

TEXAS:

RAISING EXPECTATIONS BY CLOSING SCHOOLS THAT FAIL

In Brief

In the early years of the Texas charter law, charters were easy to obtain and charter schools opened at a precipitous rate—even with a series of charter caps in place. A lack of uniform standards for applicants, along with poor school performance results, fed a negative public perception of charter schools. State policies now include strong, explicit, consistent standards for charter school authorizing and for charter school performance, buoyed by additional authorizer authority to enforce them. This has had a direct, immediate effect on the quality of the state’s charter school sector and on the public’s opinion of accountability for charter schools. Notably, this includes the closure of 20 failing charter schools since 2013.

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ABOUT THIS DOCUMENT

State Policy Analysis Case Studies were compiled from interviews with local stakeholders, including representatives from local advocacy and policy groups as well as local policymakers. Information was also gathered through reviews of state statutes, media coverage, and national publications, and through interviews with NACSA staff. Summaries (“Case Studies in Brief”) were released as part of NACSA’s 2015 State Policy Analysis; this document provides additional detail.

STATE CONTEXT AND CHALLENGES

Texas charter law empowers the commissioner of education and local school districts to authorize charter schools. For the 2014-2015 school year, 721 charter schools served approximately 264,000 students.ⁱ During that year, the Commissioner of Education oversaw 644 charter schools, nearly 89 percent of all charter schools in the state of Texas.

In the early years of the Texas charter law, the number of charter schools in the state increased rapidly, from zero schools in 1995 to 176 schools just a few years later in 1999.ⁱⁱ Every stakeholder interviewed by NACSA reported that it was considered very easy to obtain a charter in Texas prior to the 2013 legislative changes. As noted by one participant, lax standards for applicants led to a negative public perception of charter schools.

“Texas has some clean up to do. In the mid to late '90s, everyone got a charter. There are great charters, good charters, and bad charters. Because the only charters that make headlines are fraudulent, people's perception is that there are more fraudulent charters than there are.”

Stakeholders reported that failing charters were difficult to close. Lax standards, fed by a dearth of policy guidance related to school and authorizer quality, affected the quality of existing charter schools.

“[It was] important to get back to the original deal to contribute to public education instead of adding more entities without accountability.”

“Prior to SB 2 [2013 legislation], there were provisions for closure, but material violations of the charter had to be demonstrated...and those cases took years...If we could not shut you down, you would remain in a pending status, which limited your finances, but it did not address the issues of how you were educating students and the quality of that education.”

This is reflected in the performance data. The Center for Research on Education Outcomes' (CREDO) recent statewide charter school study of Texas reported that “on average, charter schools in Texas show less progress in both reading and mathematics compared to their district school peers.”ⁱⁱⁱ

One participant summarized the need for policy change.

“In the beginning, people thought that the market approach would work, but after 20 years of chartering in Texas, we've realized that it is a lot more difficult and challenging...”

FINDING POLICY SOLUTIONS

A comprehensive overhaul of the state’s charter school law in 2013—Senate Bill 2— was designed to improve the quality of Texas’s charter schools. Participants noted the following corrective measures:

- **Enhanced applicant approval standards: applicants must be capable of carrying out the responsibilities required by the charter, likely to operate a school of high quality, and must meet any financial, governing, educational, and operational standards adopted by the Commissioner**
- **Specification of the academic, operational, and financial performance expectations by which a school will be evaluated, including standards for renewal, non-renewal, and revocation**
- **Default closure of schools with unacceptable performance for the three preceding years^{iv}**
- **A differentiated renewal process with clear expectations for schools at each performance level**
- **Expanded charter school cap**

Lt. Governor Dan Patrick, the primary sponsor of Senate Bill 2 when he was in the State Senate, described the purpose of the legislation.



