Summary of Payments Made by Charter Schools to School Districts for the Use of District-Owned School Facility Spaces

Abstract

This document summarizes the types of arrangements found across the country for charter schools' use of public school district owned spaces. Data from the Charter School Facilities Initiative was used and supplemented with interviews of several large districts, not found in the Charter School Facilities Initiative data base. Overall, the data suggests that few charters are paying market-based rent for the use of district owned facilities. Rather, charter schools tend to pay for the costs associated with operating and maintain public school facilities.

This report was produced as a collaborative effort between the National Alliance for Public Charter Schools, the Colorado League of Charter Schools, and Momentum Strategy & Research

INTRODUCTION

Among charter schools that occupy district owned school facilities there is a wide variety of arrangements across the country. Some of these arrangements are based on complex formulaic computations, while others are simplistic and straightforward. What seems clear is that the word “rent” as applied to a payment that charter schools make for the use of public school buildings is a widely varying term, and in reality, market-based considerations are only a factor in applicable in a small minority of situations.

The National Alliance for Public Charter Schools, the Colorado League of Charter Schools, and Momentum Strategy & Research reviewed a number of data sources and interviewed school, district, and other officials to arrive at this conclusion. The following sections outline the findings.

TYPES OF PAYMENTS

For all the various and sundry arrangement made, it’s perhaps easier to break them down into three basic categories or payment types: no cost, use cost, and rent. Table 1 provides the definitions for these categories.

Table 1. Definitions of the Categories of Payments that Charter Schools Make for the Use of District-Owned School Facilities.

Payment Type	Definition
No cost	Charter schools pay very little (usually $1) or nothing for the use of the district owned space. In some instances, district also cover the cost of utilities and maintenance. Often, the charter schools in this situation pay for utilities directly to the vendors.
Use cost	Charter schools pay some amount determined by how much it costs to run and maintain the facilities, including utilities, continued maintenance, and other facility-related expenses. Sometimes, payments also include services from the district, such as district custodial employees, payroll services, or shared district staff. These expenses are not always low cost, but are not based on any market value either.
Rent	Charter schools pay an amount for rent that is based on “fair market value” or some approximation of market rates. These payments can include some utilities, but often those expenses must be handled by the school directly.

FINDINGS FROM THE FIELD

Using data from the Charter School Facilities Initiative's[1] database, we found that most schools reported paying use costs for district-owned facilities. Table 2 outlines the number of charter schools in each surveyed state by payment type. Payment type was determined by both the amount reported as an annual payment for the facility and whether the payment included a number of items, including utilities, maintenance, custodial services, and other facility related expenses. A sample of the schools were also contacted and asked to verify whether the payment included "rent." Some schools provided the use agreements as well.

Table 2. Payment Type by each State that has participated in the Charter School Facilities Initiative Survey

-	Payment Type			-
CSFI Surveyed State	Rent	Use Cost	No Cost	Total Count
California[1]	17	44	10	71
Colorado	0	31	9	40
Georgia	1	0	8	9
Idaho	0	7	2	9
Massachusetts	1	0	0	1
Michigan	0	3	0	3
New Jersey	4	0	0	4
Rhode Island	0	0	1	1
South Carolina	1	4	6	11
Tennessee	2	1	0	3
Texas	0	2	9	11
Total Count	26	92	45	163

1. The CSFI survey is currently being conducted in California. Most responses at the time of this analysis had been collected from Los Angeles and the surrounding areas.

Table 2 shows that 84 percent of charter schools in district-owned spaces reported that they do not pay rent, with a majority (56 percent) of charter schools reported paying use costs and another 28 percent of charters reported paying nothing for the use of district-owned space[2]. Based on this analysis, it is fair to say that schools paying "commercial" or "market based" rent are in the minority.

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[1] The Charter School Facilities Initiative (CSFI) is a project that is funded by the US Department of Education through the National Charter School Resource Center. The CSFI is led by the Colorado League of Charter Schools which collaborates with the National Alliance for Public Charter Schools, Momentum Strategy & Research, and state level charter support organizations to collect facilities data across the country.

