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State Choice Policy and Levers Affecting Equity: Surveying the Landscape

Katrina E. Bulkley,
Montclair State University

Julie A. Marsh,
University of Southern California

Laura S. Mulfinger,
University of Southern California

With major assistance from:

Huriya Jabbar, Carolyn Herrington, Chris Torres, Emily
Germain, Jacob Alonso, Andy Eisenlohr, Taylor Enoch-
Stevens, Carlin Conner, Hanora Tracy

With research support from:

Haley Nelson, Amanda Lu, Kate Kennedy, Eupha Jeanne
Daramola, Danica Brown

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Executive Summary

Expanding school choice has been an increasingly popular component of educational reform efforts at the federal and state levels. Reforms have included policies that allow students to enroll in schools outside of their district (open enrollment) and charter schools, and different strategies for funding students to attend private schools such as school vouchers and tax credits (hereafter, private school choice).

Many choice advocates have 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. The Biden administration, alongside the COVID-19 pandemic, has further raised the stakes of this 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 could present new opportunities for choice.

Drawing on 58 interviews with state policy makers and experts across five states (Colorado, Florida, Louisiana, Michigan, and Oregon) from February to June 2019, as well as a wide range of documents, this policy report examines state politics surrounding choice policies and efforts to shape equity and access for historically marginalized students. Our purpose in this report is to share the viewpoints of those with influence at the state level, and understand their perspectives on key issues of choice, equity, and access to quality schooling. Our findings suggest that state policies are not fully capitalizing on promising policy levers that may further equity in the context of school choice. While we identified some encouraging practices aimed at improving equity and access to the choice sector for historically marginalized and underserved student populations, we more often found missed opportunities for states.

In terms of enabling access to choice options on the demand side, we found that:

- In all five states, with the exception of private school choice in Florida, information from state testing systems was available to families. However, there was limited state action to ensure the availability of high quality, consistent, and easily interpretable **information** about the quality of school options and processes for school choice application/enrollment. The information that was available at the state level was widely reported to be confusing or inaccessible to viewers without digital/technology access and sophistication in data interpretation—creating potentially troublesome inequities among potential choosers.
- **Transportation** was the most significant perceived barrier to ensuring access to choice for families of underserved and historically marginalized students. 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 (e.g., some required provision of transportation, others required plans for provision).
- Policies in some states identified **enrollment** priorities for some schools of choice, including priorities for choice schools to admit historically underserved students or students from low-performing schools. Aside from these priorities or requiring or

offering the use enrollment lotteries, state policy was largely silent on other aspects of enrollment for choice schools.

As to shaping the supply of schools available in different choice options, we found that:

- **Oversight** of school quality and practice relied heavily on existing state accountability systems, especially state testing. Respondents did not describe any additional state accountability for open enrollment and oversight of private school choice differed greatly in Florida and Louisiana. Participants in all five states voiced concerns about the quality of charter school authorizing, the primary means for ensuring the quality of charter schools themselves, and especially the oversight of virtual charter schools. Given the high percentage of low-income students and students of color in charter schools in every state but Oregon (see Table 2), questionable oversight of school quality raises serious equity issues. Policies that required closure based on school letter grades scores were one strategy to address this issue. Attention to matching the supply of schools to the demand of families through intentional **planning** was, at best, minimal at the state level.
- Across all five states, reported challenges around the quality and retention of **teachers** often mirrored overall concerns about human capital in public education broadly. Participants concerned specifically about teacher quality and retention in schools of choice identified lower teacher salaries and less stable positions as barriers. Many also identified particular difficulties in hiring specialized teachers in schools of choice, with significant implications for meeting the needs of students with disabilities and English learners. The main area of state action to promote teacher quality in choice schools came in the form of certification requirements, which varied greatly (e.g., some states mandated certification for all teachers in charter schools, one required it of only half, and others did not have any requirement). However, the ability to be flexible around staffing was identified as important for improving teacher quality by some respondents.

The combined limited state attention to and /or decentralization of decisions around these five levers affecting school choice and the corresponding variation in local district/school procedures raised significant equity concerns among many respondents. Many noted that the lack of state action with regard to demand-side issues of information, enrollment and transportation placed heavy burdens on families, particularly families of historically marginalized and underserved students, to participate in choice programs. Reported state inaction regarding supply-side issues – such as ensuring qualified teachers and funding to support the needs of the most vulnerable students – raised further concerns about the equity of school choice policies. The continual emphasis on the importance of funding and equity further drove home these issues. Funding challenges included concerns about the adequacy of funding for schools of choice and the negative impact of choice on funding for district-run schools as well as worries that schools of choice were inadequately serving students with disabilities and English learners.

State contextual conditions greatly shaped state policy (in)action. Most notably, norms of local control appeared to resist efforts to impose state regulation, while the then-federal administration's stance on choice (that of the Trump administration) may have fueled a changing political climate more receptive to choice regulation in several states. While many respondents questioned whether state leaders ever intended for choice policies to serve historically marginalized and underserved students, others noted that recent federal charter school grants

were pushing state leaders to explicitly attend to the needs of these populations. Finally, individual policy makers' beliefs – particularly about equity and the underlying causes of inequity - may have also contributed to the varied policy (in)action observed across states.

Introduction

For the past two decades, policymakers at all levels have often drawn on enhanced school choice as one of the central strategies intended to improve the quality and equity of publicly-funded education. This has included policies that allow students to enroll in schools outside of their district (open enrollment) and charter schools, and different strategies for funding students to attend private schools such as school vouchers and tax credits (hereafter, private school choice).¹ While many choice policies were not originally intended to further equity (at least 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.

In this highly polarized political time, we see growing attention to – and tensions around – issues of choice. At both the state and national levels, we see debates around how – or if – charter schools should continue to expand, whether or not to adopt or expand school vouchers and/or tax-credit funded scholarships, and growing concern about the appropriateness of public funding for choice-based virtual schools. Former President Trump characterized school choice as “the civil rights statement of the year.” Yet one national civil rights organization, the NAACP, recommended a charter school moratorium, due in part to concerns over a lack of accountability and “de facto segregation” (although not all local branches have supported this resolution).² A focus on marginalized students pervades these debates.

Of course, the COVID-19 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 or more varied learning structures could present new opportunities for choice schools with experience in this area. While the research we present herein was conducted prior to the pandemic, findings offer insights around the baseline policies and conditions existing across states prior to the outbreak. The issues surfaced throughout are likely to continue to shape issues of equity and access as policymakers consider options for educating all students in a context of even more limited resources and structural inequality.

This study was part of a national research center, the National Center for Research on Education Access and Choice (REACH). Existing research guides REACH to focus on five critical policy levers that can shape both the *demand* for and *supply* of schools of choice. On the demand side,

SCHOOL CHOICE IN THE 2020 ELECTION

“We’re fighting for school choice, which really is the civil rights of all time in this country... Frankly, school choice is the civil rights statement of the year, of the decade and probably beyond because all children have to have access to quality education... A child’s ZIP code in America should never determine their future, and that’s what was happening... All children deserve equal opportunity because we are all made equal by God.”

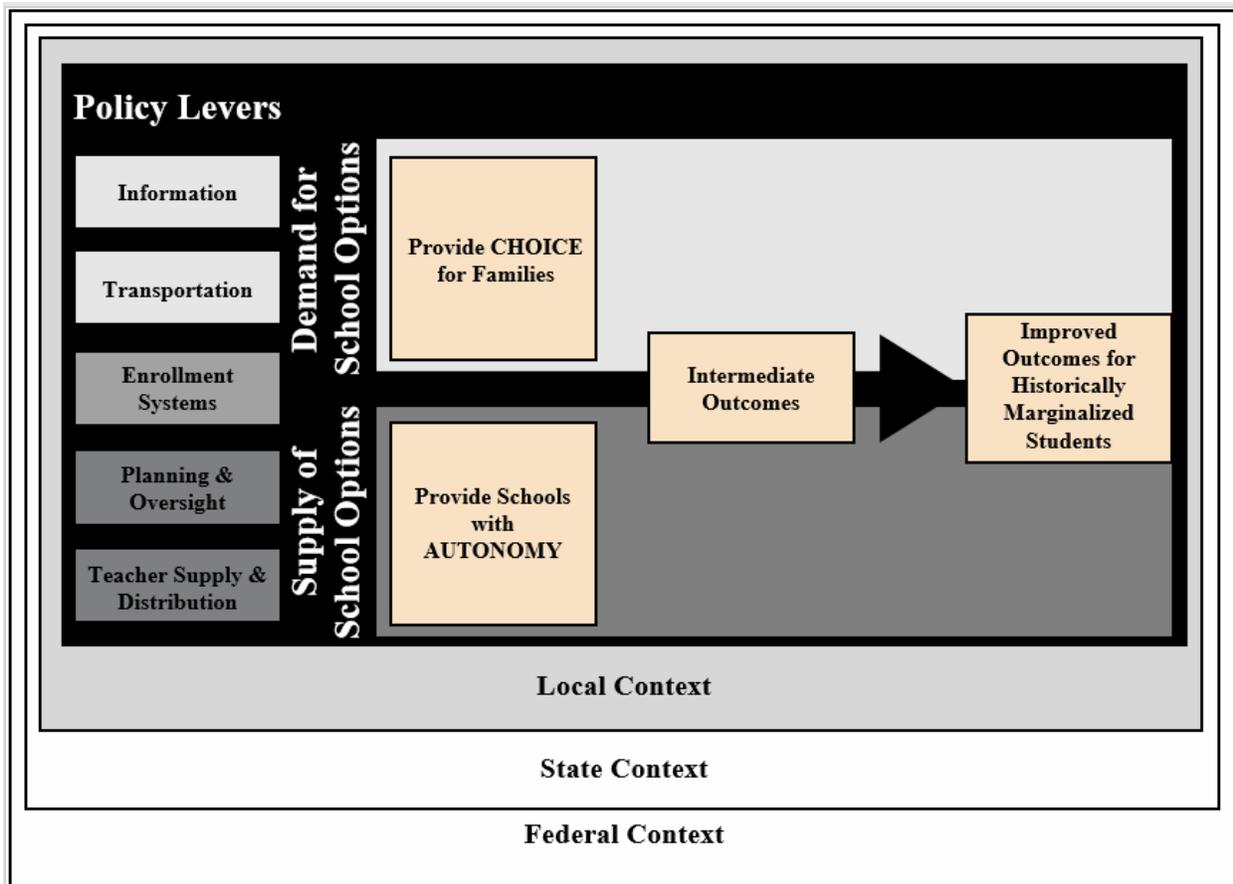
–Donald Trump

“When we divert public funds to private schools, we undermine the entire public education system. We’ve got to prioritize investing in our public schools, so every kid in America gets a fair shot. That’s why I oppose vouchers.”

–Joe Biden

researchers are examining the ability of historically marginalized students to access schools of choice through meaningful information about school options, viable transportation to schools of choice, and enrollment processes that enable access. Of importance as well are different policies that influence the *supply* of schools, including the extent to which government actors are intentionally planning which schools operate, the ways in which government actors conduct oversight of school quality, and efforts to shape the quality and distribution of professional educators. Figure 1 highlights the ways in which these levers may connect to student outcomes. Our purpose in this report is to share the viewpoints of those with influence at the state level, and understand their perspectives on key issues of choice, equity, and access to quality schooling, rather than to comprehensively review existing research.