The purpose of SB 2, and my intent, was to increase the number of high-performing charters while finally giving TEA [the Texas Education Agency] the authority to close down the poorest performers...^v

HOW THESE CHANGES MAKE A DIFFERENCE

A New Authorizer with Enhanced Application Standards

Senate Bill 2 reorganized how charter school authorizing was managed for State-authorized charter schools, largely consolidating authorizing activity with the Commissioner of Education, not the State Board of Education. This placed charter school authorizing and oversight functions within a single administrative entity—the Texas Education Agency, overseen by the Commissioner—for the first time. This, coupled with the requirement that the Commissioner adopt enhanced application standards, has led to significant changes in the state’s charter application process.

“ The Commissioner being the authorizer gave latitude to make changes. When it [SB 2] passed, all realized that it was [the Commissioner’s] application, not the State Board of Education’s.”

“ We really had an organizational shift in [the] charter application in trying to highlight the standards that were outlined in the law and tying those standards back to the application.”

Some participants were very positive about the impact of the enhanced application standards and felt it focused approval on the right factors.

“ ...In order to have a good application, you must have a focus on education, finance, and governance. Biggest benefit was that [those areas] have to be looked at with equal emphasis...It clarified the areas that you have to look at with equal intensity.”

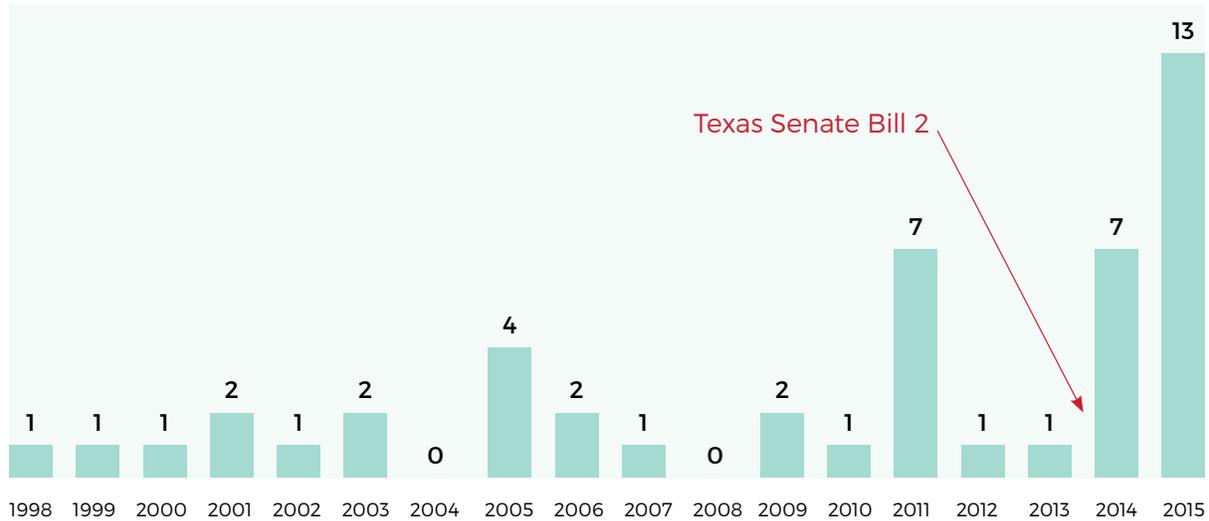
“ It isn’t just about the intentions [of the applicant] anymore. It is about the ability to carry it off.”

“ It [SB 2] was an invitation to excellence, because it made clear the expectations of accountability financially, academically, and administratively.”

Renewal and Default Closure Provisions

In the 18 years between 1995, when Texas first enacted its charter law, and the passage of SB 2 in 2013, 27 charter schools were non-renewed or had their charters revoked.^{vi} Since the passage of that legislation a mere three years ago, 20 low-performing charter schools have been closed by the Texas Education Agency using the default closure provisions.^{vii}

Texas Charter School Closures



This increase in closures is the direct result of the 2013 legislation. Senate Bill 2 specified that charter schools that earn unacceptable academic performance ratings for the three preceding years, lower than satisfactory financial performance ratings for the past three years, or any combination of these ratings for the three preceding years will be automatically closed, subject to an administrative hearing. The legislation also outlined renewal criteria for Commissioner-authorized charter schools with expedited renewal of high-performing schools, discretionary renewal for middle performers, and automatic denial of renewal for low-performing charter schools.