[2] It should be noted that all New York City charter schools were excluded from this analysis so as to show what arrangements occur in the rest of the country.

Table 3 illustrates the differences in the average amounts paid by charter schools to school districts, based on the type of payments being made.

Table 3

Total Facility Payments Made to School Districts for the Use of District Owned Facilities, by Payment Type[1]						
Payment Type	N	Average	Median	Minimum	Maximum	Std. Deviation
Rent	26	$148,130.88	$122,188.00	$21,974.00	$356,161.00	$105,081.13
Use Cost	62	$92,614.69	$63,300.00	$4,400.00	$360,000.00	$74,176.30
No Cost	45	$0.33	$0.00	$0.00	$1.00	$0.11
Total	133	$93,140.96	$62,600.00	$0.00	$360,000.00	$89,686.09
1. Data provided by the Charter School Facilities Initiative and updated, where possible, by the Colorado League of Charter Schools and Momentum Stratgey & Research.						

While charter schools paying "use costs" are not always paying lower payments than those paying rent, these payments usually include a number of utility and/ or maintenance fees. In some cases "use cost" payments also included use of non-facilities district services, which could not be separated out because the agreements did not provide the cost of individual services.

DISTRICT PRACTICES

Information about what charter schools reported in the Charter School Facilities Initiative (CSFI) survey were used and confirmed, where possible, to determine district practices across the country. Supplemental data was collected by the National Alliance for Public Charter Schools in districts that were not represented in the CSFI data. Table 4 illustrates the types of payments that these districts collect from charter schools that occupy district-owned facility spaces.

Table 4. Summary of District Payment Agreement with Charter Schools for the use of District-Owned Facilities

	Charter School Payment Type		
	No Cost	Use Cost	Rent
California			
Los Angeles	X	X	
Oakland		X	
San Diego		X	
Colorado			
Colorado Springs District 11		X	
Denver Public Schools		X	
Pueblo Public Schools		X	
Delta County Schools		X	
Florida			
Lee County School District			X
Georgia			
Atlanta	X		

Table 4 Continued..,

	Charter School Payment Type		
	No Cost	Use Cost	Rent
Idaho			
Twin Falls		X	
Gooding		X	
Meridian		X	
Illinois			
Chicago		X	
Louisiana			
New Orleans	X		
Massachusetts			
Boston			X
Michigan			
Livonia		X	
Minnesota			
Minneapolis		X	X
New Jersey			
Newark		X	X
New Mexico			
Albuquerque		X	X
Ohio			
Cleveland	X		
South Carolina			
Lancaster		X	
Columbia		X	
Beaufort			X
Tennessee			
Achievement School District	X		
Nashville		X	
Shelby County School District			X
Texas			
San Antonio		X	

Again this data supports the distinction that market-based rent is not widely used by districts to charge charter schools for the use of empty or underutilized spaces. Notably, it is even more unusual for districts to charge charter schools *that they authorize* for the use of district-owned school buildings. For example, Minneapolis Public Schools are not allowed (by statute) to enter into any contractual agreements with charter schools that they authorize, so when district-authorized charters are allowed the use of district owned space, it is rent free. However, the district does collect funds from charter schools they do not authorize (though heavily tied to the existence of state reimbursement for rent payments).

As state policies impact how districts may or may not charge charter schools for the use of empty or underutilized school facilities, Appendix A provides a snapshot of the state laws pertaining to charter school facilities in each of the states highlighted in this report

CONCLUSIONS

It is important to note that the most significant grouping of district-charter arrangements for charter schools' use of district owned space is in the use cost payment type. These arrangements represent a reconciliation of two policy thrusts – providing charters with access to district space and providing districts with adequate incentives for making space available to charters. The different ways that these arrangements play out are numerous, but ultimately show that the majority of locations are striving for a formula that approximates use and occupancy costs, as opposed to approximating market rates. The examples at the extreme are rare – paying no costs on one end and paying market-based rent on the other end.

