



KEEPING THE PROMISE

Strengthening the *Mississippi Charter Schools Act of 2013*

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ABOUT *KEEPING THE PROMISE*

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ABOUT MISSISSIPPI FIRST

Mississippi First is a 501c3 public policy non-profit specializing in improving public education in Mississippi. Mississippi First is involved in implementing Mississippi's charter school and preK policies, informing the public about the Mississippi College- and Career-Readiness Standards, and implementing evidence-based sex education.



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INTRODUCTION

With the passage of the *Mississippi Charter Schools Act of 2013*, the state adopted its first true charter school law. The law created the Mississippi Charter School Authorizer Board with the power to approve new or conversion charter schools in Mississippi. As one of the last states to adopt a charter school law, Mississippi was positioned to benefit from lessons learned from states across the nation and to incorporate national best practices in the legislation. Implementing proven policy was one of the most important steps that Mississippi needed to take to ensure a high-quality charter sector. A large-scale study from the Center for Research on Education Outcomes (CREDO) which examined charter school performance across 15 states and the District of Columbia found that states whose charter school students performed worse than their traditional counterparts had lenient, more permissive charter school laws, while states where charter school students performed better than their traditional counterparts had more rigorous charter school laws and higher-quality authorizers.ⁱ From this research, we know that policy matters, and those states who get it right see the results.

Mississippi First (MSF) published a white paper in 2010 that outlined the policy elements necessary to establish effective charter schools in Mississippi. In 2012, the Mississippi Coalition for Public Charter Schools (MCPCS), which included MSF, published another paper outlining [best practices for charter school policy](#). Most of the MCPCS recommendations overlapped with those in the MSF paper; six were unique. The ideas in these papers, drawn from the research about effective charter school laws and regulations as well as the practices of high-quality charter schools and authorizers, include gold-standard elements for effective charter school policy.

In this brief, we compare the *Mississippi Charter Schools Act of 2013* to the recommendations made by MSF and the MCPCS. To that end, the purpose of this brief is not to explain the law but rather to assess whether the law meets the standards set by MSF and the MCPCS. We start by conducting an alignment (see Charts 1, 2, 3, 4, and 5) to compare each recommendation directly to the language in the law. Then, we use the alignment to identify weaknesses in the law and make further recommendations.



ALIGNMENT WITH MSF AND MCPCS RECOMMENDATIONS

In the 2010 MSF white paper, we recommended that Mississippi's charter school policy have 4 elements: the policy should be **(1) targeted, (2) rigorous, (3) comprehensive, and (4) robust**. The 2012 MCPCS paper made recommendations in five categories: charter school types, autonomy, accountability, funding, and authorizing. The *Mississippi Charter Schools Act of 2013* is substantially aligned with the recommendations made in the 2010 MSF white paper and the 2012 MCPCS paper. **By 2015, 75% of these recommendations were completely adopted into law (70%, or 14 of 20, were in the original 2013 law and an additional 5%, or 1 of 20, was part of a 2015 amendment)**. Another 10% (2 of 20) were partially adopted in 2013 and remain today. As a result of this alignment, we believe our charter school law is strong. A 2013 ranking of charter school laws by the National Alliance for Public Charter Schools agrees with this assessment; it moved Mississippi's law from 43 out of 43 in the nation to 14 of 43, the largest leap for any law in the years the Alliance has published a ranking.

SUMMARY TABLE

POLICY ELEMENTS	PERCENT ALIGNMENT
MSF #1—Targeted	85.7% Highly Aligned; 14.3% Somewhat Aligned
MSF #2—Rigorous	100% Highly Aligned
MSF #3—Comprehensive	100% Highly Aligned
MSF #4—Robust	66.7% Highly Aligned; 33.3% Somewhat Aligned
Unique MCPCS Components	50% Highly Aligned; 16.7% Somewhat Aligned; 33.3% Not Aligned

IS OUR LAW TARGETED?

In our 2010 white paper, MSF strongly recommended using the state law to ensure that charter schools would become an education reform tool in the state. Specifically, we called for a state law that required charter applicants to describe how they would raise student achievement and close achievement gaps. In addition, we recommended that the law give a strong preference to proposed charter schools in failing districts or districts with failing schools. We called for non-discriminatory enrollment practices to ensure that all students could have access to a charter school in their communities, and we recommended that state law prohibit private schools from converting to charter schools to ensure that a system of racially segregated public schools could not emerge. **Chart 1 shows that our law is targeted.** The law is highly aligned with 6 of 7 (85.7%) of our recommendations in the targeted category, with the seventh (14.3%) recommendation being somewhat aligned. The lack of full alignment stems from the fact that there is no preference given to charter schools seeking to serve children in failing schools in A, B, or C districts.

