000. It can be reapplied for each year.

Additionally, we eliminate the rental assistance provision that exists in the current NYC charter school law. We believe that this places an unnecessary burden on traditional school districts and reduces the incentive for charter schools to accept space offers from districts.

Benefits and Considerations

The issue of funding for charter school facilities is complex due to multiple competing objectives between charter schools, school districts, and the state government. Our policy recommendation has considered the interests of these stakeholders and will demonstrate the following benefits:

Improve the quality of charter school facilities: Because most NYS charter schools cannot finance construction of their own facilities, they often buy or rent vacant buildings that do not have traditional school features, such as libraries or kitchens to prepare hot meals. However, most of the currently existing public school buildings already contain these amenities. Under co-location, the charter school and the district school would share access to these large amenities. While this may necessitate changes in scheduling and agreements between charter and district schools, a 2014 report by The Manhattan Institute found no evidence that having to share these features has detracted from student achievement in the district school.¹⁴ To this end, co-location can improve the quality of charter school facilities, without taking away from the quality of the district school.

Reduce the burden of facility cost on charter school budgets: Because charter schools are spending significant portions of their budget on facilities, this recommendation aims to help lower, though not eliminate, this financial burden. As mentioned, when charter schools are spending upwards of 13% of their total revenue on facilities, it is reducing the amount of student-centered spending.¹⁵ This proposal suggests that charter schools entering into a co-

¹³ SUNY Charter Schools Institute

¹⁴ Winters, 2014

¹⁵ Searcy and Bifulco, 2011

location environment will pay a reduced rent to the district school, which ensures that the charter school is still maintaining a level of self-sufficiency by procuring funding to support the rent, but is not financially unstable due to the facility payments.

Encourage efficient allocation of resources: As mentioned, many charter schools throughout NYS are spending a high percentage of their total operating budget on facilities. Because the population of school age children in metropolitan areas all over the state are declining,¹⁶ district schools in several upstate cities have unused school buildings and sections of buildings that are being maintained but not fully used. Our proposal encourages efficiency in charter school spending. Because the charter schools are still obligated to pay a certain amount for their facilities, they must be efficient in using their remaining funds to meet the standards they are held to for student performance. As there is documented evidence that the addition of a charter school through co-location does not have any sizable effect on the district school's student achievement,¹⁷ the district school is gaining revenue, without losing student achievement, as a result of the charter school co-locating. Alternatively, a blanket funding of facilities for charter schools by the state or district, such as the policy in place in New York City, does not encourage efficient spending.

Minimize negative impact on district school budgets: Currently, districts are responsible for providing per pupil funding to charter schools, including federal aid for special education, poverty and English language learners. At scale, this can be detrimental to a district. Our proposal allows school districts to receive compensation for some of the unused facilities that result from charter schools in a district would mitigate some of this negative impact. By also eliminating the rental assistance provision mandated under the current NYC charter school law, this proposal serves to alleviate additional and unnecessary burdens that charter schools can place on districts.

It should be noted that there is no law preventing districts from selling their unused or underutilized space to private firms, but districts often do not for reasons related to administrative costs or a desire for flexibility in building space. Further, the design of school buildings are often not amenable to other uses and are not typically appealing to the private sector.

District-level data on underutilized or unused school space in NYS is not readily available. However, the declining school-age population in many cities across New York, coupled with multiple examples of unused spaces in Chicago,¹⁸ Philadelphia,¹⁹ and Milwaukee,²⁰ lead us to believe that there are available spaces for charter schools. Additionally, the cost of maintaining

¹⁶ McMahon, 2012

¹⁷ Winters, 2014

¹⁸ Smyser and Rogers, 2014

¹⁹ Herold, 2014

²⁰ Szafir, 2014

those unused spaces, including utilities and security, ranges from \$0 per year to \$200,000 per space per year²¹. If a charter school moves in, the district will save that money as well.

Minimize impact on state budgets: In the current fiscal climate, there is minimal additional funding available at any level of government. Our proposal would lead to negligible additional costs to the state. It would call for expanding the capacity of the state to manage the appeals process that is already in place due to the current New York City Charter School Law. The current grant programs and charter administration costs will remain unchanged, though there may be an increase in charter school applications due to the reduced costs of operating a school in some areas. We do not propose that the state subsidize the cost of rent for charter schools uniformly, because it would place undue fiscal strain on areas that may not benefit from charter schools and, absent significant reform, would further drain the state aid that New York traditional public schools receive.