Lastly, it's important to note a few other observations:

1. California has a variety of arrangements, but all of them are done under the parameters of Proposition 39 and its implementing statute, which represent a statewide policy of accommodating the competing charter school and district interests at work and the most formalized of any state's arrangement as to the larger question of charter schools and payments to districts for space;
2. State reimbursement for facilities costs will influence arrangements. While states may not like sending money to charters just to pay districts for space, it probably helps on the incentive side;
3. While the cases of market-based rent being charged are relatively rare, they're even rarer if the district is the authorizer.

Appendix A

State Policies Pertaining to Charter School Facilities

State	Laws
California	California law created the Charter School Facility Grant Program (via SB 740) that provides up to $750 per pupil in lease reimbursement for charter schools in attendance areas where 70% of students qualify for free and reduced price lunch; payments may not exceed 75% of total annual facilities rent costs. In 2012, the legislature increased the funding to the program by $15 million, bringing the total to $93 million. Under California law, the Charter School Facilities Program authorizes the State Allocation Board to provide per-pupil facilities grant funding for 50% of the total project cost for new construction or renovation of charter facilities. This program is subject to available statewide school bonds passed to support charter school facilities. Currently, no funding is available for this program, while a backlog of almost $2 billion in eligible projects exists. Proposition 47, Proposition 55, and Proposition 1D have placed more than $800 million in a fund for charter school facility development. Under California law, the Charter School Revolving Loan Program provides below-market loans of up to $250,000 for new-start charter schools, allowing up to five years for repayment. A school may use these loans for any start-up costs, including facilities. California law provides that charter schools are eligible to access tax-exempt bond financing through the state and eligible to access public borrowing through county boards of education and county treasuries. California law also provides that the state treasurer's office offer a limited credit enhancement program. The law requires districts to provide charter schools with facilities that are sufficient to accommodate charter school needs and reasonably equivalent to other district facilities, through an annual application process. It allows a district to charge a charter school only a proportionate share of its facilities costs that are paid from the general fund. The law includes a limited option for charter schools to receive the “first right of refusal” to any surplus school district property (but only to July 1, 2016 unless the provision is extended). California law provides that privately owned charter facilities are exempt from the state building code and that only facilities built with state bond funds must comply with the code.
Colorado	Colorado law provides a per-pupil charter facilities funding program. For FY2014, the state appropriated $7 million in capital construction funds to qualified charter schools on a per-pupil basis. This amount, however, is not based on average district

	capital costs. Colorado law allows charter schools to apply for competitive grants from the state's public school facility financing program. Colorado law creates the "Charter School Matching Moneys Loan Program," which is set up to provide a state loan for qualified schools (i.e., investment grade schools) to meet any required matches under the state's public school facility financing program. The law requires school districts to invite charter schools to discuss their capital construction needs before the district submits a bond request or floats a bond for facilities funding. Districts are not required, however, to include charter schools as part of their requests or bonds. Colorado law provides a mechanism for limited credit enhancement for eligible, highly rated bond transactions for charter schools by using the state's moral obligation to back up to $400 million in debt. Colorado law provides that the Educational and Colorado Cultural Facility Authority (CECFA) may issue bonds on behalf of charter schools. The charter school debt reserve fund, backed by the moral obligation pledge of the state, enhances charter schools' ability to borrow funds from CECFA and to obtain more favorable rates. The law specifies that a charter school may not be charged rent for using space in a school district facility, although other costs for facilities operations and maintenance must be negotiated between the charter school and the school district. The law explicitly allows charter schools to lease or purchase land from the state.
Florida	Florida law provides a per-pupil charter facilities funding program for eligible charter schools. It specifies that a school is eligible if it has been in operation at least three years, is part of an expanded feeder pattern chain, or is accredited. It provides that eligible schools receive per-pupil dollars based on a formula. In 2013, the legislature appropriated $91 million for this fund. Florida law provides that a local school board may levy up to 1.5 mills for district schools, including charter schools, for the construction, renovation, remodeling, maintenance, and repair of educational facilities, the purchase, lease or lease-purchase of equipment, vehicles, educational facilities and construction materials directly related to the delivery of student instruction, and the rental or lease of educational facilities. Florida law allows the Florida Industrial Development Financing Act to authorize any county or municipality to issue tax-exempt industrial development bonds to finance