Figure 1: Choice Policy Levers and the Education of Historically Marginalized Students



Consistent with the concept of local control, decisions to use or not use these levers often occur at the district or even school level. However, given the prominence of state government in public education and the role of state governments in addressing inequity, the levers also are or have the potential to be substantially shaped by state as well as federal policy (Cooper & Fusarelli, 2009; Marsh & Wohlstetter, 2013; McDermott, 1999). In this policy report, we examine the roles that five state governments have played in using (or not using) these policy levers to address the needs of historically marginalized and underserved students. Future analyses for this project build on our understanding of these state contexts through in-depth analysis of local enactment around these same levers. For this report, we ask:

- What are the politics surrounding choice policies at the state level?
- How are different policy levers reportedly used by states to enable demand for and the supply of quality school choice options for historically marginalized students?

In the sections below, we first offer a brief overview of the data used in this report and what we learned about the political contexts of the states that we studied. We find that choice has largely become a “taken for granted” aspect of the state policy landscape in the states that are broadly receptive to school choice, but that policy makers are currently raising questions about policy design and impact, creating important opportunities for policy changes. We then examine both how the five policy levers are being used in the states as well as the concerns raised by participants about their use, highlighting why these levers are – and are not – being used to advance equitable educational opportunities. Our analysis brings to the fore a sixth policy lever – state education funding systems – that we also examine in light of issues of equity, access, and school choice.

We find that for myriad reasons related to local control, the availability of funding, and federal policies, state policy makers have often shied away from drawing on these levers to shape choice policies in order to improve access to quality education for students with the greatest needs. We conclude by identifying critical questions for state policy makers to consider – questions that attend to the challenging context of COVID-19, fiscal constraints, and heightened concerns about racial injustice, and that seek to improve equity and access in school choice policy implementation.

Study Overview

Sample of states

This report draws on a comparative cross-case study of five states (Yin, 2013). The five states, which are also the states that are the central focus of REACH, were selected to provide a mix of geography, population, types of choice policies, and the maturity of these policies. As seen in Table 1, 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 private school choice. We specifically selected states with robust and varied choice programs in order to explore how equity and access around choice connect with state policy; we did not include any states where choice is not a significant policy strategy.

Table 1: Choice Options by State³

	Are charters allowed under state law? If so, who can authorize?	Does state law explicitly allow for inter-district choice?	Does state law support private school choice programs (vouchers, tuition tax credits, ESAs, tuition rebates)?
Colorado	Yes. Authorizers: school district board, state charter institute.	Yes	No
Florida	Yes. Authorizers: school district board, state universities, select others.	Yes	Yes. Vouchers, Tax-Credit Scholarship, ESA
Louisiana	Yes. Authorizers: school district board, State Board of Elementary and Secondary Education.	Yes	Yes. Vouchers, Tax-Credit Scholarship, Individual Tax Credit, Privately Funded Scholarship Programs; tuition donation credit program
Michigan	Yes. Authorizers: school district board, an intermediate district school board, board of community college state public university.	Yes	No
Oregon	Yes. Authorizers: school district board, institution of higher education.	Yes ⁴	No

Colorado and Michigan were early adopters of charter school policies, and have coupled them with expansive and well-used open enrollment policies. Florida has a particularly robust set of choice options, with large numbers of students in charter schools and using private school choice options. Like Florida, Louisiana offers both private and public school choice options, including charter schools and an array of voucher, tax credit, and scholarship programs, as well as the unique case of New Orleans, an entirely “charter school city” (Harris, 2020). Oregon has a steadily growing number of charter schools, including virtual charters with broad geographic reach.

The states also vary in their demographics and in the extent of engagement with choice options (Table 2). For example, in 2017-18, fewer than 6% of Oregon students attended either charter schools and the state did not offer public funding to attend private schools. By contrast, 23% of students in Louisiana (including 100% of those in New Orleans) 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 (Table 3). 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.

Table 2: Overall Student Participation in Choice Options, by State⁵

State	Total Public Schools	Choice Programs		
		Charter Schools (percent of all students enrolled in public schools)	Inter-District Open Enrollment (percent of all students enrolled in public schools)*	Private School Choice
Colorado	911,536 students ⁴	120,739 students (13%) ³	49,800 students (5%) ^{2 5}	No private school choice
Florida	2,846,857 students ⁴	313,586 students (11%) ³	Not available	134,786 students ³
Louisiana	717,109 students ³	78,749 students (11%) ²	Not available	86,122 students ²
Michigan	1,485,144 students ¹	146,736 students (10%) ⁴	187,551 (12%) ⁴	No private school choice
Oregon	580,684 students ³	33,677 students (6%) ³	Not available	No private school choice

Notes: The years of data varied based on availability for states and choice options. ¹2015-16 ²2016-17 ³2017-18 ⁴2018-19 ⁵ “May include students assigned across districts for reasons other than parental choice (e.g. special education services).” *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.

Table 3: Characteristics of Students in All Schools and Charters Schools, by State⁶

	Black	Latinx	White	Low Income	Students with Disabilities	English Learners
Colorado – All	4.5%	33.6%	53.4%	40.7%	11.2%	13.8%
Colorado – Charter	6.1%	35.9%	50.5%	43.7%	6.3%	21.1%
Florida – All	21.9%	33.9%	37.4%	55.1%	14.1%	10.2%
Florida – Charter	19.8%	42.9%	31.1%	48.9%	9.6%	9.8%
Louisiana– All	43.2%	7.6%	44.2%	69.8%	12.1%	3.7%
Louisiana– Charter	70.8%	5.8%	20.0%	78.0%	11.0%	6.0%
Michigan – All	17.9%	7.3%	67.4%	46.1%	12.4%	6.0%
Michigan – Charter	51.6%	8.8%	32.4%	70.9%	9.5%	9.5%
Oregon – All	2.0%	23.0%	62.0%	49%	13.6%	9.4%
Oregon – Charter	1.6%	12.4%	75.8%	N/A	N/A	N/A

Data Collection

Interviews and documents were the central sources of data for this analysis. Prior to our interviews, we gathered and reviewed policy documents, research articles and journalistic accounts of the school choice policy history and context in each state. The research team conducted in person or telephone interviews with state policy leaders and influencers between February and June 2019 (pre-COVID). On average, researchers completed 12 interviews in each of the five sites (n=58).

Interviewees were identified and selected based on key statewide leadership roles, and through recommendations from policy experts. As shown in Table 4, 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 those actively supporting school choice options and broader community-based organizations.

Our intention was to gather a wide range of perspectives within each state, allowing us to view the core issues of interest through multiple lenses. Given the varied formal and informal political structure of each state, this led us to some common types of participants (i.e., representatives from the State Department and/or Board of Education, state teacher union, and governor or legislative offices). However, it also meant that we had different types of participants in each state, depending on what we learned about what individuals would yield the desired range of perspectives. For example, some states had research or advocacy organizations that were heavily involved with state-level policy, and others did not.

Table 4: Interviewees by Type and State

Respondent Type	Number of Interviewees (n = 58)				
	Colorado	Florida	Louisiana	Michigan	Oregon
State Legislators/Governor/Staff	1	2	1	3	1
State Board of Education	2	-	-	1	1
State Department of Education	1	1	5	-	2
Administrator/School Board/Teacher Associations	3	2	1	3	2
Parent Organizations/Community Advocates	5	6	6	3	5
Education Policy Researchers	-	-	-	2	-
Totals	12	10*	13	12	11

*One interviewee represented two categories

All interviewees were asked to describe the primary school choice policies in their state; their perceptions of the intent and success of these policies; and specific policy levers that existing research suggest may influence equity and access around school choice for students, particularly historically marginalized and underserved students. These levers, at the core of the REACH center overall, include information, transportation, enrollment systems, planning/oversight, and teacher/school leader policies. Interviews were conducted in person or via telephone and averaged an hour. All but one interview were audiotaped and transcribed.

While we asked interviewees about all available choice policies, we focused on two primary policies in each state (noted in Figure 2). We selected these focal policies both to reflect our understanding of the most prominent choice policies in each state based on available data about the number of students participating in different choice options and with an eye to having a range of policies represented across the states. In all five states, we focused on charter schools overall. In Colorado and Michigan, we specifically identified open enrollment policies as an important choice option on which to focus. However, in Florida and Louisiana, which also have open enrollment, we focused more on private school choice in order to have at least two states for comparison in each specific policy area.

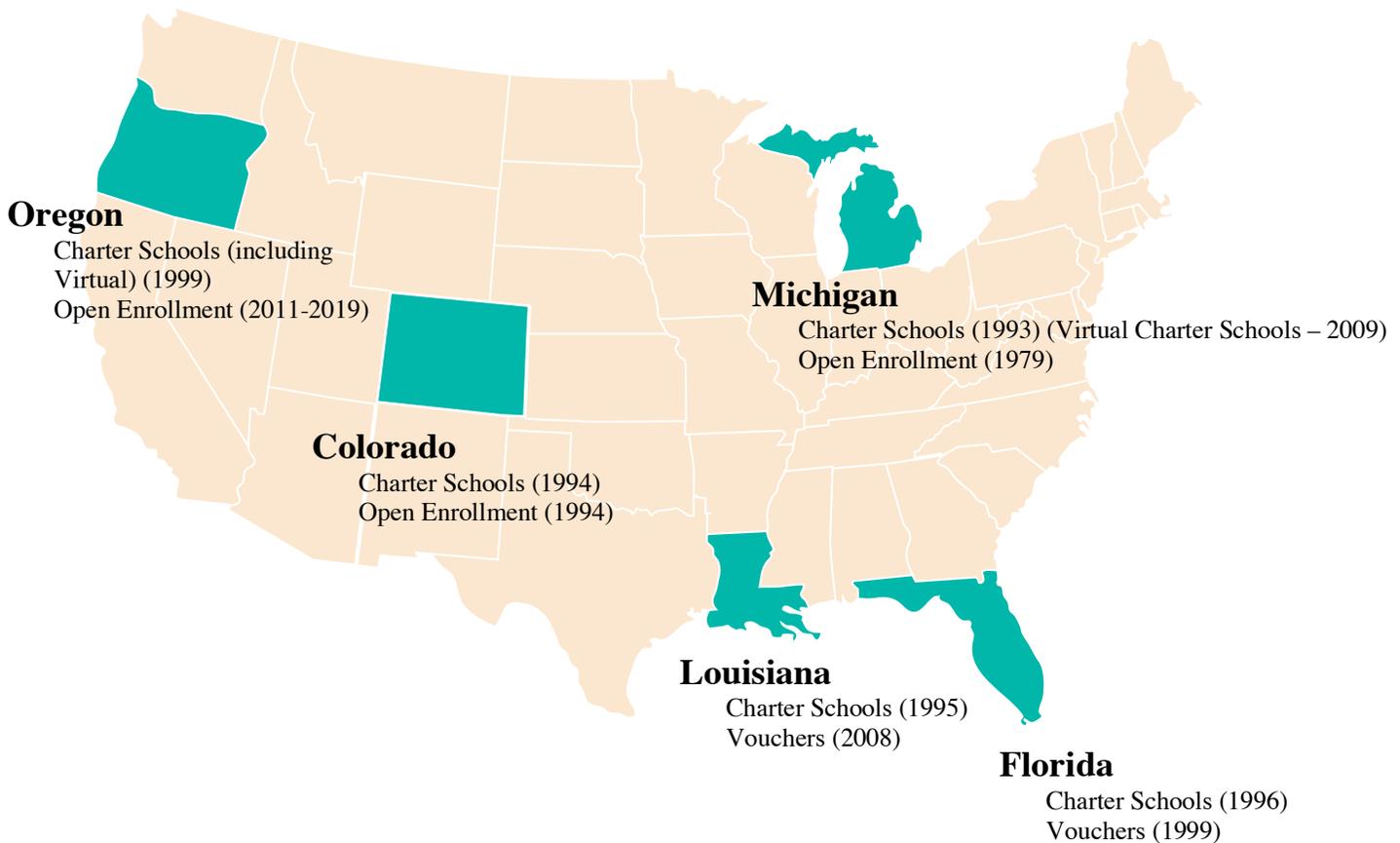
Data Analysis

Interview transcripts were uploaded to Dedoose and coded using an initial list of deductive codes including codes for type of choice policy (charter school, open enrollment, vouchers), the five policy levers (information, enrollment, planning/oversight, transportation, teachers), student sub-

groups (low-income, students of color, English learners, students with disabilities, other), and state context. Team members reviewed transcripts and coded data, and wrote detailed state case profiles, seeking to capture the specific dynamics around both levers and choice options, as well as broader issues of state context and politics. The state profiles identified state-specific inductive themes in each of these areas.