CHART 1- TARGETED

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Require applicants to describe how their schools will raise student achievement and close achievement gaps.	--	§ 37-28-3(1)(a-b)	The law specifies that the purposes of charter schools include improving student learning by creating high-quality schools and closing achievement gaps between high-performing and low-performing groups of public school students.
			§ 37-28-15(4)(i-k)	All applicants are required to thoroughly describe their proposed school's academic program, instructional design, and plan for using internal and external assessments to measure and report student progress.
			§ 37-28-15(4)(l)	All applicants are required to thoroughly describe their plan for identifying and serving students with disabilities.
			§ 37-28-29(1)(a-c)	The performance provisions in a charter contract must be based on a framework that includes academic and operational indicators, measures, and metrics to guide the authorizer's evaluations of the charter school. The law requires that this framework includes indicators, measures, and metrics to determine student academic proficiency, student academic growth, and achievement gaps in both proficiency and growth between major student subgroups.
			§ 37-28-29(1)(g)	The performance framework used to evaluate charter schools must include indicators, measures, and metrics to measure postsecondary readiness, including the percentage of graduates submitting applications to postsecondary institutions, high school completion, postsecondary admission, and postsecondary enrollment or employment.
			§ 37-28-29(4)	The performance framework used to evaluate charter schools must require charter operators to disaggregate all student performance data by major student subgroups (gender, race, poverty status, special education status, English learner status, and gifted status).

IS OUR LAW TARGETED?

CHART 1- TARGETED (CONT.)

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Somewhat Aligned	Preference given to proposed charters in failing districts or districts with failing schools.	1.b.	§ 37-28-3(1)(c); § 37-28-7(2)(a)	The law prioritizes the needs of students at risk of failure by specifying that one of the purposes of the law is to “increase high-quality educational opportunities within the public education system for all students, especially those with a likelihood of academic failure.” The law also states that the mission of the Mississippi Charter School Authorizer Board is to “authorize high-quality charter schools, particularly schools designed to expand opportunities for underserved students...”
			§ 37-28-7(2)(c)	The law allows charters in every district in the state. However, school boards of “A,” “B,” or “C” districts must approve any charter application in their district prior to the application being submitted to the state authorizer. Applications in “D” and “F” districts will always go directly to the authorizer without prior approval of any school board. There is no preference given charter schools seeking to serve children in failing schools in A, B, or C districts.
			§ 37-28-15(4)(f)	As a part of the application process, all charter school applicants are required to provide evidence of need for the proposed charter school.
Highly Aligned	Preference given to school providing enhanced educational opportunity to at-risk or underserved populations.	1.b.	§ 37-28-5(o); § 37-28-23(5)	The law defines “underserved” students as students participating in the federal free lunch program who qualify for at-risk student funding under MAEP and students identified as having special educational needs. The law requires the student composition of charter schools to be reflective of the underserved population in the district: a charter’s underserved population must be no less than 80% of the percent of the underserved population in the district.
Highly Aligned	Admission may not be based on academic or athletic ability.	--	§ 37-28-23(1); § 37-28-23(3)	The law requires charter schools to be open to any student residing in the school district where it is located. It is specifically stated in the law that a charter school may not limit admission based on academic or athletic ability.
Highly Aligned	Lottery required to address over-enrollment.	--	§ 37-28-23(7)	The law requires that charter schools enroll all students who wish to attend; however, if the number of interested students exceeds the charter school’s capacity, the school must administer a lottery to select students.
Highly Aligned	Prohibits private schools from obtaining conversion charter school status.	1.c.	§ 37-28-3(3)	The law prohibits private schools from converting into charter schools.

IS OUR LAW TARGETED?

CHART 1- TARGETED (CONT.)

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Require charter schools to adhere to same civil rights laws as traditional public schools.	2.	§ 37-28-45(1)	The law specifies that charter schools are subject to the same civil rights, health, and safety requirements applicable to non-charter public schools in the state.
			§ 37-28-43(1-3); § 37-28-23(3); § 37-28-23(8)(d)	The law prohibits a charter school from limiting admission to a student based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability or discriminating against a student based on national origin, minority status, or limited proficiency in English. Further, charter schools may not engage in any sectarian practices or discriminate against any person on the basis of race, creed, color, sex, disability, national origin or any other category that would be unlawful if done by a non-charter public school. However, following federal law, the law allows for the formation of single-sex charter schools if the charter school is approved as a single-sex school at the time of application.