	the cost of eligible projects, including facilities owned and operated by charter schools. Florida law allows charter schools to either opt into the facilities rules applicable to other schools or meet local building codes. Florida law provides an exemption from ad valorem taxes for facilities used to house charter schools. Florida law provides that charter school facilities are created specifically to address population increases from new residential dwellings and that some or all of the educational impact fees required to be paid in connection with new residential dwellings may be designated for the construction of charter school facilities.
Georgia	Georgia law provides a per-pupil, needs-based capital-funding program that is distributed through a competitive grant process. The state appropriated roughly $1.6 million to the program for the 2013-14 school year. Georgia law provides state charter schools and state chartered special schools with an amount equal to the state-wide average total capital revenue per full-time equivalent, as determined by the state department of education. Statute notes that such funding is subject to the appropriations by the General Assembly, but that such schools shall be treated consistently with all other public schools in the state, pursuant to the respective statutory funding formulas and grants. Currently, the state is providing approximately $1,100 per pupil for this item. Georgia law provides charters with access to tax-exempt debt through county development authorities. Georgia law requires each local board of education to make available any vacant or otherwise unused facility to locally-authorized charters at no lease cost, with any additional terms of use to be negotiated by the parties. Statute also now indicates that local charter schools which petition to be authorized by the commission must be allowed to continue the use of all facilities, equipment, and other assets it used prior to the expiration or rescission of its charter with a local board of education; however, the local school board can begin to charge or continue to charge a reasonable fee for use of the facilities if the school switches to the commission.
Idaho	Idaho law requires the state department of education to distribute facilities funds to public charter schools for each enrolled student in which a majority of the student's instruction is received at a facility that is owned or leased by the public charter school. It provides that such funds shall be used to defray the purchase, fee, loan or

	lease costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes. It provides that such funds shall be distributed from the moneys appropriated to the educational support program and shall be calculated as a percentage of the statewide average amount of bond and plant facility funds levied per student by Idaho school districts, as follows: * Fiscal Year 2014: 20% * Fiscal Year 2015: 30% * For fiscal year 2016 and each fiscal year thereafter, this percentage shall increase by 10% each time the total appropriation of state funds for the educational support program increases by 3% or more over the prior fiscal year and shall decrease by 10% each time the total appropriation of state funds for the educational support program decreases as compared to the prior fiscal year. Provided however, that the percentage shall be no less than 20% and no greater than 50% and that the average amount of funding received per public charter school shall not exceed the average amount of funding received by each school district. For those public charter schools that do not receive facilities funds for all enrolled students, the law allows the school to submit to the state department of education a reimbursement claim for any costs for which facilities funds may be used. The law requires the state department of education to reduce such claim by the greater of 50% or the percentage of the school's enrolled students for which the school receives facilities funds and to pay the balance. Provided however, that the total reimbursements paid to a public charter school, in combination with any facilities stipend received by the school, shall not exceed the amount of facilities funds that would have been received by the school had the school received facilities funds for all enrolled students. Idaho law provides that charter schools are eligible for tax-exempt facilities financing using Nonprofit Facilities Revenue Bonds issued by the Idaho Housing and Financing Association. The law gives school districts the authority to authorize the transfer or conveyance of any surplus district-owned property to various public entities including charter schools.
Illinois	Illinois law provides that charter schools can access tax-exempt revenue bond and lease financing for capital projects through the Illinois Finance Authority. Illinois law also creates a revolving loan fund that provides interest-free loans to charter schools for acquiring and remodeling facilities, but is currently not funding it.
Louisiana	Louisiana law provides the Louisiana Charter School Start-Up Fund, which provides zero-interest loans for both new and existing charter schools of up to $100,000 with