These state profiles, along with the coded data, were then used to conduct detailed cross-case analyses via memoranda comparing and identifying inductive themes on levers, student groups, and state context. For the most part, inductive themes centered around the core levers and student sub-groups. However, we also identified school funding as an additional core lever that consistently emerged in our data, and shifted to treat it in the same manner as the core REACH levers. These memoranda provided the foundation for the themes laid out below.

Figure 2: Core Choice Policies Studied



State Policy Context

Political Context

Overall, we conducted research in what interviewees consistently described as strong choice settings. For example, respondents referred to Colorado as a “choice state” in which choice is “part of landscape” and “just the way it is.” A leader from the state administrators’ association explained, “whether or not charters should exist isn't even a question anymore.” In Florida, interviewees referred to their state as “choice friendly,” where policymakers debate specific aspects of choice or expansion, but not its existence. Choice policies in Florida, with some notable exceptions, are supported by both major political parties, private foundations and a strong network of advocacy groups (Harris, Herrington, & Albee, 2007).

In Michigan, a respondent from the governor’s office noted that “Republicans in the Legislature tend to be very, very supportive of school choice.” Others pointed to the strong political support for choice from Michigan-based U.S. Secretary of Education Betsy DeVos, her family, and related advocacy groups that have kept a “free market agenda” with minimal regulation central to choice policy in the state. In Louisiana, some respondents noted that efforts to regulate or scale back charter schools have not succeeded due in part to the unequal resources of supporters (bolstered by private foundations) compared to opponents of charter schools.

Moving towards Change?

Despite the taken-for-grantedness and strong support for choice, there were signs of political change brewing in four of the five states (LA, OR, MI, CO). In several states, we heard about waning support for choice policies, often associated with changes in the partisan makeup of elected offices. A then new Democratic governor in Michigan was seen as an important driver of change, one who promised to “put an end to the DeVos agenda” with its strong ties to choice, offering encouragement to choice skeptics (Shapiro, 2018). Similarly, the 2018 elections gave Democrats a supermajority in the Oregon state legislature, which was described as energizing anti-choice advocates. Interviewees cited failed attempts to extend the sunset provision and make the state’s open enrollment law permanent in the recent legislative sessions as evidence of shifting political winds.

In Colorado, several respondents asserted that the anti-charter/choice movement was gaining strength. After experiencing a shift from a Republican to Democratic controlled legislature, the new Democratic majority and the state teachers’ association were reported to be more emboldened and pushing for increased choice regulation (even though the new Democratic governor was described by respondents as generally supportive of charter schools). “There are a lot of new faces and pretty progressive faces on the Democratic side of the aisle that got elected,”

[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.

-Administrator, Florida Department of Education

said one charter school advocate, “and some of them came in with stronger anti-charter feelings than might have existed previously.” A leader from the Colorado Teachers Association (CTA) cited recent success in gaining passage of legislation allowing CTA to serve as a turn-around partner, using the “community schools” model, as an alternative in the state accountability system allowing closure or charter conversion for chronically low-performing schools. This was seen as a victory for the anti-choice union.

I do think there's potential for when equity gets explored that there could be a broader desire among policymakers to step away from choice, whether it's at charter level, district level, or interdistrict [choice].

-Member, Colorado State Board of Education

As a result of these shifting politics, charter and choice advocates were reported to be working hard to “defend” these laws, via lobbying to “fend off” legislative efforts to amend choice policies and supporting candidates in upcoming elections.

In Louisiana, due to the fall 2019 legislative election in which 40% of state legislators were unable to run for re-

election due to term limits, the education landscape for 2020 remained unclear. Both the state House and Senate education committees had new chairmen, and the majority of committee members were new to the committee, with some also new to the legislature. In addition, four of the 11-member state Board of Elementary and Secondary Education were newcomers, although six of the seven candidates in contested seats were backed by the Louisiana Association of Business and Industry over teachers’ union-backed rival contenders. Overall, education reform advocates remained confident that the Republican majority in both houses and GOP control of both education committees boded well for continued support of charter schools, public school accountability and vouchers. While the voucher program was started under a Republican governor, the current governor (John Bel Edwards) is a Democrat. Respondents generally thought that choice would not be expanded under Governor Edwards but likely would not be rolled back.

Unlike the other cases characterized by shifting politics and wavering support for choice, the political landscape in Florida stood out as qualitatively different. For example, there was an expansion of choice occurring at the time of our data collection. In 2019, the state adopted a new voucher program that differed significantly from the 1999 Opportunity Scholarship Program, which had been established by former Governor Jeb Bush, in that eligibility is based on family income and not on the academic performance of the public school the student is currently attending. While a representative of the Florida Education Association raised concerns about choice policies competing for funds with traditional public schools, the legislative victory suggests continuing strong support for choice at the state level that was not as apparent in the other states.

Equity, Access, and Demand for School Options

In theory, choice advocates argue, 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 shaped by practical considerations such as the availability of inexpensive or free transportation to schools as well as enrollment systems and processes that are easy to access and navigate. What challenges are state policy makers facing and what strategies have they adopted to address these policy levers? We examine this question next, examining state policies related to information, transportation, and enrollment.

Information

Existing research suggests that policy levers tied to demand, such as those that make information about schools clear and easily available, are of particular importance for families of historically marginalized students. For example, in one study, parents without college degrees were far less likely to use internet-based resources about schools than their more highly educated counterparts (Schneider & Buckley, 2002). Targeted and simplified information on school choices has been found to encourage low-income parents and parents of English learners to choose schools with higher test scores (Corcoran, Jennings, Cohodes, & Sattin-Bajaj, 2018; Hastings & Weinsten, 2008).

Broadly speaking, our analysis found that, despite the importance of information for equitable access to choice options, state policy makers often described little involvement in ensuring families access to information about the quality of school options or about more technical issues such as processes for applying to/enrolling in schools of choice. This lack of involvement was around either direct action (i.e. state policies or practices involving the collection and distribution of information in easily accessible formats and modalities) or indirect action, such as through requirements that districts or schools provide consistent and accessible information.⁷ Participants did note sophisticated information systems in specific cities, such as New Orleans and Denver, but raised concerns that not all parents in their states had access to such systems.

Participants in all states but Louisiana explicitly identified challenges with the accessibility of data about schools and raised concerns about the level of knowledge and skill needed to identify and interpret data in complex state websites. A member of the Colorado State Board of Education, for example, 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 in my opinion, to do that research.” This was raised as a potential equity issue by a respondent connected to Oregon’s state-level Parent Teacher Association, who asked in regard to a question about equity of access to information on virtual schools, “does the family have Wi-Fi? Is the family plugged in? Does the family have resources to explore those options?”

Interviewees across the five states consistently framed both the challenge of accessing information and the limited and inconsistent availability of information as problematic, typically citing these as inhibiting families’ ability to understand all choices available to them and to distinguish the choices by school performance, offerings, etc. For example, in the context of open enrollment, one Colorado choice advocate noted how, “There's absolutely no unified system or way for a family to go and find their options at any one location.” A member of the Colorado State Board of Education described how even the language used to describe school performance can be hard to interpret:

If a teacher says our school is “priority improvement,” to the average person, particularly if they have limited English capability, they’re not going to know what the hell that means.

The limited standardized information about schooling options and school performance, which states could theoretically provide or direct local actors to provide, was identified as potentially shaping which schools are most visible to families in ways that are not necessarily connected to school quality. Interviewees’ concerns over the lack of state-provided information appear well-founded, given research finding that families place significant weight on informal sources of information on schooling options and performance levels (e.g., Burnett, Glazerman, Nichols-Barrer, & Valant, forthcoming; Hastings & Weinstein, 2008; Valant, 2014).

In the absence of state-standardized information, participants argued that parents turned to other means to learn about schools. These alternatives, participants in Florida, Michigan, Oregon, and Louisiana argued, resulted in variation in local educational agencies’ (LEAs) or schools’ sophistication in advertising themselves and/or disseminating information as well as the funding available for such activities. While often discussed in regard to charter schools, one choice advocate in Michigan described how advertising also affects families’ decisions related to open enrollment:

I drive this state and I’m constantly hearing advertising on the radio or, “Come to Carlton Schools, we’ve got X, Y, or Z.” Or, “Come to Lansing Public Schools because we’ve got the Promise Assistance now.” That... I would suspect is the way most people get that information.

Participants also raised concerns that the lack of comparable and quality information increased families’ reliance on more informal means of information gathering such as “word of mouth”, typically distributed within their social networks, when choosing among schools. Interviewees’ consistent identification of “word of mouth” as a major factor in families’ decision-making process regarding schools is consistent with research showing that parents rely heavily on their personal networks when gathering information about schools and less on formal measures of school quality (Ball & Vincent, 1998; Bell, 2009; Holme, 2002; Schneider, Teske, & Marschall, 2000).

While discussions of information in the context of school choice largely focused on issues of school quality as reflected in test scores and programmatic offerings, one participant from the Colorado Teachers Association discussed state efforts to provide families with information that enhances transparency in areas including finances and teacher qualifications. This respondent described how:

Standards of transparency and accountability is really something that we push for...A couple of years ago, we were able to pass some legislation where charter schools had to, on their websites, be more transparent about their budget and their finances, and also around the waivers... Prior to that, it was just hidden, I mean, it wasn't really known. And we found that even many parents didn't know like, "Oh, by the way, this charter, they waive out of teacher licensure. Your kids may be going to school with unlicensed teachers.

If an important focus of choice policies is to increase demand for higher quality schools, then our findings suggest that these states may not be adequately providing families with the information and tools to make such choices.

Transportation

While transportation has not generally received the same level of public or policy maker attention as other aspects of school choice, our analysis points to widespread concern among state policy actors who see transportation as a critical component of equitable access to choice schools. To attend a school that is not in easy or safe walking distance of their home, a child must have access to transportation provided by the family, the school, or the public. Existing research that finds low income students and students of color have to travel further than do white middle-class students, combined with findings that parents seriously consider distance when selecting schools, points to the importance of transportation when considering issues of access to schools of choice (Burdick-Will, 2016; Harris & Larsen, 2015; Hastings et al., 2005; Jochim et al., 2014; Teske et al., 2009).