These provisions have given Texas authorizers the tools they need to close schools that are not serving Texas students. All of the participants interviewed attributed the recent increase in charter closures to the passage of this 2013 legislation.

“You can’t just exist forever. You really have to serve kids or you’re going to get closed down because of these guidelines. You are quality checked. You are not surprised by performance.”

“[SB 2] has made it easier to close schools.”

“Bad charters are closing at a faster rate...The State was [closing bad charters] before, but the perception has changed.”

“[Since the passage of SB 2], 10 percent of charters have closed and those schools were either not meeting the needs of kids or not properly using taxpayers’ money.”

The specificity and validity of performance ratings are critical when performance ratings can lead to school closure. Several participants appreciated that the law specified how charter schools must be rated and the consequences of those ratings.

“Accountability ratings are specified by the law. We were grateful because it gave a clear roadmap.”

“The approach is very different because the criteria are very different. The law provides specific criteria for that closure.”

THE ROAD AHEAD: CONCERNS AND OPPORTUNITIES

Under current law, the Texas charter school sector has room to grow, as this legislation included a raise in the charter school cap, and the total number of charter schools has not yet hit the prior cap. Charter school closures since the bill's passage have contributed to that situation, as each closure makes an additional spot available under the cap. With that reality in mind, some participants voiced concerns that the enhanced application standards may have created unreasonable barriers to entry for new applicants seeking to open charter schools.

“Texas has made it much more difficult to get a charter. Have we made it too difficult? Are we attracting good applicants?...We need to make sure that the application is not so rigorous that we scare away good applications. What are we doing to recruit and inspire talented educators and parents to apply for charters?”

“I'm surprised that we haven't had more applicants to apply for charters, but we don't want to approve any charter that hasn't really put a lot of good plans together. There had been predictions of a flood of applicants. I think it is because it is hard and should be hard [to get a charter].”

Charter School Closure Concerns

While all participants characterized increased charter school closures as positive, some questioned the validity of the specific school performance ratings used. They expressed concerns that the ratings may incorrectly or unfairly identify schools for closure.

“SB 2 caught a couple of decent charters that had good performance...If you are going to make things high stakes, the ratings better be right. SB 2 gave the State more muscle, but that doesn't mean that they need to use a meat cleaver.”

“The financial accountability system made no sense, because it is based on a school district perspective. If you don't have enough cash, you are penalized. It makes sense for a large school district to have a rainy day fund.”

“[The State] hasn't fully nailed growth measurements. Texas has made strides, but there is still work to do.”

“The law might have gone too far by allowing a combination of academically and financially failing ratings to lead to closure. There is some discretion that the Commissioner has been unwilling to use. This isn't fair to those being revoked.”

“Data was already a year and a half old by the time the first rating came out. In that time, you may have already made changes to the school.”

“The charter has to operate for a year if they are going to get a financial audit...150 days after the end of the year, the financial audit is completed...It isn't [finished] until their second year of operation. So there is a time lag.”

Participants also expressed concerns about how the State handles the process after a school has been identified for closure, as well as how the State handles assets following a charter school closure.

“There is due process built into the law requiring a hearing, but the charter is not allowed to be at the hearing. This isn’t fair...The TEA won’t hear an appeal unless the rating error is due to an agency error. Errors on the part of the charter are not subject to appeal. An operator shouldn’t lose its charter because their data reporting coordinator made an error. There have been a couple of instances where that has been the case. We think the Agency could make that change without statute.”

“The State has not put into place a good due process system.”