IS OUR LAW RIGOROUS?

To ensure that only high-quality charter schools are allowed to open in Mississippi, we recommended that state law prescribe a thorough application process, specific qualifications for authorizers, and a strong, transparent performance framework based on the best practices of existing high-performing charter sectors. **Chart 2 shows that our law is rigorous.** The law is highly aligned with each of our 3 recommendations in the rigorous category.

CHART 2- RIGOROUS

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Establish detailed application requirements to guide the authorization process.	3.	§ 37-28-15(1-3)	The law requires the authorizer to publicize a request for proposals (RFP) before the September 1 each year as well as a timeline, criteria, and guidelines for charter approval or denial decisions.
			§ 37-28-15(4)	The law requires applicants to provide the following: an executive summary; the school's mission, vision, and location; the grade levels and the minimum and maximum enrollment; background information on each of the applicants and proposed founding governing board members and school leaders; the proposed calendar; a description of the academic program and instructional design; the assessment plan; the plan for identifying and serving students with disabilities; a description of co-curricular or extracurricular programs; student recruitment plans; enrollment and lottery policies; student discipline policies; the school's organizational structure along with roles for each board and staff member; the staff recruitment and development plan; the leadership and teacher employment policies including performance evaluation plans; the proposed governing bylaws; an explanation of partnerships or contractual relationships; transportation plans; plans for parent involvement; financial plans and policies; start-up budgets and cash flow projections; a disclosure of all sources of private funding; and a sound facilities plan.
			§ 37-28-15(5)	The RFP additionally requires conversion charter schools to provide a petition signed by a majority of teachers or parents of students in the existing school or evidence of a majority vote of the local school board. If the school district is under conservatorship, then the applicant must provide evidence of a majority vote from the State Board of Education.
			§ 37-28-15(6)	Charter school applicants planning to use an education service provider must demonstrate that the provider has successfully served student populations similar to the target student population. In addition, they must provide the proposed contractual terms between the service provider and the charter school, and they must disclose background information on the primary leaders of the service provider and any existing conflicts of interest.
			§ 37-28-15(7)	Charter school applicants operating schools in other states or nations must provide clear evidence indicating their ability to improve student achievement, and they must demonstrate that they have the capacity to increase the number of schools they operate.
			§ 37-28-17(1)(a-c)	The law specifies that the purposes of a charter application are to clearly present the proposed school's academic and operational plans and to demonstrate whether the applicant can successfully execute its plans.
			§ 37-28-19(1)	The law requires that the authorizer board uses nationally recognized principles and standards for quality charter authorizing in reviewing and evaluating charter applications.
			§ 37-28-19(2)	The authorizer must make charter approval decisions based on evidence documented throughout the application process. The application process must be transparent, and it must avoid conflicts of interest.

IS OUR LAW RIGOROUS?

CHART 2- RIGOROUS (CONT.)

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Designate eligible authorizers based on operational capacity, expertise, and commitment.	5.	§ 37-28-7(1)	The law creates a special-purpose, independent charter school authorizing board and establishes that the board is the only eligible entity to perform authorizing functions.
			§ 37-28-7(3)	The Authorizer Board is composed of 7 members: 3 appointed each by the Governor and Lieutenant Governor from each Supreme Court district and 1 appointed by the State Superintendent of Education. The law requires that the appointing persons ensure diversity among members of the Authorizer Board.
			§ 37-28-7(4)	Members of the Authorizer Board must support charter schools as a strategy for strengthening public education and collectively have experience and expertise in the following areas: public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, and public education law.
			§ 37-28-9(1-2)	The Authorizer Board has exclusive authority over reviewing, approving, and monitoring as well as renewing, non-renewing, or revoking charter schools. The Authorizer Board must also ensure that its policies and practices meet nationally recognized standards for quality charter school authorizing.
Highly Aligned	Requires authorizers to use a rigorous performance framework in evaluating charter schools.	3.	§ 37-28-29(1)	The law calls for the Board to use a performance framework for the oversight and monitoring of approved charter schools and for renewal or revocation decisions. The performance framework must include indicators and goals for the school's student academic proficiency and growth, achievement gaps, attendance, recurrent enrollment, suspension and expulsion rates, graduation, college enrollment, and postsecondary employment rates, and financial and board performance.
			§ 37-28-29(2-6)	The Authorizer Board will set annual performance targets for each charter school to ensure that the schools will meet expectations for student achievement. The Authorizer Board must include state assessment data in their evaluation of a charter school, though they may use other test data as well. The law requires reported student performance data to be disaggregated by major student groups.
			§ 37-28-31(1-4)	The law requires the authorizer to monitor the performance and legal compliance of each charter school on an annual basis and give an annual report to the Legislature. If the school's performance is unsatisfactory, the authorizer must execute a corrective action plan.