Table 5 provides information on formal state policies around transportation and different choice options. As illustrated, three states (Florida, Louisiana, Oregon) had formal policies requiring charter school operators to address transportation, while the remaining two states (Colorado, Michigan) did not. In all five states, state law did *not* require districts to provide transportation to students attending from outside of the district boundaries (open enrollment). Regarding private school choice, only Florida had a few policies related to transportation.

Table 5: State Policies for Transportation and Choice Options: Do policies require that transportation be made available to students participating in choice?⁸

	Charters	Private School Choice	Interdistrict Choice
Colorado	No. Charter schools may choose not to provide transportation	N/A	Did not find
Florida	No, charter schools are not required to provide transportation. However, when the charter is being negotiated with the district, transportation issues are to be raised and the charter schools are eligible to receive their portion of state transportation funds.	Depending on scholarship program, district may be required to provide transportation if private school is within the district or students may be eligible for a transportation scholarship.	No. A school district or charter school may provide transportation to students.
Louisiana	Sometimes. All BESE-authorized charter schools are required by BESE regulation and by provision in their charter contracts to provide transportation to all students living more than one mile from school that reside in the parish where the school is located. Non-BESE charter schools (the majority of charters in LA) aren't required by statute to provide transportation to students. However, charter school authorizers can (and generally do) require that charter schools provide transportation to students by putting that requirement in the charter contracts.	No	No. A school does not have to provide transportation to students located outside district boundaries.
Michigan	No. Charter schools may choose not to provide transportation.	N/A	No. Schools are not required to provide transportation to non-resident pupils, but are required to send information regarding possible transportation options to parents of enrolled students
Oregon	Yes. A public charter school is responsible for providing transportation to students within district. Out of district students may use existing transportation services of a school district in which a charter school is located.	N/A	Did not find

Participants in all five states identified transportation as one of the most important choice-related equity issues, especially for lower-income families, and one that was inadequately addressed at the state level. In one of the rare cases of funding explicitly for transportation, Florida's Tax Credit Scholarship program provides funds for this purpose; previously, it was only for transportation when a child went to school outside of the district, but recent changes made it also available for travel to schools within the district. However, a legislative aide in Florida questioned whether "that scholarship amount is sufficient to provide transportation for the whole school year for those parents."

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 it's 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.

For those in more economically advantaged situations, transportation may not be as substantial a barrier. For example, a State Board member in Colorado (where transportation is not required) noted how, in her own community, those taking advantage of choice options are "mostly white and they're mostly well enough off that mom can or dad can schlep them."

While the importance of transportation was widely acknowledged, there was substantial variation in actual policies. For example, the Louisiana Board of Elementary and Secondary Education [BESE] required that charter schools include a plan for transportation without specifying the specific elements of that plan. According to a charter school advocate, the state's approach created variation in Louisiana and raised questions of equity and access. She described working with the state legislature to require transportation for charter schools, describing concerns that the lack of a mandate could serve as a "soft barrier to selectivity." The result of that work was a requirement that authorizers have a policy around transportation, but not a mandate. As a result, "Orleans mandates transportation and [East Baton Rouge] does not."

Colorado and Michigan did not have state mandates for charter school transportation. Participants in both states, however, highlighted voluntary efforts at locally-provided transportation. A charter advocate in Colorado described how:

Denver public schools for example...have this thing called the Success Express which is a bus route that encompasses all school types, so not just traditional public schools but charter schools and innovation [semi-autonomous district-run] schools. So, there are some districts that are proactive in attempting to adopt some structures that will maximize choice for families but it's largely been voluntary, pretty much exclusively been voluntary to date.

In Michigan, where even district-run schools are not required to provide transportation, reported challenges around the large number of entities overseeing publicly funded schools (charter and district-run) have led to multiple unsuccessful efforts to create more coordination in a variety of areas including transportation. The case of Michigan highlights how policy makers are generally aware of the importance of transportation in supporting equity and access for school choice, but make limited use of state policy to address the issue. As discussed below, issues of funding are at

the heart of states’ minimal requirements around transportation, despite participants’ acknowledgement of its importance.

Enrollment/Admissions

Much like transportation, enrollment processes, especially policies and practices around student admissions, received limited formal policy attention among the five states despite participants identifying such policies as critical enablers of equitable access to choice/school choice equity. Prior research has found that enrollment processes can serve as a barrier to access, especially in decentralized choice contexts where schools themselves manage enrollment and where some schools may exclude disadvantaged students (e.g., Jabbar, 2015; Jennings, 2010; Mommandi & Welner, 2018). Although some laws in the states that we studied required attention to enrollment of historically marginalized students (see Table 6), participants rarely identified state engagement in enrollment practices with the exception of policies that required the use of admissions lotteries. This lack of state involvement (especially in combination with the lack of readily available information about those practices) has the potential to exacerbate the burdens on families to participate and access choice schools.

Table 6: State charter school policies with implications for enrollment of historically marginalized students.⁹

Colorado	Charters in a district with 40% or more students who are "at-risk" need to enroll the same percentage of "at-risk" students as enrolled in the district.
Florida	The charter must address ways, including via admission lotteries, by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district. Priority is given to students who attended or are assigned to failing schools.
Louisiana	The percentage of the total number of students enrolled in the charter school who are economically disadvantaged must be equal to or not less than 85% of the average percentage of students enrolled in the local public school district. Priority can be given to students with special needs.
Michigan	No explicit policies, except in cases of a court desegregation order.
Oregon	A charter <i>can</i> weight its lottery in favor of "historically underserved students." Priority given to students residing within attendance boundaries of a noncharter school closure.

None of the states studied mandated that districts and/or local educational agencies (LEAs) standardize their enrollment/admissions systems or have a common system for any mechanism of choice (e.g., charter schools, open enrollment, or private school choice). Across all states studied, admissions and enrollment were almost entirely decentralized down to the local district or, in the case of charter and private schools, school levels.

Although participants noted that some large urban districts were standardizing enrollment procedures and developing common enrollment systems, they acknowledged that individual LEAs’ or schools’ registration processes can still be quite burdensome for families, even with a centralized enrollment system, with potentially disproportionate effects on poorer and/or nonwhite families. For example, a community-based nonprofit leader in Louisiana explained:

When it comes to registration, actually registering your child for school, that is... a very school level decision. You might have one school that says, 'Show up on Monday and just bring these 20 documents' then you might have another one that says, 'Show up and just bring your child's social security card.' Some places will drop you if you don't show up, while others never drop you and hope you show up on the first day of school.

A school choice advocate in Colorado explicitly tied enrollment processes to issues of equity:

Not only does every school district have a different process for open enrollment, with [a] different timeline, different paperwork requirements, they often have different timelines and paperwork requirements for each individual district school. And that's a real equity problem from my perspective. Because you think about, who has time to drive ... some of them require you, for instance, to drive to the school and pick up paperwork, and then drive that paperwork back to the school on a later date. That's a hard thing to do.

Some interviewees believed that schools and districts would be more attentive to the challenges of enrollment processes if state policies gave them incentives to serve historically marginalized students. Specific private school choice programs in Louisiana and Florida do target lower-income students, students who attend lower performing schools, and students with disabilities. For example, the Florida tax credit scholarship program is restricted to lower and middle-income students and, even within that, gives priority in admission to the lower of the lower income students/families. As another example, the Florida MacKay scholarship program is restricted to students with disabilities. Thus, schools that want to increase applications from students with access to these scholarship funds need to enroll students in these target populations.

In terms of charter schools, only one of the states in our analysis (Oregon – see call-out box on next page) passed legislation that incentivizes charter schools to admit historically marginalized students. A number of participants raised concerns, consistent with existing research, about student access to charter schools resulting from this lack of attention (Bergman & McFarlin Jr, 2018). For example, a charter school advocate in Colorado reported,

There are some schools that have existed in suburban communities for a while and may not serve the most diverse population of students, and they have these long wait lists but in the absence of adopting some sort of weighted lottery approach, they may not ever be able to totally diversify their student population.

Not only were schools and districts not given incentives to serve historically marginalized students in many settings and policies, but state actors in all five states expressed or referenced concerns over choice policies either exacerbating or at least not reducing the levels of segregation among publicly-funded schools. This was particularly the case with charter schools but arose with inter-district choice and virtual schools as well. For example, a staff member at the Oregon Education Association suggested that open enrollment was being used by white parents to place their children in schools that were whiter than their neighborhood schools:

Parents... don't want their little darlings going to school with other kids from the other side of the tracks, brown and black kids, or with a long list of kids they don't want their kids to be in school with. So open enrollment was a vehicle or tool for bad behavior. We know this anecdotally. There is not a lot of study on it because, along with the passage of open enrollment was the prohibition of collecting data, demographic data.

In addition, respondents in Michigan and Florida specifically pointed to concerns that choice was resulting in resegregation of schools, with a participant from a Florida civic-oriented nonprofit arguing that:

The choice movement has started to very seriously resegregate our public schools. So now we're kind of going back to the Black schools, the White schools, the Hispanic schools, the Asian schools, and so on. So, I personally don't think that's a good thing. I think it's not a good thing for serving the underserved population.

Finally, despite the barriers to access, one Colorado choice advocate highlighted how extensive engagement with choice was among low-income families and families of color, arguing that this demonstrated the extent of demand:

What's amazing to me is, even within an inequitable process [resulting from non-standardized enrollment processes and lack of information], where it's just haphazard across the state, there's a ton of people of color and low-income who are participating in open enrollment. To me, that shows an incredible hunger for it among families, that they're overcoming a lot of barriers that are placed in their way.

Overall, perceptions of enrollment/admissions policies and practices suggest that some states are engaged in intentional efforts to support equity and access through enrollment processes. Nevertheless, absent intentionality, there were more often concerns about enrollment and admissions practices being used to limit rather than enhance equity.

Attending to Equity via State Charter School Enrollment Policy 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. According to one participant, *That's an example of a policy that exists... that has yet to be used widely by any of our charter schools. The law allows charter schools to weight underrepresented classes of students in their enrollment lottery and schools are reluctant ... They fear doing it wrong and getting in trouble. Both legal and trouble with their authorizing districts.*

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 (see box below). This new policy levied a new tax on businesses in order to raise an estimated \$2 billion dollars for public schools in the state. Democratically-controlled Oregon, with a legislative supermajority, passed the landmark “business-taxes-for- education” bill with the expectation that it would raise billions of dollars for targeted investments in early childhood and K-12 education.

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. Based on these criteria, the state identified 26 charter schools located in 21 school districts eligible for this funding (ODE, 2019).

This example reflects a relatively rare case of state policy makers directly addressing issues of equity and funding in schools of choice and also reflects the complex politics of such policies. It also demonstrates the interconnectedness of policy levers when used to address issues of equity.

