

# Big State Policy Question 3: FAMILIES

## Does state policy support informed choice and equity of access for families?

The previous big state policy questions looked at how state policy affects the ability of *systems* and *schools* to further Empowerment Options. The other important set of actors are students and their families. Big State Policy Question 3 addresses how well *families* are informed about and able to choose among a meaningful range of education options.

Education options are beneficial only if families can pair their knowledge of their children’s needs with a solid understanding of which school is likely to best meet those needs—and then have the ability to act on their decisions. Several elements must be present for this aspect of Empowerment Options to work. First, families need to have a variety of options from which to choose what might work best for their children. Second, the process of choosing must be manageable and informed by good information. Third, families must be able to exercise their choices regardless of the family’s personal circumstances. Thus, this review of state policies relevant to Big State Policy Question 3 was guided by the following questions, selected for their focus on advancing Empowerment Options:

- 3.1 Does the state provide for a robust choice environment?
- 3.2 Are the choices simple and navigable?<sup>1</sup>
- 3.3 Is geography a limiting factor?<sup>2</sup>

### Families: Summary of Barriers to Choosing in an Empowerment Environment

- States have an array of options for school choice, in the form of charter schools, other nontraditional public schools, inter- and intradistrict transfer policies, and publicly funded private school options—all within varying limits and constraints. States may enact these options at different times for different purposes, and the various options often don’t fit together. The result is that parents struggle to know what is available and who is eligible for it.
- States lack policy for making school choice easy for families to navigate. For example, at the state level there is almost no attention paid to streamlining enrollment or to providing families with school option information.
- While states sponsor public school transportation to a large extent, they do not do so consistently across sectors. And little attention is paid at the state level to getting quality schools to students rather than getting students to schools, apart from efforts to improve existing schools. That is, states do not work to distribute the quality of schools evenly across a locale, or to site schools in neighborhoods relatively lacking in better schooling options.

### 3.1 Does the state provide for a robust choice environment?

The 14 states included in this analysis provide a variety of school choice possibilities. Over time, they have provided for multiple kinds of public schooling options, such as magnet, alternative, site-based, contract, community, and teacher-powered schools. Each of these options has its own history and reasons for existing (e.g., magnet schools emerged from efforts to desegregate; alternative schools were proposed to serve at-risk youth). While most of these choice options have been around for decades, No Child Left Behind (NCLB)—which used choice as a lever for school improvement—accelerated choice over the most recent decade, thus creating the conditions for choice options to take root and expand like never before. As of 2016, “Fifty-five percent of the nation’s largest school districts allow parents to choose what school their child attends, compared to only one-quarter 15 years ago.”<sup>3</sup>

A brief overview of state-level choice possibilities and their limitations, in terms of charter schools, open enrollment, and publicly funded private schools, is provided below.

#### Charter Schools

Forty-three states in the country, including all 14 of the states included in this analysis, have charter school authorizing statutes.<sup>4</sup> Yet in several of the studied states, barriers to expanding the charter sector remain.

- Some states cap the number of charter schools allowed. Charter schools lack access to district or other government facilities (see discussion below), so even if there were no caps on charter schools, facilities supply would still affect growth.
- Only a few states have a formal process for fast-tracking or expanding successful choice schools, and this is more likely to occur where the state has charter-authorizing powers.<sup>5</sup>
- In other states, fast-tracking and replicating of successful charter schools is left to the local level. That is, a local authorizing entity can give a charter management organization (CMO) another set of buildings after demonstrating success with the first set.

But there are more ways to provide school choice than through charters.

#### Open Enrollment

The surveyed states also have extensive intradistrict and interdistrict transfer policies, although the strength of state policy varies. The Education Commission of the States has analyzed state transfer policies in terms of whether interdistrict and intradistrict transfers were voluntary or mandatory, and what exceptions or caveats apply.<sup>6</sup> Of the 14 states included in this review, only 4 (Minnesota, New Jersey, New York, and Pennsylvania) lack an explicit intradistrict transfer policy. All but Illinois have something on the books for interdistrict transfers, and 4 (California, Colorado, Minnesota, Wisconsin) of those explicitly mandate interdistrict transfers to some extent.