“[They are] still trying to sort our disposition of assets for closed charters, especially when the Agency [the TEA] has chosen to give its charter to another operator to insure that any local investment is protected. The State is overly aggressive claiming the assets. Assets should move to the new charter.”

“Issues with property ownership need to be worked out. The way that money is used—if you improved the building, is that building part of state property or not?”

“We would like to see the legislators give us more guidance regarding the disposition of property and the fidelity behind that. From the point of inventory, is it state property? Local?”

These concerns expressed by participants point to opportunities for Texas to:

- continue to evaluate the measures it uses to determine academic and financial performance of charter schools—and to make any adjustments to adapt the traditional public school metrics to the charter sector as needed and allowed;
- balance needed sector clean up with due process, by putting practices in place to ensure reasonable due process for schools facing closure, including review of potential errors in the ratings that trigger closure; and
- codify standard practices and procedures for asset distribution at closure.

LESSONS LEARNED

Charter school authorizers are charged with two critical duties that can have a significant impact on charter school quality: (1) approving only strong applicants likely to succeed and (2) closing charter schools that are not serving students or the public. Prior to 2013, Texas statute lacked strong, explicit standards for these essential areas of authorizing practice, including application review, charter renewals, and charter revocations. Charters were easy to obtain and failing charters were difficult to close.

In response to the requirements set forth in the 2013 legislation, the State released a new charter application with a focus on specific academic, financial, and organizational criteria for approval. The statute has also provided clarity regarding specific criteria for closure, both via revocation and charter non-renewal/expiration. Those criteria have resulted in the closure of 20 failing charter schools since 2013.

The Texas experience demonstrates how strong, explicit standards for charter schools in policy can have a direct, transformative effect on the quality of charter school authorizing and lead to a strong set of charter schools in a state. From these interviews, it is clear that the Texas charter school landscape has changed significantly in the last two years, but there is still a lot of work to do. One participant summarized the current state of charter schools in Texas.

 *Quality charter authorizing and default closure are going to positively impact the state's charter school portfolio. We are on our way to becoming the greatest charter school portfolio in the country.*

CASE STUDY INFORMATION SOURCES

- Interviews with local Texas stakeholders, including representatives from local advocacy and policy groups, local policymakers, charter school operators, and authorizers
- Document reviews of Texas statutes
- Media reviews
- Reviews of national publications including Texas
- Interviews with members of the National Association of Charter School Authorizers' Policy and Advocacy Division, who participated in the legislative process
- Charter school closure data downloaded from the Texas Education Agency website

Participant interviews were conducted over the telephone; each interview lasted approximately 30-45 minutes. A semi-structured interview protocol was used, querying factors such as what precipitated the policy, policy goals, key policy elements, and implementation successes and challenges. Participants were emailed interview questions in advance.

Data from those interviews was analyzed thematically. All data was synthesized to create a summary of the recent charter school policy changes in the state.

ⁱ2014-15 data courtesy of the National Alliance for Public Charter Schools

ⁱⁱ<http://www.publiccharters.org/dashboard/schools/state/TX/year/2014>

ⁱⁱⁱThe Center for Research on Education Outcomes (CREDO) report provides an examination of the results for charter schools in Texas from the 2007-08 \ school year to the 2012-13 school year. Texas Senate Bill 2, the focus of this policy summary, became effective in September 2013.i

^{iv}<https://legiscan.com/TX/drafts/SB2/2013>

^v<http://www.dallasnews.com/news/education/headlines/20140426-north-texas-charter-schools-more-likely-to-perform-poorly-groups-rankings-find.ece>

^{vi}The Texas Education Agency distinguishes between default closures and voluntary closures. Default Closures include revocations under Texas Education Code (TEC) §§ 12.115(a) and 12.115(c), and expirations/non-renewals under TEC §12.1141(d). Voluntary Closures include surrenders/returns, conversions, and consolidations.

^{vii}<http://tea.texas.gov/WorkArea/DownloadAsset.aspx?id=2147485098>