Initially, many legislators and the Oregon Education Association were aligned in plans to exclude charter schools from this new funding, while the Oregon Coalition for Community Charter Schools advocated for the inclusion of all charter schools. In negotiations, the union proposed that the funds be available only to high poverty, demographically diverse charters; they did this knowing that only a handful of charters would be eligible. They also agreed that school districts could elect to include charters when they apply for these monies, but that the school district would control the use of the funds. As a representative of the Oregon Education Association commented, *“Charter schools will have the right to opt out if they don't wish to receive [the funding] ..., but if they are willing to [accept the funding], they will get their pro rata share and be treated just like any other school building inside the district but with the district having some authority along with their accountability for it as well. That's the bargain we struck there.”*

For charters not falling into the categories above, this design traded funding for some potential stepback in charter autonomy and increase in potential oversight by local boards. While not everything they wanted, a charter advocate said, *“On the two billion dollar investments, we're calling that a win. We got inclusion into the legislation. It's not where we would like it to be... But, to go from zero inclusion to guaranteed inclusion for a couple dozen schools, involvement in the grant applications process for the other schools, is good. So, win on that.”*

Equity, Access, and the Supply of School Options

While equitable access to schools of choice is important, the availability of high quality options is also crucial to ensuring that choice policies serve historically marginalized and underserved students. Existing research suggests that attending to school quality is particularly important when choice options are serving historically marginalized students, as they more often enroll in schools that do not have strong outcomes (CREDO, 2017; Harris, 2017) and that struggle to attract and retain quality teachers (Clotfelter, Ladd, & Vigdor, 2006; Lankford, Loeb, & Wyckoff, 2002; Rice, 2003; Sass et al., 2012). What challenges are state policy makers facing with regard to supply of high-quality choice options, and what policies have they adopted in the areas of planning and oversight, and teacher supply and oversight? We examine these questions next.

Planning and Oversight

Attention to **oversight**, including assessing school practices and outcomes as well as making decisions such as whether schools need support or should be closed, is one way in which states can monitor and potentially shape school quality. Issues of **planning** – decisions about what particular schools will be opened and where they will be located in order to try to “match” the availability of schools to the needs and preferences of particular communities – can play a role in how accessible quality schools are to students and families.

Depending on the state and the specific choice policy, oversight of school quality and practices was often shaped broadly by general state accountability policies, including the requirement that students take state standards-based tests (see Table 7). For some choice options, state testing, reporting and sanction-based policies were central to their oversight. In the case of open enrollment, state accountability systems served as the sole mechanism for oversight and participants did not identify any ways in which schools or districts participating in open enrollment were held accountable beyond these standard state requirements. Due to the importance placed by the policies themselves on test-based accountability, we focus our discussion on state testing policies; this is not intended to be an endorsement of a narrow and often problematic approach to determining school quality.

As Table 7 illustrates, all states required charter school students and students participating in open enrollment to participate in state testing, but not for private school choice. Like all states

OREGON'S STUDENT SUCCESS ACT (2019): ENROLLMENT, OVERSIGHT, AND FUNDING

New tax expected to bring in ~\$2 billion for schools

Included “Student Investment Account Grants”

Allowed some charter schools (excluding virtual charters) to apply for these grants, but only those that serve at least 35% of students who are:

- -Low-income (free or reduced price lunches)
- -Racial or ethnic groups that have historically experienced academic
- -Students with disabilities who have an Individualized Education Program (IEP)
- -Percentage of students in these categories must exceed percentage in the district
- -26 charter schools located in 21 school districts eligible for this funding.

nationally, federal accountability policy required publication of test results and performance ratings for charter and traditional schools; this transparency theoretically served as a “market accountability” mechanism, providing parents with school options information to judge whether to enroll their children in one school over another (thus, relying heavily on information that was, as described above, often provided in a manner that was uneven and difficult for families to access and interpret). Some states added additional “bureaucratic accountability” mechanisms, such as consequences for poor performance – such as closure, non-renewal, or removal of eligibility to participate in the choice program.

Table 7: Are Choice Students Required to Take State Tests?¹⁰

State	Charter Schools	Open Enrollment	Private School Choice
Colorado	Yes	Yes	N/A
Florida	Yes	Yes	No ¹¹
Louisiana	Yes	Yes	Yes
Michigan	Yes	Yes	N/A
Oregon	Yes	Yes	N/A

Charter school oversight and authorizing. Charter schools are sometimes subject to additional oversight requirements distinct from those that govern traditional public schools. These policies relate to approval and renewal and vary by state. For example, charter school contracts in Louisiana are automatically renewed if the school receives an “A” or “B” in the state accountability system, while those in Florida will (with some exceptions) be automatically terminated if they receive two consecutive “F” grades. In the other states, authorizers have fewer constraints on their renewal decisions.

Within choice options, the quality, consistency, and oversight of charter authorizing was a particular point of concern for participants in all five states. A charter supporter from Oregon commented, “There’s frankly little state oversight of authorizers.” In addressing these issues, one Louisiana charter advocate described the variability in authorizers by specifically mentioning East Baton Rouge Parish. She explained that this district, with a long history of authorizing charter schools, does not “have a single charter school policy in place related to accountability, renewal, approval, none of that.”

Alongside broad concerns about authorizer oversight were specific concerns around the financial motivations of authorizers in Oregon and Michigan. Michigan has a wide array of authorizers and types of authorizers, including LEAs and institutions of higher education (see Table XX above). One member of the Michigan State Board of Education noted a lack of consistency in authorizer quality, saying that, “I would say some [authorizers] do a pretty good job. They take their oversight role very seriously. Some of them are just cashing the check and very little.” In this case, the “check” refers to the up to 3% of state funding that authorizers can retain to support their work with charter schools.

Of particular concern in three states (Colorado, Michigan, and Oregon) was the quality of authorizer oversight of virtual charter schools. Respondents noted that unlike charters with in-person attendance, virtual schools presented challenges to oversight due to the difficulty in “seeing” the education and practices and to the more limited connections between who authorizes these schools and the communities from which the students come. A representative of the Michigan Superintendent Association asked:

How do you really count attendance at virtual schools? How do you know if the children are really getting the education they need? I think it's very disturbing that we have documented year after year the huge percentage of students who start virtual courses and don't finish. I just have a concern that the legislature just looks the other way on that, and quite frankly, that the public looks the other way on that. If that happens in a district, everyone's up in arms.

In Oregon, where concerns about virtual charter schools were frequently raised, participants described legislative changes that brought virtual charter schools under a greater level of scrutiny because of past performance, with the Oregon Education Association playing a central role in these efforts. In 2019, the Oregon Legislature adopted a series of requirements specific to virtual charter schools including that licensed teachers teach at least 95% of the school’s instructional hours.¹² This was prompted in part by the low high school graduation rates in some of Oregon’s virtual charters as described in a 2017 report by the Oregon Secretary of State Audits Division.

State policy makers reported exploring multiple strategies to improve oversight of authorizers, with the goal of moving towards higher quality and more consistent authorizing practices. In Michigan, for example, there were multiple (unsuccessful) attempts to improve “coherence” as well as quality in a state in which many authorizers were overseeing schools in the same geographic areas (see below). In Colorado, one participant reported discussions within the Colorado State Board of Education to adopt authorizer standards from the National Association of Charter School Authorizers (NACSA) statewide as a means of enhancing authorizer quality.

While the predominant concerns around charter authorizing across states focused on the quality of oversight, participants in two states also reported potential conflicts of interest in the authorizing process. That is, cases where school district authorizers lacked incentives to approve of new charters as they would potentially “drain” resources from the traditional district-run schools. In Colorado and Florida, where school districts are the primary authorizers, several individuals observed resistance to charters by some districts as leading to a situation in which, according to a Florida respondent, “it is not a friendly authorizing environment at the school district level in Florida.”

Oversight of private school choice. In the case of private school choice, state accountability policies played an important role in Louisiana but no substantial role in Florida. In Florida, both the state and the nonprofit organizations that administered tax credit scholarships had very limited roles in oversight of the private schools participating in the Florida Tax Credit Scholarship program. Four of the eight interviewees expressed concern about the state’s lack of quality control over the private schools participating in private school choice programs. Private schools receiving Tax Credit Scholarship funds were not required to give scholarship-receiving students state assessments but did need to administer norm-referenced assessments (selected by the school) to those students. However, these norm-referenced test scores were not used to make decisions about what schools were or were not eligible to receive students with these scholarships and participants reported that finding these results (and thus the ability of parents to use this information) was often challenging. According to a Florida Department of Education staff member, some students receiving tax credit scholarships are:

In garbage schools. Yeah, I mean I'm not a proponent at the least that the market solves these problems by itself in education. I mean they're serving families that often times don't know how to navigate the system particularly well. They're not particularly well educated. And if you got a family who's got a single parent working two jobs, she can't be in the school, she doesn't know what's going on. She's getting report cards home saying kid's doing great, but we know they're not. There are definitely on average kids are doing well in FTC... but there are tails to both ends of that curve. There are some kids that are doing really poorly.

While half of respondents decried a lack of rigorous performance-based accountability, others supported the general approach of state oversight limited to norm-referenced testing and inputs such as health and safety. As one representative of a Florida organization supportive of the scholarship programs said:

As long as you can have some third party, particularly valid, reliable, third party assurance, validation, norm-referenced test, and the like, that the student is actually getting what you believe they are expected to achieve, I think that's very satisfactory.

For these interviewees, the critical mechanism for oversight of participating private schools was not government but the market through parental choice. A legislative aide commented that, “I think currently the members [of the state legislature] feel that the oversight is provided by the parent when they decide their choice to go to that private school.”

In contrast, Louisiana required voucher-receiving private schools to participate in the state accountability system and to give students state assessments. Private schools that failed to receive an “A” or “B” in the state program lost their eligibility to accept new scholarship-receiving students. The two participants who spoke most directly to this issue saw this approach quite differently from one another. For a staff person in the Louisiana Department of Education, the state’s approach provided the right balance between autonomy, choice, and regulation:

I'd like to say that we've been able to strike a good balance... I think schools and parents still feel like we respect their autonomy, but at the same time, we have some minimum safeguards to say, if a school is just continuously showing that students are scoring very, very low, and not making progress, not only do we have information at the state level and we can work with that school and demand that they take some sort of action to improve, but also we give that information to you as a parent. Because without that information, yes, we would be making a choice, but it would likely not be an informed choice... We have exercised that authority a number of times to prevent schools from taking new students the next year. We try, as much as possible, to never just disqualify a school from the program. We don't want to displace students that are already there.

A Republican state representative felt quite differently, arguing that competition and market-based accountability was the best way to improve student outcomes and increase student success, rather than oversight. In his view, giving parents choice should be the central purpose of private school choice programs and those parents should be shouldering the responsibility of assessing school quality and what was in the best interests of their children. He said that:

I just think that competition is the best way to go. I just think that parents know, they can read and see this is an A school or this is a D school, and I don't think that many parents are [going to] want to send their kids to the D school. I think they're [going to] send them to the A school. I mean I'd like to think and hope that parents are knowledgeable enough and are interested enough to research and do the things that are necessary to ensure their youngster gets a quality education.

While participants in Louisiana had different perspectives, they shared a belief – not reflected in our conversations about private school choice in Florida - that including students in state testing and providing information about the results to families was an important means of supporting quality in private school choice programs.

Planning across Choice Options. For the most part, the states we studied relied more on oversight processes than planning processes to shape the supply of schools available. We heard of very few state-level efforts to specifically promote the development of high quality schools of choice or to support the availability of such schools in specific locations in order to address the needs of communities. Participants in multiple states confirmed that there was little or no state-level effort to shape what schools opened or where, and that this could create challenges around having coordination among school offerings to meet the overall needs of a community.