All of these states impose some limiting factor, for better or worse, on their state policies for transfers, including one or more of the following:

- Case-by-case agreement between sending and receiving districts
- Student eligibility for transfer (eligibility factors include transfer from an underperforming school, low-income or transient status, or being a sibling of a student in the district)
- Space available
- Subordination of the policy to a court desegregation order or to the goal of expanding diversity
- Access and available funding for transportation

Many of these policies likely developed in response to the public school choice option mandated under NCLB.

### Publicly Funded Private Schools

Eight of the surveyed states (Colorado, Illinois, Indiana, Louisiana, Minnesota, Ohio, Pennsylvania, and Wisconsin) provide some form of government-funded or government-authorized choice mechanism for students to attend private schools.<sup>7</sup>

There is little indication that any of these options flowed from a coherent state policy agenda. State choice policies evolved more as accidents of history than anything, and other state policies—such as class size, which limits the number of transfers; licensure for teachers and principals, which, while safeguarding the professions, also creates barriers to the supply of differently staffed schools; and financial capital policies regarding start-up of new choice schools—seem to take priority over choice.

Moreover, while it's true that state open enrollment policies have chiseled away at strict zoning-only policies, zoning is still the dominant enrollment paradigm at the local level. Despite mature state choice policy environments, all of the states in this analysis have districts that rely on attendance zones. With the exception of districts in major urban areas, most districts own the responsibility for assigning students to schools, rather than making school selection the families' primary responsibility.

## 3.2 Are the choices simple and navigable?

While 55 percent of major cities in the United States have choice policies,<sup>8</sup> only about 25 percent of students “choice” into their public schools countrywide. In 2004, Hassel and Hassel stated, “Some fraction of the other three-quarters choose where they live because of a school, which is another way of exerting school choice. About 50 percent of families are exercising school choice.”<sup>9</sup> The numbers today have likely increased substantially with the growth of vouchers and charter school options over the last decade.

While choice policy is well established in the states reviewed here, “choice efficacy” on the local level—that is, how well choice works there—is disjointed, and these states are doing little to address the challenges. Families have to wade through multiple applications and multiple time windows in which to apply, sort through auditions and tests for admissions-based public schools, and figure out busing schedules and other transportation opportunities (which are often limited). These challenges increase when families have children with special needs, such as special education or required English language learning services. To draw a metaphor, urban school systems in these states are akin to supermarkets with ample food choices, but the food varies in quality and value, and isn't neatly organized and displayed on the shelves. It's hard for families to figure out best fit and quality.

As mentioned earlier, much of state-level policy on choice came about during the NCLB era, likely because of the choice requirements under NCLB.

**Under the *No Child Left Behind Act*, children in schools in need of improvement must be given the opportunity to transfer to other public schools in their district, including public charter schools, and school districts are required to tell parents about this option, as well as pay for transportation to the other schools.<sup>10</sup>**

The nation is now entering the post-NCLB era. Unlike NCLB, the ESSA (the Every Student Succeeds Act) is far less prescriptive in what it requires of states. In fact, with the federal government *removing* prescriptions around choice, states and their local education agencies (LEAs) are susceptible to letting their school choice environments languish or continue to limp along. Beyond what is allowed by ESSA, states that wish to move away from their NCLB-compelled choice policies might consider leveraging exemptions in exchange for districts cleaning up their choice environments. For example, a district

might request a waiver from NCLB-driven statutory teacher evaluation provisions at the state level in exchange for the district building up its choice efficacy.<sup>11</sup>

ESSA is not explicitly designed to improve these choice efficacy issues, but it does afford states the opportunity to get deeper into the choice efficacy game. Section 1111 allows states to provide LEAs with comprehensive support and improvement activities through competitive grants. This process could address all of the efficacy issues presently unaddressed in state law, including synchronizing application time windows, using common enrollment forms, and sharing the same information sources.

