



By Julie Davis Bell

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Charter school caps limit the number of charter schools that can be opened or the number of students that can be enrolled in charter schools in a state.¹ Whether to cap is a fundamental decision facing all states that have considered or are considering charter school legislation. Since the first charter school laws were passed in 1991, whether to have caps and what those caps should be have been important policy questions. This brief discusses the history, issues and policy questions about charter school caps.

Caps in the States

Nearly 5,000 public charter schools—approximately 5 percent of all public schools—currently serve about 3 percent of all public school students. Arizona, California, Florida, Ohio and Texas have the most charter schools. Nearly half the states have some kind of a cap on charter schools (as of this writing, several states were considering whether to remove caps). Most caps limit the number of schools allowed, while others limit the number of students per school. Some states limit the number of new schools that will be allowed versus the number of conversion schools—existing public schools that convert to charter schools. In some states, caps also restrict the number of schools under some authorizers, but not others.

Caps can be straightforward or complicated. Hawaii caps the number of charter schools at 48, while New Mexico allows no more than 15 schools per year with a five-year cap of 75. California limits charter school growth to 100 per year with unused charters rolling over to the next year. Illinois limits charter schools to 120; 75 located in Chicago and 45 in the rest of the state. Arkansas has a limit of 24 start-up charters in the state, but has no cap on conversion schools.

During the 20 years of charter school experience, states have imposed caps, loosened restrictions and eliminated them all together. Caps can be tied to measures of quality, school diversity and local needs, although periodic reviews of cap policies can be set as more information about charter schools becomes available and conditions in states change.²

Charter Schools in the States

Charter schools are publicly funded, privately managed and semi-autonomous schools of choice. They do not charge tuition. They must hold to the same academic accountability measures as traditional schools. They receive public funding similarly to traditional schools. However, they have more freedom over their budgets, staffing, curricula and other operations. In exchange for this freedom, they must deliver academic results and there must be enough community demand for them to remain open.

The number of charter schools has continued to grow since the first charter law was passed in Minnesota in 1991. Some have delivered great academic results, but others have closed because they did not deliver on promised results.

Because state laws enable and govern charter schools, state legislatures are important to ensuring their quality.

This series provides information about charter schools and state policy topics, including finance, authorization, limits to expansion, teaching, facilities and student achievement.



The caps in state policies limit charter school expansion in the following ways:

- The number of schools in the state;
- New schools within a designated amount of time;
- The number of schools overseen by each authorizer;
- The number of students in schools; or
- Other restrictions by geography (i.e. district), performance level or funding level.

History

The first states to allow charters—including Colorado and Minnesota—included caps in their charter laws. These states wanted some experience with charter schools before they considered whether to lift the caps. The laws initially allowed only a few charter schools; as charter schools became more common, however, caps were eliminated in both states. As the charter movement grew throughout the late 1990s and early 2000s, more state legislatures lifted caps,³ but debates about them continued. The 1998 New York charter law included a cap, but in the same year, Colorado lifted its cap.⁴

More recently, the federal government sparked a wave of debate about charter caps by creating Race to the Top grants. The grants, funded through the American Recovery and Reinvestment Act of 2009, encouraged states to remove limits on charters and the number of students they could serve. Among the criteria for states to win the grants was “ensuring successful conditions for high-performing charter schools and other innovative schools.” This criterion accounted for 40 of the possible 500 points in selecting winners. During a time when states were experiencing dire budget conditions, many states competed for the \$4.35 billion in Race to the Top awards, and significant attention focused on those that lifted their charter caps to gain points in the competition. Fifteen states took legislative action to remove caps in the year of the Race to the Top competition; six of these states won grants.⁵

Issues

The decisions states make about caps (whether to cap and at what number) is one of the most fundamental questions in state charter school policy. It reflects the general approach each state has to charter schools—whether to limit them or allow for expansion. Much of the debate about caps centers around quality. Charter school advocates support removal of caps, claiming that they arbitrarily limit charter schools without regard to quality. This limits options that parents and students want for high-quality education, as demonstrated by the thousands of student names on charter school waiting lists (The NGA Center for Best Practices estimates nearly 350,000 students are on waiting lists). Further, some charter school advocates suggest that caps are arbitrary and

States With Charter School Caps			
State/Jurisdiction	Caps Number of Schools	Caps Number of Students	Other Caps*
Alaska	x		
Arkansas	x		
California	x		
Connecticut		x	
Hawaii	x		
Idaho	x		x - Only one per district
Illinois	x		
Indiana		x - Virtual charter only	
Maine	x - State-authorized charters only	x	
Massachusetts	x	x	
Michigan	x		
Missouri			x - Only in Kansas City and St. Louis
New Hampshire	x		
New Mexico	x	x	
New York	x		
Ohio	x		
Oklahoma	x		x - Limited to specific districts
Rhode Island	x	x	
Texas	x		
Wisconsin		x - Virtual charter only	
District of Columbia	x		

prevent free-market competition from naturally determining the appropriate number of schools. Caps not only may deter potentially high-performing operators from applying in those states, but also can stifle innovation and discourage risk-taking by encouraging a more familiar model of charters to be approved, since only a certain number can be opened.