This issue was most visible in Michigan, where several participants decried a need for more attention to planning and coordination, and local input into decisions. While they did not want the state to make these local decisions, they did suggest a need for state guidance and regulation to support inclusive and equitable local decision-making. Unlike in the other state case studies, many communities in Michigan had multiple authorizers—including the local school board and multiple institutions of higher education—approving schools within those communities, often with little or no coordination. Efforts to create more coordination have been unsuccessful and

also made local communities feel left out of process. A representative of the state’s teacher union argued that:

Having a system to bring coherence is desperately, desperately needed. - Well, going back to a system where you just can't open up a school. Anybody just can't open up a school, anyplace, anytime they want to. There has to be a system. Do we need a school there? Do we need this school there? Do you have a good track record? Are you going to be able to run a quality school et cetera? What's your history as an employer?

A member of the state board of education described how those in local communities were frustrated with the lack of community input into authorizer and charter school location decisions; “the locals... don't like the fact that they have no oversight. They have no impact. They have no ability to make determinations and where, when and how schools are going to open. A lot of them, they have to fix it when it falls.”

A staff person at the Michigan School Boards Association suggested that, without guidance on where to locate, new charters may be opening in areas not necessarily with the intent of serving a particular population of students and tailoring instruction to their needs, but because it offers an attractive enrollment pool:

When you look at where charter schools have been typically set in Michigan, they definitely are being located in typically low-performing areas. Now on the flip side of that, it is also the same areas that have high populations of students. The question becomes: Are they trying to serve that group of students because they're not doing well in the traditional setting so this is an option? Or are they setting the school there because they need to be in a location where there is enough students to make sense to open? (MI.School Board Association Member)

Respondents in Florida cited one of the only examples of state policies attending explicitly to planning where charter schools are located, and to do so in such a way as to address the needs of students in areas with low-performing schools. Specifically, 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 (defined as within the enrollment zone of a 5-mile radius of a persistently low-performing traditional public school or a federally-designated economic empowerment zone and is a Title 1 school). The goal was to enhance access to higher performing schools in areas that generally served lower-income students and students of color. While the school district remains the authorizer, it has less authority over the approval process. As with other levers, state level efforts in the area of oversight and planning were limited, with a strong emphasis on testing-related accountability.

Teacher Supply and Distribution

Teachers are a critical factor in the success of school reform and improvements efforts, and are arguably the most important schooling resource (Chetty, Friedman & Rockoff, 2014; Hanushek,

2010). Across the five states, our respondents largely discussed issues of teacher quality, supply, and distribution in the context of general statewide issues or charter schools. Because we heard so little about teacher supply and distribution for open enrollment or private school choice options, this section focuses on charter schools.¹³ While some respondents believed greater flexibility around staffing provided under state law was an asset to school quality in charter schools, others voiced concerns that the enhanced flexibility around hiring and firing teachers, alongside lower pay, challenged teacher recruitment and retention. As Table 8 shows, charter, virtual, and private schools receiving tax credit scholarships were able to hire uncertified teachers in some states, and, with the exception of Oregon, few charter schools in the states studied had union representation or the potential for job security that often accompanies collective bargaining. Multiple participants highlighted the equity-implications of these challenges, particularly in the area of hiring of specialized teachers.

Table 8: Teacher Certification Requirements by State and Choice Option¹⁴

	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?	Percent of voluntary unionization¹⁵
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	0%
Florida	Yes. Teachers must be certified.	Yes, Teachers must be certified in both virtual charter schools and the statewide Florida Virtual School.	No.	2%
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.	3%
Michigan	Yes. Outside of specific rules for college authorizers, all	Yes.	N/A	3%

	schools must use certified teachers.			
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	27%

Teacher Recruitment and Retention. Some participants in Colorado and Louisiana argued specifically that autonomy for charter schools enhanced teacher quality and the teacher pipeline. For example, one Louisiana state department official (where charter schools do not need to hire certified teachers) questioned assumptions about the tie between certification and teacher quality, stating that, “We have some of our highest performing teachers in the state in charter schools ... in terms of growth.” Similarly, a member of the Colorado State Board of Education pointed to staffing flexibility in charters (if they are granted a waiver from state certification requirements) as allowing for a broader pool for teachers:

So one of the leading performing charter high schools in the state has half a dozen PhDs for whom it would be illegal for them to teach in a public school that is not a charter school. That type of flexibility allows experimentation, and a lot of that experimentation has provided exceptional results for kids.

In contrast, other respondents across all states identified challenges with ensuring teacher quality and retention in charter schools. These challenges were often identified as similar to those for district-run schools. For example, a Florida teachers’ union representative argued that, “in a full employment market like we have, [charter schools] have a harder time finding qualified teachers just like public schools.” In Louisiana, a state department of education staff member asserted that regional differences made it difficult to attract teachers in some parts of the state:

The charter school is very northeast Louisiana, which is very... very, very, very rural. They struggle with staffing and capacity period... There is a lot of cane fields, and rice fields, and those sorts of things where you don't have a huge tax base either. [The schools there] have funding issue... and it's difficult to recruit people up there. So a charter school in that area is going to... face the same things that the traditional systems are facing.

While these concerns cut across schooling sector, some participants in Michigan, Oregon, Colorado and Louisiana attributed the extent of challenges with teacher retention and quality in charter schools specifically to lower salaries and less job stability compared to those in traditional public schools, as well as to an absence of unions:

It's no doubt that teachers in charter schools are paid less and so I definitely think they sometimes struggle with that. I know for a fact a lot of them were quite concerned about their ability to remain competitive in Denver with the

recent teacher strike. Recognizing that that was likely going to result and in fact did result in quite a bit of an additional pay increase for teachers in traditional public schools, I know a lot of them were feeling the stress and pressure of being able to remain competitive in that environment. (Colorado Charter School Advocate)

It's subjective, but also it's based on experience, is that when teachers couldn't get a job in higher paying K-12 districts, they would go to charter schools, and I'm broad brushing again, and there are some exceptions, but they would go to charter schools until they could find a job in a regular school district. (Michigan Superintendents Association Member)

These reports are consistent with literature showing that charter schools have greater teacher turnover than traditional public schools (Newton et al., 2011; Stuit & Smith, 2012; Cowen & Winters, 2013; Barrett & Harris, 2015), and that this may be due in part to charter pay often being lower and working conditions more tenuous than in the traditional sector (Malloy & Wohlstetter, 2003; Stuit & Smith, 2012; Weixler, Harris, & Barrett, 2017).

In two states (Colorado and Oregon), participants attributed lower salaries (for teachers *and* school leaders) in charter schools to charters having fewer resources (see Table XX) and higher costs (e.g., facilities). One choice advocate in Colorado said,

I think one of the biggest things is just financial resources. Charter teachers receive significantly less money. And that's because there's less money coming in. It's just... more money to spend particularly on facilities, because they don't have facilities provided to them. So I think that, for me, a big problem is ... and it's not actually just teachers, it's also school leaders and principals, make significantly less in the charter space.

Equity-Related Teacher Quality Concerns. In several states, respondents voiced particular concerns around the lack of experience or certification and the potential negative impact on lower income students and students with special needs. Colorado and Louisiana, for example, did not require charter school teachers to be certified, and Oregon required that only 51% of teachers in brick and mortar charter schools be certified (see Table 8). A member of the Colorado State Board of Education observed:

In my opinion, when you're looking at just choice and not [just] charter, you might want to look at, if you can ... the makeup of the teachers. How experienced are the teachers in each of those schools, [because] historically what we see are that schools with the lowest [socio-economic status] have the highest number of inexperienced teachers, so those kind of things can make a difference whether ... children are in fact being served ... In fact, under charters, we don't require that our charters have licensed teachers.

Respondents in Oregon and Louisiana noted that the combination of a lack of resources and training created even greater challenges for choice schools in hiring specialized teachers,

particularly those serving students with disabilities or English learners. These difficulties raise equity concerns over the ability of choice schools to meet the educational needs of historically marginalized and underserved students. A leader at the Oregon Department of Education reported,

Hiring special ed teachers is hard, period, there's a real shortage. And if your pay isn't the same as the public school, particularly the district you're in, it's going to be hard to get special ed teachers unless they're really enamored by the philosophy. And so that's one thing ... The second thing is because only 51% of your staff needs to have a teaching license, you could get people who really don't have the training to be successful.

A staff member with the school boards association in Oregon made a similar point about hiring bilingual teachers: “It's the fact that they don't pay as much and 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.”

Despite these concerns about attracting and retaining quality teachers within choice schools across the five states, most of those interviewed did not identify any specific policy interventions to address them at the state level, beyond requirements (such as certification) already in place. As one charter advocate in Colorado described it, “We regularly have conversations [in our organization] about the talent pipeline and how we might help our schools with recruiting the highest quality candidates possible, but nothing has happened at the state with a charter specific focus.” This presents a compelling area of need/opportunity for future state policymaking.

Funding and Serving Higher Cost Students

While not a focus of our original study, issues of funding emerged as an important policy lever shaping equity for schools of choice and for district-run schools not participating in choice. According to respondents across the five states, the fiscal climate and funding policies significantly influenced how, and if, different policy levers were used to promote equity and access. For the most part, the concerns raised were around the relative funding of schools of choice as compared to district-run schools; however, funding adequacy for all schools was also raised. Here we highlight a few of these key issues.

Adequacy of funding

In Colorado and elsewhere, 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 supports in traditional districts that service underserved communities. This theme was especially pervasive among Michigan respondents. In Florida, interviewees from both the Florida Education Association and a state-

level “good government” advocacy group criticized the state for channeling funds into voucher programs away from the already resource-constrained traditional districts.

In several states the perceived inadequacy of state funding for publicly-funded schools overall clouded efforts to expand or promote greater equity in choice policy. In Colorado, many pointed to the TABOR law that limited state revenue raising as an obstacle to properly funding schools and to ensuring equity of access to choice schools. For example, inadequate 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, as noted below, require the availability of student transportation.

Issues of funding adequacy at times intersected with issues of local control, such as cases where there were limited state requirements around transportation. Respondents across the five states argued that transportation was underfunded within school choice, suggesting that inter-district enrollment mechanisms and charter schools were ill-equipped to provide transportation opportunities that would allow a diversity of families to participate in school choice. Implicitly, this was tied to perceived inadequate state funding for schools of choice, including facilities funding. One educational researcher in Michigan explained:

The reason why two thirds or so of charter schools don't [offer transportation]—one of the key reasons is they have to spend some of their general operating dollars on facilities, and they struggle to pay their teachers. Most of them struggle to pay the teachers as much as districts will. So they've got to make priorities in their budget, and the student transportation is, they're able to find other ways to maintain their enrollment without having to do that.

Overall, we found multiple examples where the combination of local control and limited resources were associated with states not pursuing promising paths to promote equity.

Funding and serving students with disabilities and English learners

Consistent with extensive national research documenting the overall lower levels of charter enrollment for students with disabilities and English learners (Anderson, 2017), participants raised concerns about choice options at times underserving students with specialized needs, including students with disabilities and English learners. Indeed, the data (as shown above in Table XX) show that charter schools in the four states for which we have data (Colorado, Florida, Louisiana, and Michigan) overall served a smaller percentage of students with disabilities than public schools as a whole. While these data do not address the severity of student disabilities, other research suggests that charter schools are less likely to serve the “most expensive” students with disabilities (Mavrogordato & Sattin-Bajaj, 2019). English learners, on the other hand, were served at similar or higher rates in charter schools in those four states.