ESSA also allows third parties to receive funding for this sort of work, if the LEA agrees. States could create a matching grant (or more) to a state school improvement provision set up under section 1003(b) of ESSA. This might be particularly helpful in states where “harbormasters” are partnering with districts and charter schools and are moving forward with this work already. Many of the states reviewed here have harbormasters already engaged in this work, notably The Mind Trust in Indianapolis, New Schools for New Orleans, and New Schools for Baton Rouge.

Lastly, while states do house data information systems about their schools, it is unclear how much those systems are driven by compliance with federal requirements versus by the goal of providing meaningful information to parents. A handful of states, including Indiana and Louisiana, issue report-card-like grades to schools, on the presumption that parents are more likely to understand a grade of F than a more general description like “on academic watch.” But in several of the states, significant local efforts are being made to build out school information. Local examples such as Enroll Indy, in Indiana, and OneApp, in New Orleans, Louisiana, suggest that state-level efforts toward providing meaningful information on local school options are lacking. This may be because states do not connect their school information to families’ actual options and the respective enrollment processes. Storing information about schools in one place that is separate from the application and enrollment process might be off-putting for families that are navigating complex local choice environments. No state is offering a one-stop shop.

### 3.3 Is geography a limiting factor?

Any family might find the neighborhood school an attractive option simply because it is close by and in the community. For families without the practical resources to send their children to schools outside of the neighborhood, that neighborhood school might be the only realistic option, despite their theoretical ability to choose more distant schools. Families with lower incomes might find their choices constrained due to lack of reliable transportation, work schedules, child-care issues, and the like. They might also be less confident in navigating school choice processes.

#### Practical Access: Getting Students to Schools

The state’s best role in getting students to schools is to provide resources and support for cities as they address these access issues: Cities are likely better situated than states to play the primary role in ensuring that all families have *practical* access to choice schools.

There are two ways to approach practical access. The first way is to get students to schools of their choosing. The states in this analysis all authorize some extent of funding for local school systems to provide transportation to public schools. This funding comes through state categorical programs and reimbursement schemes and is limited by district wealth and student proximity to schools. However, these funds often do not extend to families who choose charter schools. Half the studied states offer no direct state support for transportation to charter schools. (Most of these states require charter schools to articulate how they will provide for student transportation to school—if at all; the states do allow charter schools to contract with the local school district for transportation.)

The other half of the studied states offer some state funding for charter school student transportation. Minnesota and New Jersey have the strongest, simplest provisions. In Minnesota, the charter school

gets state aid if it chooses to provide transportation. If it chooses not to, the district in which it is located is required to provide transportation for students attending that school. New Jersey simply says that charter schools must receive transportation funding equivalent to that provided to students going to traditional public schools.

Transportation funding, however, may be in flux, because ESSA does not contain the same requirements as NCLB for mandatory transportation. (Under NCLB, some low-performing schools are required to offer transportation for students to attend designated higher-performing schools, until the lower-performing school improves academically.) ESSA might afford a better opportunity, however:

**SEAs could require LEAs to use 5 percent of their Title I allocation for public school choice transportation. (Yes, that, too, is permitted under ESSA.) They could link monetary awards to the use of direct student services and provide additional funding for choice opportunities through the competitive grant framework.<sup>12</sup>**

### **Practical Access: Getting Schools to Students**

Even with strong state funding of transportation to all schools, not all families will be in a position to access schools outside the neighborhood. The ultimate goal of Empowerment Options is for every school to represent a high-quality choice. Thus, to serve these families, the neighborhood school must be a high-quality choice.

Thus, the second approach to practical access is to get schools to students. This is achieved by improving existing schools, replacing them, or building new schools in the area.<sup>13</sup> What is found in the urban areas of the studied states is that quality schools are not evenly distributed across a city. There are pockets and clusters of quality schools, often relatively far from impoverished neighborhoods (i.e., “quality deserts”). Several cities, such as Indianapolis and Chicago, have mapped out their distribution of school quality, but among the 14 studied states, none was similarly concerned with such distribution. Moreover, this review found neither a city nor a state that coordinates school siting decisions in light of those distribution maps. That is, no state or city in this study has a coordinated plan, should the required interventions not prevail, to replace or establish new quality schools in areas where there are few or none.