	terms of up to three years. It allows the loans to be used for facility acquisition, upgrade and repairs. The state is not currently funding this program. Louisiana law provides that charter schools are eligible to access tax-exempt financing through the Louisiana Public Facilities Authority. Louisiana law requires local school boards to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at fair market value.
Massachusetts	Massachusetts law requires the state department of education to provide, subject to appropriation, funding to charter schools for a portion of the per pupil capital needs component included in the charter tuition amount. It requires the department to calculate a statewide per pupil average expenditure from state and local sources for capital costs solely associated with payments, including interest and principle payments, for the construction, renovation, purchase, acquisition, or improvement of school buildings and land, multiply said amount by the number of students the district sends to charter schools, and reimburse these sending school districts for said costs. In making these calculations, it requires the department to use data from the most recent year for which actual district expenditures have been reported by districts to the department. For Fiscal Year 2012, the per-pupil capital needs component was $893. Massachusetts law allows charter schools to access tax-exempt bond financing for capital projects through the Massachusetts Development Finance Agency. While not created in statute, the Massachusetts Development Finance Agency provides loan guarantees for charter facilities projects.
Michigan	Michigan law provides that charters sponsored by school districts can access district bond levy funds for facilities as determined by their charter. It also provides that all charter schools are eligible to access tax-exempt financing and technical assistance through the Michigan Public Educational Facilities Authority's bonding and loan programs. Statute states that property occupied by a charter school and used exclusively for educational purposes is exempt from a portion of school property taxes.
Minnesota	Minnesota law prohibits charter schools from using any state funds to purchase land or buildings, although charter schools may do so with non-state funds. It allows charter schools to lease space from a public or private owner or from a private nonprofit, nonsectarian, nonprofit, and with approval of the state department of education from other sectarian organizations. It is illegal for authorizers to lease

	space to their authorized schools. Minnesota law provides lease aid to charter schools in the amount of 90% of lease costs, up to $1,314 per-pupil for Fiscal Year 2015. This amount, however, does not have a mechanism to increase over time and is a separate legislative appropriation. Minnesota law specifies that charter schools that own their own facilities may not receive lease aid. However, it allows charter schools that meet certain requirements (e.g., have net unreserved general fund balances) to, with state commissioner approval, create an affiliated nonprofit building corporation, which may renovate or purchase an existing facility or expand an existing building or construct a new school facility. The law allows such nonprofit building corporations to secure financing through various sources available to other nonprofits (e.g., municipal bonds, mortgages), and allows charter schools to use their lease aid for facilities owned by nonprofit building corporations.
New Jersey	New Jersey law provides charter schools access to tax-exempt bonds from the New Jersey Economic Development Authority.
New Mexico	New Mexico law provides lease payments for charter schools at $700 per student for 2012-13. The law pegs this amount to an inflation index to determine future year allotments. The law allows the New Mexico Finance Authority to use public bond funds to construct charter facilities in a pilot program for up to seven charter schools. It allows funds loaned by the Finance Authority may be used for the acquisition of buildings, land, and facilities. The law allows charter schools to access tax-exempt debt from counties. The law requires school districts to share local facilities funds with public charter schools in a proportionate share to a charter's enrollment. It allows these funds to be used as payments for approved lease-to-purchase agreements. The law requires tax levy resolutions submitted by a district to the voters for approval to contain capital improvement funding for public charter schools that have an approved facility plan and that have been renewed one time. In practice, making this provision a reality has been a battle, especially for state-chartered schools. The law allows charter schools to access public capital outlay grants through the Public School Capital Outlay Council in somewhat similar ways other public schools