Alternative Policies

While we believe in the effectiveness of our proposal, there are other considerations. Because one objective of charter schools exist is to create competition for district schools, there is an inherent tension between the educational entities. Co-location brings that tension into the same school building. This proposal will require that individual charters and public schools negotiate an arrangement for common areas including, libraries and cafeterias. We believe the benefits of increased student-centered spending for charter schools and increased revenue for district schools outweigh any potentially contentious relationship.

Further, there are a number of other potentially credible policies to remedy this problem, but a further examination reveals each policy's inherent flaws. For example, opponents of charter school expansion might insist that the Department of Education should simply strengthen the charter school application process such that only the schools with large sources of outside funding will survive. While this policy would work to encourage efficient allocation of resources and minimize negative impacts on the state and school district budgets, it simply ignores the existence and betterment of small charter schools.

Other states, such as Alaska, Arkansas, Maine, Mississippi and Washington, currently employ a policy that allows charter schools the right of first refusal – when a public school building becomes vacant, the district must first offer it to the charter school applicants before putting it on the market for other bidders.²² However, this leads to two suboptimal options: either the district can rent or sell it to the charter school at a below-market rate, which negatively impacts the school district, or at the market rate, which does not help to alleviate the already existing strain on charter school budgets. Finally, one solution may be to help improve a charter school's access to credit markets: a state could set up a program to issue bonds on behalf of charter schools and agree to underwrite it to ensure that the school has access to facilities.

²¹ Raw data –released by Chicago Public School District, 2014

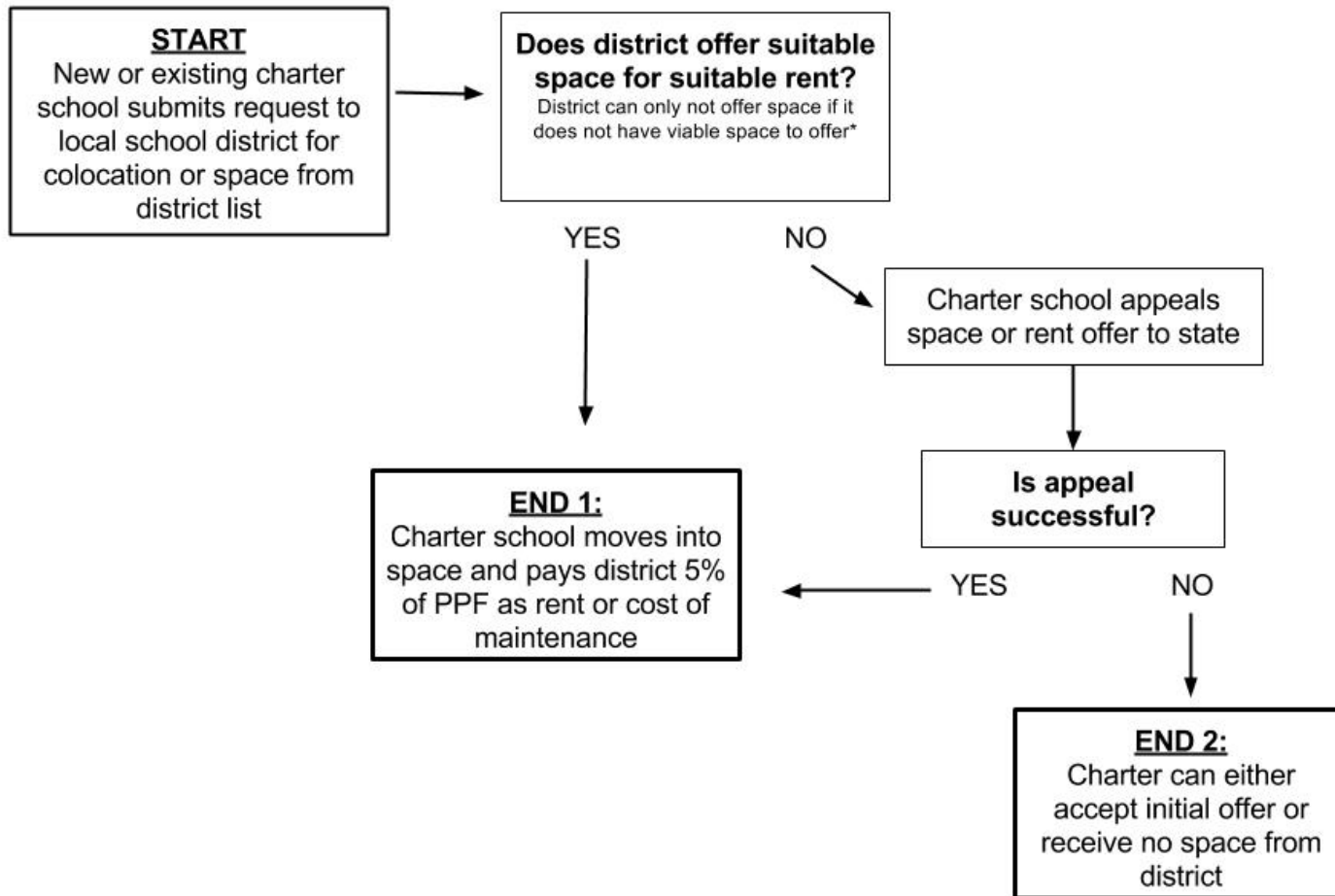
²² National Alliance for Public Charter Schools, 2015