Respondents in Colorado and Michigan argued that charter operators did not have the resource capacity to serve those students. A state board member in Colorado noted,

Most charters don't recruit [severely disabled] kids. The reason is strictly financial. Special education is extraordinarily expensive. If public schools would be willing to allocate resources to charters...and keep in mind there are

economies of scale the districts don't share with charters, it puts charters in an impossible situation.

In Michigan, several respondents reported a financial disincentive to serve such students for the large for-profit charter sector, as this board member explained:

I think that if you have a child who's going to require additional resources, the chances of them being able to go to somewhere other than a traditional public school is probably much, much more difficult...because [the students are] really expensive, and the charter schools here, most of them are run by for-profit management companies. The less they can spend on educating a kid, the more they could put in their pocket for profit.¹⁶

Similar issues were raised in the context of English learners, such as a representative of an equity-oriented nonprofit in Louisiana who argued that:

If you have seven [students who are English learners] in your charter, are you going to have a full-time ELD teacher? Probably not. Are you going to have bilingual certified teachers? Especially if your teachers don't have to be credential[ed] necessarily or not traditionally credential[ed]? There are lots of ways in which you're just gonna have far, far less capacity to build because you're not in an economy of scale.

A Colorado choice advocate, however, argued that charter school leaders want to serve students with disabilities, but shied away from doing so because of the cost:

I think a lot of charter leaders are caught in a chicken or egg sort of situation, where they're desperate to serve more special needs students, but don't have the resources to do it. I find it frustrating that often people at the capital will use this to point to why we shouldn't put charters on equal footing, just because they don't serve an equal number of special needs students. But I think what they're missing there is that context and the relationship with the actual charter leaders, who want nothing more than to serve more special needs kids, but don't have the resources to do it. So they handicap them in terms of resources, and then fault them for their inability to do that. I feel very strongly on this point, that I've never met a charter leader who doesn't want special needs kids at their school, and in fact it's been the opposite of that. But there's a real resource problem.

Overall, our findings identify concerns that challenges around economies of scale for specialized student populations can limit those students' access to schools of choice. While not central to our data collection, it is worth noting that Florida's McKay Scholarship program, in which around 30,000 students participate annually, has been an important means by which students with disabilities participate in private school choice. The intention of the program is to help parents of students with disabilities defray the costs of private school tuition.

Influences on Policy Levers as Tools to Support Equity and Access

In summary, across the five study sites, state actors generally noted limited state-level action in many of these policy levers shaping the demand for (information, enrollment, transportation) and supply of (oversight, teacher policy) quality schools—with a few reports of encouraging practices aimed at improving equity and access to the choice sector for historically marginalized and underserved student populations. Respondents also identified a number of common areas of concern regarding equity and access in the design and implementation of school choice options.

What explains the patterns of findings? Our analysis identifies three critical conditions – norms of local control, federal policy, and individual beliefs - that appear to influence how states enact choice policies and use (or don't use) core policy levers to shape issues of access and quality for marginalized students. These conditions can help us understand some of the variation and similarities that emerged in our analysis above – particularly some of the relative inattention to explicit equity-promoting policy mechanisms such as requiring the availability of transportation, planning the location of schools to address areas of need, ensuring teacher quality, or mandating enrollment processes.

As a backdrop to this analysis, it is worth noting that there was substantial variation not only in the extent to which choice policies served but also in the extent that they were intended to serve historically marginalized students. In some cases, these variations could be traced back to the roots of specific policies. 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:”

That's not really how we approached it, and there's nothing in the policies or in the statutes that suggest or kind of push it anywhere toward any type of like urban versus rural or certain demographics. I guess like implicitly, we knew it would happen, and who would benefit from it, and we wanted those students to benefit from it, but we also wanted to make sure that anyone could benefit from it at the same time.

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. In this case, where the original roots of Michigan's charter school policy were not focused on issues of equity or the needs of underserved populations, that history may continue to shape state leaders' use of policy levers that can influence equity and access.

Local control

As referenced in several of the lever discussions above, participants in all five cases described their states as having strong norms of local control. Interviewees across cases repeatedly claimed to live in a “local control state,” with local government agencies, including school districts (or independent charter schools), operating with a fair amount of autonomy from state policy or regulation. Such an approach to governance often assumes that decisions are best made at the lowest level, where individuals are better informed of local needs and context. Participants who supported this approach argued that, “those who are closest to the students, make the decision.” A state board member in Oregon said:

Oregon, like many states, is quite decentralized in terms of how the state organizes the districts. There are 198 school districts in Oregon. The State Department of Education is the main state level overseer of those schools, but there's a very deep tradition of local control in Oregon.

In Michigan, some characterized their state as having “hyper-local control” leading to a “wild west” environment.

While fostering support for school choice, these norms around local control at times created dilemmas for state policymakers and education leaders wanting to intervene in or regulate choice policies in ways to promote greater equity. For example, efforts in Colorado to allow districts to provide transportation to students living outside district boundaries were challenged and ultimately removed from legislation. A state legislator described this situation, and the fraught politics around it:

We had an amendment that we got into a bill late last year. It provided transportation, and it was pulled out by individuals who quite frankly were supported by the union and trying to kill that. The union and the districts didn't like this freedom of transportation.

This legislator went on to argue that the focus on local control and protecting existing district boundaries reinforced a racist history in Colorado education:

Often the borders were drawn historically for bad reasons. Some of the borders in Colorado were drawn explicitly to carve black people out of school districts, to carve Hispanic and poor people out of or into school districts. So the history behind these borders is, I think, very gross. And the fact that school districts today are sanctimonious about defending their sovereign borders ... that's an area where I actually [left with] a very bad taste in my mouth.

In some cases, moves to bolster greater state level control were cast as hypocritical or contradictory to the local control values espoused by some of those same leaders. In Florida, respondents spoke about partisan debates over maintaining a charter authorizing role for the state. While some wanted it removed, others fought hard to protect the state’s ability to override charter petition denials at the local level. Some saw the efforts to protect state control as contradictory to the state-espoused local control values. One teachers’ union leader questioned state override authority because state leaders fail to understand local conditions and “why the school system has turned it down. Usually, it's because it is not serving the population of students that they feel should be served, or that they are duplicating the services that already existed... within the public system.”

The role of the federal government

The federal government played several important roles in state level politics and policy around choice in our five states. Whether viewed as supporting or constraining the expansion of school choice, federal leaders and policy were directly and indirectly shaping attention to equity.

Through funding mechanisms, the federal government was seen as facilitating the growth of charters and, notably for our research, a more explicit equity focus. In Oregon, for example,

multiple respondents attributed the expansion of charter schools in the state to the availability of federal Charter School Program (CSP) grants to State Entities, which provided start-up funding for charter schools. The Oregon Department of Education received annual CSP grants from 2005-2010.¹⁷ “That really helped with the growth of charter schools, I’ll tell you that” said a leader of the state school board association, “When those federal dollars were available, it helped. It helped start charter schools.” Colorado and Oregon also received federal CSP grants funds in more recent years, which supported charter school planning, implementation, dissemination and expansion. The grant guidelines for these later CSP grants included “priority points” awarded for state applications that included explicit attention to *reducing disparities for historically underserved students*. As a result, the Colorado Department of Education was planning to conduct equity convenings to discuss topics that impact equity in the charter space, including enrollment, transportation, and special education. A state administrator explained,

we're going to pick a topic and do a deeper dive into those topics, each year, based on feedback from the field, ... like a consortium of charter schools and authorizers and board members and other education stakeholders, to say, 'What are some of those big equity issues that we see in terms of enrollment?' And 'Let's explore those issues individually to come to understand why would this be contributing to the system, and what are some promising practices for addressing it?

Similarly, the Oregon Department of Education had already started requiring charter school operators receiving these grant funds to participate in equity trainings and to develop an equity plan focused on particular groups of students who have been historically underserved, although our data cannot speak to how this work is implemented in practice.

In contrast, while not pointing to specific policies, some interviewees cast the federal government—particularly then-President Trump and then-Secretary DeVos—as a political obstacle to charter school expansion and support. This sentiment was particularly common in Colorado, where interviewees shared that anti-president Trump sentiment was leading Democratic state legislators to become more supportive of choice regulation than they had been in the past. One choice advocate explained,

Colorado has always had its own, what I would consider, pretty unique bipartisan support for charter schools and education reform of various sorts. I think they're trying to drive a wedge in that by tying things to Donald Trump, knowing that he's incredibly unpopular, particularly along the west. So that's a major reason, I think. To put it more simply, national narrative being tied to local initiatives. I think that's being done unfairly, but I think it's being done effectively.

Some Colorado participants identified the teachers’ association as catalyzing anti-choice support by strategically tying charter school and inter-district open enrollment policy to these “unpopular” federal leaders.

Differing Beliefs about Equity and the Root Causes of Inequity

Within and across states, we uncovered considerable debate around equity and choice. Some felt strongly that choice policies were advancing educational opportunities for marginalized students. For example, respondents in both Florida and Michigan pointed to evidence that some charter schools were doing a good job of serving students with disabilities and English learners. A Michigan charter advocate described how:

There are culturally sensitive schools in Michigan that charters have really built a niche for. Talk about English Language Learners, if you've got a school that they're still public anybody can attend. It's open to everyone but if they're just geared more towards the language cultural challenges that first family Americans are having you've seen a number of pretty largely Arab American student population charter schools in the Dearborn area and at the time, this is probably 20 years ago, the superintendent of Dearborn public was like, and thank God that they're there because we don't know what else to do with them. I've got a district of non-English language learners and I need to think about them as well. So absolutely right. You can offer variation as delivery and meet different needs.

Looking more broadly, a staff member at the Florida Department of Education described multiple subgroups as doing better academically in charter schools than students in the same subgroups in district-run schools:¹⁸

When you look at kids eligible for free and reduced price lunch and African American students and students with disabilities and English language learners, those subgroups all perform significantly at a higher level in charters than they do in traditional. I think the charter sector has done a good job with focusing on improvements for those populations.

In contrast, other respondents voiced strong concerns that choice policies were exacerbating inequities. As noted above, several interviewees cited segregational effects of charter and open enrollment policies. For example, participants in both Oregon and Colorado indicated that choice policies have enabled charter schools that may serve more affluent students. A staff person with the Colorado School Boards Association described how:

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... I think overall our charter schools tend to be much more focused on serving some kind of a middle-class group of students than a disadvantaged group.

These contrasting accounts may reflect even deeper differences in underlying beliefs about the root causes of inequity – and these different beliefs might help explain some of the variation we observed in state (in)attention or (in)action to the policy levers.

Some respondents clearly voiced individualistic – and often deficit-oriented – beliefs. In discussions and questions of how the design of policy levers were or were not supporting equity and access, these participants made assumptions about why some students were less likely to meet with success, often pointing to perceived deficits found in students and communities. For example, a state legislator in Michigan argued that poverty and, implicitly, the culture of public schools, led to lower performance:

Well, clearly, most of these places are abject poverty kids that come to school with multiple barriers to success. I think that those are hard to overcome given any amount of money. They just are. I think that over years we've felt like if we'd thrown money at something, we could fix some of these things. For my money, things that I've seen is where you need—it's about the best chance, I think, for many of these kids to do better is to primarily be removed from a lot of that culture. When you have things like scholarships to go to private or parochial schools, where you have some charter schools, I think these kids perform better because they're all of a sudden into more of a culture of success instead of one of failure. I think without changing that culture, you're really not changing the trajectory of a lot of those kids.