Proponents contend that caps do control the overall quality of charter schools. Caps encourage authorizers to be more rigorous in closure and approval decisions, since caps allow only a limited number of schools. Caps can manage both charter school growth and expenditures on charter schools.

Research indicates that caps alone do not determine charter school quality. The Center for Research on Education Outcomes concluded in a 2009 study that states with a statutory cap saw fewer academic gains than those without one. They also noted that these effects were even more apparent in the 15 states and District of Columbia studied when a state was near its limit.⁶ At the same time, data from the

same study showed charter schools from some states with caps—Arkansas, Illinois and Missouri—had higher reading and math test scores than traditional state schools. Charter schools in some states that have no caps—Arizona, Florida and Minnesota—scored lower than traditional schools.⁷

Policy Questions

A range of policy options exists between imposing a limit and allowing unbridled growth. According to Andrew Rotherham of the Education Sector, one option is “smart charter school caps.” These smart caps not only allow controlled growth based on authorizer capacity, but also loosen growth limits on charter schools and authorizers that have proven records of success. Rotherham echoes others in calling for caps to be a more focused instrument of quality control that is used in conjunction with other quality charter policy such as authorizing and accountability.⁸

Policy Questions to Consider

- Does your state have caps on charter schools or charter school students? What were the reasons for including them in the legislation? Are those reasons still relevant? When were your state’s cap policies last reviewed?
- How many charter schools are there in your state? How close are these charter schools to reaching the state cap, if there is one? Are a high number of students on waiting lists who might benefit from expanding capacity? Can charter school accountability be maintained if caps are relaxed?
- Is expanding capacity the best policy option or is there a way to satisfy demand without building new schools (i.e., supporting expansion of current charter school facilities, replicating successful charter school reforms in low-performing charter and traditional public schools, closing ineffective charter schools that have low demand, or promoting successful charter schools that have room for more students)?
- Are waiting lists substantially higher at few charter schools and/or in certain regions? If so, why are these high-demand charter schools so popular and how can they be replicated to reduce the waiting lists? Should charter school expansion be focused on specific regions with the highest demand?
- How many students are served by charter schools? Is there demand for more charter schools? If not, should the state focus on ways to promote them?
- Can current authorizers effectively manage additional charter schools? Are additional authorizers needed to ensure charter schools are held accountable for their performance?
- What measures of quality are used to determine charter school effectiveness and closure decisions? Are poorly performing schools closed to allow more promising schools to open under a cap? How many charters have been denied by authorizers to comply with caps?

Notes

1. National Alliance for Public Charter Schools, *Caps on Charter Schools* (Washington, D.C.: National Alliance for Public Charter Schools, 2011); charterlaws.publiccharters.org/files/publications/Caps__0731-TZ.pdf

2. Lisa M. Stulberg, *Beyond the Battle Lines: Lessons from New York's Charter Caps Fight* (Seattle: Center on Reinventing Public Education, 2007), 7.

3. Sara Mead and Andrew Rotherham, *A Sum Greater Than the Parts: What States Can Teach Each Other About Charter Schooling* (Washington, D.C.: Education Sector, 2007), 11.

4. Lisa M. Stulberg, *Beyond the Battle Lines: Lessons from New York's Charter Caps Fight*, 11.

5. National Alliance for Public Charter Schools, *2009 State Legislative Session Highlights* (Washington, D.C.: National Alliance for Public Charter Schools, 2009).

6. Center for Research on Education Outcomes, *Multiple Choice: Charter School Performance in 16 States* (Stanford, Calif.: Stanford University, 2009).

7. Eileen M. O'Brien and Chuck Dervarics, *Charter Schools: Finding Out the Facts* (Alexandria, VA: Center for Public Education, 2010); <http://www.centerforpubliceducation.org/Main-Menu/Organizing-a-school/Charter-schools-Finding-out-the-facts-At-a-glance/default.aspx> (accessed March 2, 2011).

8. Andrew J. Rotherham, *Smart Charter School Caps* (Washington, D.C.: Education Sector, 2007).

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Julie Davis Bell wrote this brief. Julie is director of NCSL's Education Program.

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William T. Pound, Executive Director

7700 East First Place
Denver, Colorado 80230
(303) 364-7700

444 North Capitol Street, N.W., #515
Washington, D.C. 20001
(202) 624-5400

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