However, it is infeasible to assume that the state would be interested in assuming potentially high levels of risk for up to 400 charter schools.

Conclusion

Our recommended changes to the NYS Charter School Law would help reduce costs on average for charter schools, while simultaneously minimizing the burden on school districts that lose funding and students due to charter schools. Charter schools would be able to improve their facilities by moving into more unused school buildings that have things like labs, cafeterias and gymnasiums as opposed to making do in more traditional rental space that isn't set up for regular school operations. Critically, it does not limit traditional school districts' abilities to sell unused school buildings. While it would require a small state-level investment to handle charter school appeals, this process and structure has already been implemented and the capacity would simply need to be expanded. Amidst an education reform climate that is divisive, our proposal represents a way for both charter schools and traditional public schools to improve their financial standings.

Appendix 1: Diagram of Recommendation



* If a district does not have viable space, there are current state and federal grants to support charter schools with facilities

Table 1: Expenditures by Type for Charter Schools in Albany and Buffalo, 2009-2010²³

	Albany		Buffalo		Combined	
	% of Exp.	Per Pupil	% of Exp.	Per Pupil	% of Exp.	Per Pupil
Salaries & Benefits	53.4%	8,047	63.5%	7,551	58.5%	7,731
Salaries	44.3%	6,633	50.5%	5,970	47.4%	6,211
Benefits & Payroll Taxes	9.1%	1,414	13.0%	1,581	11.1%	1,520
Management Company Fees	1.0%	13	2.3%	140	1.7%	94
Building and Land Rent / Lease	14.9%	2,035	11.1%	1,149	13.0%	1,471
Staff Development	0.6%	72	1.1%	134	0.8%	112
Professional Fees, Consultant & Purchased Services	3.9%	343	4.4%	562	4.2%	482
Marketing /Recruitment	0.6%	67	0.4%	49	0.5%	55
Student Supplies, Materials & Services	12.3%	1,825	7.6%	783	9.9%	1,162
Depreciation	3.2%	442	3.0%	335	3.1%	374
Other^a	8.9%	1,422	6.7%	747	7.8%	992
Total	100.0%	14,267	100.0%	11,425	100.0%	12,458
Program Services	73.6%	10,660	78.9%	9,357	77.7%	9,831
Management and General	26.4%	3,607	21.1%	2,068	22.3%	2,628
N ^b	50	8	94	14	144	22

Note: ^aOther spending primarily includes utilities, telephone, building maintenance, insurance, printing, postage, and security. ^bCases analyzed for percent of expenditures are school-year observations (one case for of every year each school was in operation). Per pupil figures represent the average of cases for the 2009-10 school year only.
Source: Annual Audited Financial Statements

²³ Searcy and Bifulco, 2011

**Appendix 2:
Impact Estimates and Illustrative Example of Policy Effects**

	Revenue for District:	Average Savings for Charter School
Impact Estimate	(Number of Students*Per Pupil Funding*.05) + Cost of Maintaining Facility	(Number of Students*Per Pupil Funding*.13)- (Number of Students*Per Pupil Funding*.05)
Illustrative School Example*	(556*\$14,072*.05)+\$20,000 = \$411,201.60	(556*\$14,072*0.13) – (556*\$14,072*0.05) = \$625,922.56
Per Pupil Effects	\$703.60 (Revenue)	\$1,125.76 (Savings)

* Albany Community Charter School
 Enrollment: 556 students
 Per-Pupil Funding for Albany District Students: \$14,072
 Estimate of Average Cost to Maintain Building: \$20,000

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