In several states, the law was found to incentivize “a race to the building.” This means, if a district has an unused school building, it is incentivized to use that building fast lest a competing charter school pursue the location per its right of first refusal.<sup>14</sup> Most of the studied states have a right of first refusal for charter schools seeking buildings. Some of the states allow charter schools to occupy these spaces without paying rent or buying the space. Where cost is an issue, charter schools have shopped for real estate elsewhere in the city, sometimes resorting to building new facilities altogether. Putting a school on these new sites, however, does not necessarily attend to equitable distribution of quality schooling across a city either. Siting schools with an eye toward equity will require coordination vertically, between city and state, and horizontally, between districts and charter school operators.

Table 1 outlines different levels of support in state policy, from poor support to an ideal policy environment, for development of an environment that supports accessible and equitable school choice. Please note that support levels are not cumulative.

**TABLE 1. Levels of State Policy Support for Key Policy Areas—FAMILIES**

KEY POLICY AREA	LEVEL OF SUPPORT			
	Poor	Good	Better	Ideal
State provides for a robust choice environment.	State provides few options for school choice. (Ex. PA)	State provides several options for school choice, but they are uncoordinated and have many limitations. (Ex. CO, MN)	State provides several coordinated options for school choice, and with few limitations. (Ex. LA)	State provides several coordinated options for school choice, and with few limitations.  State prohibits student assignment exclusively by zoning.
Choice is simple and navigable.	State is silent on choice efficacy issues. (Ex. WI, OH)	No good example	No good example	State incentivizes or addresses choice efficacy, possibly via ESSA provisions and in exchange for district waivers from state law driven by NCLB mandates.
Geography is not a limiting factor.	State does not fund transportation equitably between the sectors.  State is silent on distribution of school quality. (Ex. MI)	No good example	State funds transportation significantly and equitably between the sectors. (Ex. MN, NJ)	State funds transportation significantly and equitably between the sectors.  State funds or encourages coordinated, equitable school siting.

# Endnotes

- 1 *Simple* in contrast to choices that involve too many uncoordinated items and processes. *Navigable* in terms of a straightforward selection process among options that are easy to sort through and understand.
- 2 Geography may limit choices either because the distribution of quality schools is uneven or because distance or transportation makes it hard for some students to get to quality schools.
- 3 Alison Burke and Amanda Waldron, “Can you choose where your child goes to school? How U.S. school districts stack up.” *Brookings Now* (blog), Brookings Institution, March 1, 2016.
- 4 The states that do not have charter statutes are Kentucky, Montana, Nebraska, North Dakota, South Dakota, Vermont, and West Virginia.
- 5 North Carolina, which is not one of the states studied here, has done significant work in this area.
- 6 “Open Enrollment 50-State Report.” Education Commission of the States, accessed January 13, 2017.
- 7 “School choice in America,” EdChoice, accessed January 13, 2017.
- 8 Grover J. Whitehurst, *Education Choice and Competition Index 2015: Summary and Commentary* (Washington, DC: Center on Children and Families at Brookings, 2016).
- 9 Bryan C. Hassel and Emily Ayscue Hassel, *The Picky Parent Guide: Choose Your Child’s School with Confidence* (Ross, CA: Armchair Press, 2004).
- 10 “Helping families by supporting and expanding school choice,” U.S. Department of Education, July 2008.
- 11 Author Jordan Posamentier proposed this idea in “Waive the waivers,” Thomas D. Fordham Institute, May 12, 2016.
- 12 Christy Wolfe, “School choice and Section 1003(b): It’s in there!” Thomas D. Fordham Institute, May 11, 2016.
- 13 Closely related to the distribution of quality schools is the distribution of effective teachers. We do not address that topic directly here; rather, our Big Questions on funding and schools indirectly address the topic to some extent.
- 14 See Russ Simnick, *State Policy Snapshot: School District Facilities and Public Charter Schools* (Washington, DC: National Alliance for Public Charter Schools, 2015).