Descriptions and mindsets such as this--focused on students and communities as the root cause of poor performance and inequality--may have served to absolve leaders and policymakers from taking more direct action to advance equity in the enactment of choice policy.

Nevertheless, some participants directly countered individualistic and deficit perspectives with a more structural assessment of inequality and educational outcomes. A staff member at an organization in Florida that works with private school choice focused instead on institutional racism and issues of power:

Races and classes, in public education, institutional racism. It's class differences. And I don't necessarily mean that as an accusation of individuals, but the most valuable resource that a school district has is teachers. How are teachers deployed? Well, go to a high poverty school and look at the distribution. And so, if you're a low-income kid living in a low-income neighborhood, because housing controls a lot of school assignment, you're going to end up with well-intentioned teachers that probably don't have the experience, which tend to be first- and second-year teachers, that as you know, get out of there as fast as possible, because they aren't going to be successful in those environments. The institutional class bias, because we're educating kids by neighborhood is how this kid is influenced by family resources, social capital. There's huge diversity in social capital like the lines of class, race, ethnicity. I'm a typical middle class, upper middle-class white [person]. My kids have access to, you name it. If I wanted to get my kid an internship in the governor's office, I'd make a phone call and he gets an internship in the governor's office. But if you're a low-income kid of color, you don't have that opportunity... 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... For us, a main thing is redistributing power in such a way that

allows us to begin to address some of the problems that are generated by power disparities that have their basis in race and class and ethnicity.

A recognition of broader structural and social forces seemed to place greater attention on the role of government in addressing inequity and onus on state leaders to act. It is possible that such a conception of inequity predisposes/motivates some states leaders to undertake more direct policy actions in the key lever areas than those espousing a more individualistic and deficit-oriented conception.

Conclusion - Levers, Equity, and Access

Our analysis identifies a number of ways in which state policies are not fully capitalizing on policy levers that may further equity in the context of school choice. While respondents generally noted limited state-level action in many of these policy areas of leverage, they did report some encouraging practices aimed at improving equity and access to the choice sector for historically marginalized and underserved student populations.

In terms of enabling access to choice options on the demand side, we found that:

- In all five states, with the exception of private school choice in Florida, information from state testing systems was available to families. However, there was limited state action to ensure the availability of high quality, consistent, and easily interpretable **information** about the quality of school options and processes for school choice application/enrollment. The information that was available at the state level was widely reported to be confusing or inaccessible to viewers without digital/technology access and sophistication in data interpretation—creating potentially troublesome inequities among potential choosers.
- **Transportation** was the most significant perceived barrier to ensuring access to choice for families of underserved and historically marginalized students. 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 (e.g., some required provision of transportation, others required plans for provision).
- Policies in some states identified **enrollment** priorities for some schools of choice, including priorities for choice schools to admit historically underserved students or students from low-performing schools. Aside from these priorities or requiring or offering the use enrollment lotteries, state policy was largely silent on other aspects of enrollment for choice schools.

As to shaping the supply of schools available in different choice options, we found that:

- **Oversight** of school quality and practice relied heavily on existing state accountability systems, especially state testing. Respondents did not describe any additional state accountability for open enrollment and oversight of private school choice differed greatly in Florida and Louisiana. Participants in all five states voiced concerns about the quality of charter school authorizing, the primary means for ensuring the quality of charter schools themselves, and especially the oversight of virtual charter schools. Given the high percentage of low-income students and students of color in charter schools in every state but Oregon (see Table 2), questionable oversight of school quality raises serious equity issues. Policies that required closure based on school letter grades scores were one

strategy to address this issue. Attention to matching the supply of schools to the demand of families through intentional **planning** was, at best, minimal at the state level.

- Across all five states, reported challenges around the quality and retention of **teachers** often mirrored overall concerns about human capital in public education broadly. Participants concerned specifically about teacher quality and retention in schools of choice identified lower teacher salaries and less stable positions as barriers. Many also identified particular difficulties in hiring specialized teachers in schools of choice, with significant implications for meeting the needs of students with disabilities and English learners. The main area of state action to promote teacher quality in choice schools came in the form of certification requirements, which varied greatly (e.g., some states mandated certification for all teachers in charter schools, one required it of only half, and others did not have any requirement). However, the ability to be flexible around staffing was identified as important for improving teacher quality by some respondents.

The combined limited state attention to and/or decentralization of decisions around these five levers affecting school choice - information, transportation, enrollment practices, oversight/planning and teacher policy - and the corresponding variation in local district/school procedures raised significant equity concerns among many respondents. Many individuals noted that the lack of state action with regard to demand-side issues of information, enrollment and transportation placed heavy burdens on families, particularly families of historically marginalized and underserved students, to participate in choice programs. Reported state inaction regarding supply-side issues – such as ensuring qualified teachers and funding to support the needs of the most vulnerable students – raised further concerns about the equity of school choice policies. The continual emphasis on the importance of funding and equity further drove home these issues. Funding challenges included concerns about the adequacy of funding for schools of choice and the negative impact of choice on funding for district-run schools as well as worries that schools of choice were inadequately serving students with disabilities and English learners.

Local state conditions greatly shaped state policy (in)action in these five areas. Most notably, norms of local control appeared to resist efforts to impose state regulation, while the federal administration’s stance on choice may have fueled a changing political climate more receptive to choice regulation in several states. While many respondents questioned whether state leaders ever intended for choice policies to serve historically marginalized and underserved students, others noted that recent federal charter school grants were pushing state leaders to explicitly attend to the needs of these populations. Finally, individual policy makers’ beliefs – particularly about equity and the underlying causes of inequity - may have also contributed to the varied policy (in)action observed across states.

What are the implications for the future?

For years, school choice has been “taken for granted” in all five states. Yet the political winds may be changing. While it is not clear that state leaders possess the political will or interest to use policy levers to enhance equity and access, the demands to do so may be increasing. The 2019 wave of teacher strikes in many cities, for example, implicated issues of equity and school choice in visible ways. In Denver and Los Angeles, for example, teacher contract negotiations included calls for state leaders to enhance accountability of and impose limitations on the growth of charter schools. National advocacy organizations – such as the NAACP - have also launched high-profile campaigns asserting the harmful effects of charter schools to students of color (see above). Social unrest following the death of George Floyd has further heightened attention to

issues of race and equity and then-President Trump’s speech connecting it to civil rights issues may reignite long-standing debates over the role of school choice in advancing equity.

Of course, the context for education policy has greatly changed since we conducted this study, which occurred prior to the global COVID pandemic and to the Biden administration. As we move into the next phase of research, and as schools adjust to the COVID landscape, state policy makers may face shrinking budgets to tackle significant challenges and competing priorities, including new sets of issues around equity, access, and school choice. In this context, it is not clear how much attention will be paid to school choice policies and efforts to improve equity and access in these schools.

As more school systems and schools prepare to bring students back in-person and possibly extend new schooling options (e.g., new virtual schools, pods), state leaders may want to identify the extent to which schools of choice are equitably and adequately addressing the needs of students, particularly those that are historically marginalized and underserved. The five policy levers—plus the emergent funding lever—offer an important framework for thinking about essential questions, such as:

- **Oversight:** Given the absence of state testing in Spring 2020 but the return in some states for Spring 2021, how are state leaders ensuring accountability for learning across all school types, including charter and voucher-receiving schools and any new options that are sustained post-pandemic? What standards are being applied to ensure the quality of online learning, specifically, which will be particularly relevant if enrollment in virtual charters increases? How do state policies and guidance around in person school openings vary based on school sector?
- **Information:** What new information demands do parents have and can the state provide that information in easy-to-access ways to help parents in the process of choosing schools of choice? How does more limited state testing during the pandemic shape the information available to parents across different sectors?
- **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 processes are not overly burdensome to families?
- **Transportation:** Social-distancing health recommendations created significant added costs to transportation options for schools offering in-person instruction. 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?
- **Personnel:** Given the pre-COVID challenges of attracting and retaining teachers, particularly teachers in specialized areas and in choice schools, how might the state better support schools? Given that the health crisis and recent social unrest has disproportionately affected students of color, 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, humanizing ways?

Beyond the COVID-specific issues on which educational leaders and scholars are currently focused, future research should also continue to pursue these lines of inquiry. Some of these critical challenges highlighted by state actors are already being addressed through REACH studies, including more in-depth local qualitative analysis. But, these points give us an

opportunity to step back and ask if we could do more, as well as highlight interesting new approaches being used in specific contexts. When beginning this study, we were seeing signs of change around issues of school choice in many of these states; the impact of COVID-19 is likely to accelerate and also shift those developments. We hope that our ongoing research – and the work of other scholars, policymakers, and practitioners – will continue to inform choice policy in ways that improve opportunities and outcomes for historically marginalized and underserved students including the students most impacted by COVID-19.

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Notes

¹ While “open enrollment” can refer to the ability for families to select schools either within a district but outside of an attendance boundary (intra-district choice) or schools in a different district (inter-district choice), our interviews focused on inter-district choice.

² <https://www.the74million.org/article/3-california-naacp-chapters-break-with-state-and-national-leaders-calling-for-charter-moratorium-to-be-overturned/> <https://www.naacp.org/latest/statement-regarding-naacps-resolution-moratorium-charter-schools/>; <https://thehill.com/homenews/administration/502961-trump-calls-school-choice-the-civil-rights-issue-of-the-decade>; Twitter @JoeBiden, Jan 22, 2020 <https://twitter.com/JoeBiden/status/1220182792304308225>

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⁷ Participants in some states highlighted the availability of more comprehensive information in specific local contexts, especially New Orleans in Louisiana and Denver in Colorado. The ongoing work of the REACH center includes data collection within both of these cities.

⁸ Colorado Revised Statutes 2017 § 22. Retrieved from

<https://leg.colorado.gov/sites/default/files/images/olls/crs2017-title-22.pdf>

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¹⁰ Colorado Revised Statutes 2017 § 22. Retrieved from

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- ¹¹ While students utilizing private school choice in Florida do not take the state assessments, the students who participate in the tax-credit scholarship program are required to take a nationally-normed test. The data are publicly-available (though hard to find) and the data is at the school level.
- ¹² <https://www.oregonlaws.org/ors/338.120>, accessed 7/14/20
- ¹³ In one of the only statements about teachers in private school choice, a Louisiana teachers union leader said that she knew “individuals who were fired from the public school system, because once you're ineffective for three years, basically, they take your certificate from you. They end up in the parochial schools, private schools, and in the charter schools.”
- ¹⁴ Colorado Revised Statutes 2017 § 22. Retrieved from <https://leg.colorado.gov/sites/default/files/images/olls/crs2017-title-22.pdf>
- Florida Statutes 2019 § 48. Retrieved from http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=1000-1099/1002/Sections/1002.33.html
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- ¹⁵ Data from <https://www.crpe.org/sites/default/files/crpe-unlikely-bargain.pdf>
- ¹⁶ (Miron & Gulosino, 2013) found that 79% of charter schools in Michigan are managed by a for-profit education management organization.
- ¹⁷ Oregon Legislature Background Brief on Charter Schools September 2012. Retrieved from <https://www.oregonlegislature.gov/lpro/Publications/CharterSchools.pdf>
- ¹⁸ See also Florida Department of Education. (2019). *Student achievement in Florida's charter schools: comparison of the performance of charter school students with traditional public school students*. Retrieved from Tallahassee, Florida: <http://www.fldoe.org/core/fileparse.php/7778/urlt/SAR1819.pdf>