	in the state. The law requires the school district in which a charter school is geographically located to provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes. It allows an agreement for the use of school district facilities by a charter school to provide for reasonable lease payments. Full implementation of the law has been problematic. The law requires public charter schools to move to public buildings by 2015 or meet other conditions provided by law. For charter schools that are purchasing existing buildings or constructing new buildings, the law provides that such facilities must meet the average facility condition index of all public school buildings in the state.
Ohio	Ohio law provides brick-and-mortar schools with $100 per pupil for facilities funding. Ohio law allows charter schools to use loans guaranteed under the Community Schools Facilities Guaranteed Loan Program for the construction of new school buildings. The state is not funding this program. Ohio law also creates a revolving loan fund that allows charter schools to apply to use funds for any services described in their charter. The law provides that the maximum cumulative loan amount is $250,000 and that it must be repaid within five years. The state is not funding this program. Statute requires districts to lease and sell unused buildings to charter schools located in the same district at a price not higher than the appraised market value and the appraisal must not be more than one year old. The law provides that the Schoolhouse Tax Exemption applies to charters leasing from commercial realtors.
Rhode Island	Rhode Island law provides that a school district may access aid for reimbursement of school housing costs for school district sponsored charter schools, and that charter schools not sponsored by a school district may apply for 30% reimbursement of school housing cost on a need basis. State law provides that charter schools can access bonding support through the Rhode Island Housing and Education Building Corporation.
South Carolina	South Carolina law provides that charter schools are eligible for tax-exempt financing through the South Carolina Jobs-Economic Development Authority.

	South Carolina law requires the state department of education to make available, upon request, a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by school districts and that may be suitable for the operation of a charter school. It provides that if a school district declares a building surplus and chooses to sell or lease the building, a charter school's board of directors or a charter committee operating or applying within the school district must be given the first refusal to purchase or lease the building under the same or better terms and conditions as it would be offered to the public. South Carolina law creates a Charter School Facility Revolving Loan Program. To date, this program has not received any funding.
Tennessee	Tennessee law requires the state department of education: to calculate the amount of state funding required under the basic education program for capital outlay as a non-classroom component to be received in a fiscal year by a district in which one or more charter schools operate; to reserve from the sum for such district the funds that constitute the amount due to charter schools operating in the district and not distribute such reserved amount to the district; distribute from the reserved amount directly to each charter school its total per pupil share as determined by its average daily membership (ADM). The law provides that the per pupil share of each charter school must be based on prior year ADM, except that the per-pupil share of any charter school in its first year of operation must be based on the anticipated enrollment in the charter agreement. The law further provides that a district must include in the local share of funds paid to a charter school the required district match for the state funds generated under the BEP for capital outlay as a non-classroom component that are paid directly to a charter school as per pupil facilities aid. The amount of the allotment varies by the district in which a charter school is located. Currently, the allotment is between approximately \$215 and \$315 per pupil. The law requires an LEA having underutilized and vacant properties to make the properties available for use by charter schools operating in the LEA. The law provides that a charter school may not be required to pay a base rent for the use of any underutilized and vacant property owned or operated by the LEA and may only be required to remit payment for the maintenance and operational costs associated with the occupancy of the property or space. Furthermore, by October 1 of each year, the law requires any LEA in which one or more charter schools operates to annually catalog all vacant properties owned or operated by the LEA and all vacant space within any educational facility owned or operated by the LEA. The law requires the LEA to submit a comprehensive listing of all such properties and space to the state department of education, which must make an LEA's list available to any charter school operating in the LEA or to any

	sponsor seeking to establish a public charter school in the LEA. The law provides that charter schools that have the support of their local taxing authority are eligible to access tax-exempt financing through the Tennessee Local Development Authority.
Texas	Texas law provides that open-enrollment charter schools may access revenue bonds from the Texas Public Finance Authority Charter School Finance Corporation for the acquisition, construction, repair, or renovation of educational facilities. Texas law allows open-enrollment charter schools that have an investment grade rating and meet certain financial criteria to apply to have their bonds guaranteed by the Permanent School Fund. The amount of the Permanent School Fund guarantee available to charters is limited to the percentage of the number of students enrolled in open-enrollment charters. Such backing would result in charter bonds being backed by the full, faith, and credit of the state, putting charter schools more on par with school districts and allowing most charters to achieve AAA rating. In addition, Texas law created a credit enhancement program to provide financial backing to charter school debt. The program would permit a state allocation provided that private philanthropists match the state dollars allocated to the program. However, this program has never been funded and thus has never been activated. Texas law requires a local school board that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility to give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the local school board, before offering the facility for sale or lease or to any other specific entity. The law does not require the local school board to accept an offer made by an open-enrollment charter school. Texas law provides that a local school district may not require a campus or campus program that has been granted a charter and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.