IS OUR LAW *COMPREHENSIVE*?

In 2010, Mississippi passed the *Conversion Charter & New Start Schools Act*, which only allowed charter schools to form through the conversion of failing public schools. Under this law, no charter schools were formed. Nationally, 90% of charter schools are start-up or newly created schools, and start-up schools have the strongest track record of success. To ensure that charter schools can be a strong education reform tool in Mississippi, we recommended that our state law allow for start-up schools in addition to conversion schools, which are created when charter schools take over an existing traditional public school. **Chart 3 shows that our law is comprehensive.** The law is highly aligned with our recommendation in the comprehensive category.

CHART 3- COMPREHENSIVE

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Provides the option of chartering both starts-ups and public conversions.	1.a.	§ 37-28-5(e-f); § 37-28-15(5)	The law defines a conversion charter school as a charter school that existed as a non-charter public school before becoming a charter school. In addition to meeting the application requirements, conversion charter schools must demonstrate support for the proposed school conversion by presenting a petition signed by a majority of teachers or parents of students in the existing school or by a majority vote of the local school board. The law defines a start-up charter school as a charter school that did not previously exist as a non-charter public school. Start-up schools in D- and F-rated school districts do not need school board approval to apply to the Authorizer Board.

IS OUR LAW ROBUST?

In our 2010 white paper, we recommended that state law establish real autonomy for charter schools by freeing them from state education regulations with the exception of civil rights, non-discrimination, health, and safety laws as well as laws pertaining to state testing and the state accountability system. In addition, we called for a law that exempted a portion of the charter school's teachers from being required to hold a certification. Lastly, we recommended that state law require charter schools and traditional schools to be funded equally. **Chart 4 shows that our law is robust.** The law is highly aligned with 2 of 3 of our recommendations in the robust category and somewhat aligned with the remaining recommendation.

CHART 4- ROBUST

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	Allow charters freedom from state education regulations (except civil rights, non-discrimination, health, safety and state accountability).	2.	§ 37-28-45(1-6)	The law specifies that charter schools are subject to the same requirements for civil rights, health and safety, open meetings and public records, and assessment and accountability applicable to non-charter public schools; however, they are not required to adhere to the other rules, regulations, policies, and procedures set by the local school board or the State Department of Education.
Somewhat Aligned	Exempts a portion of a school's faculty from certification/licensure requirements.	2.	§ 37-28-47(1)(a)	The law allows up to 25% of teachers in a charter school to be exempt from state licensure requirements as long as they have a bachelor's degree and are highly qualified under federal guidelines. However, all teachers must be licensed within three years after the charter school is approved. Charter school administrators do not need a certification as long as they have a bachelor's degree.
Highly Aligned	Equal per-pupil funding for charter schools.	4.	§ 37-28-55(1)(a)	As is the case with traditional public schools, the law requires the Mississippi Department of Education (MDE) to allocate money to charter schools according to their average daily attendance. State per-pupil payments to charter schools should be equal to those of the traditional public schools in the district where the charter school is located.
			§ 37-28-55(2)	The intent of the 2013 law was for charter schools to have access to a pro rata share of every local tax dollar raised for public education in the district in which the charter is located with the exception of any taxes levied for the support of the district's bonded indebtedness, short-term notes, or vocational-technical programs. The original law contained some contradictory language leaving the issue of whether charter schools would receive all the local dollars in doubt. A 2015 clarification to the law now ensures that all local taxes raised for public education will be available to charter schools on a pro rata basis with the exception of any taxes levied for the support of the district's bonded indebtedness, short-term notes, or vocational-technical programs.
			§ 37-28-55(3)(a)	The law requires the MDE to direct a proportionate share of funds generated under federal and state categorical aid programs to charter schools if they serve students eligible for such aid.

UNIQUE MCPCS RECOMMENDATIONS

We also analyzed the alignment between the law and the recommendations made in 2012 by MCPCS, of which MSF was a member. Other members of the coalition included the Black Alliance for Educational Options (BAEO), the Mississippi Center for Public Policy (MCP), and the National Alliance of Public Charter Schools (NAPCS). Of the recommendations that MCPCS made, 6 were unique from the 2010 MSF white paper. The law is highly aligned with 3 of 6 of these recommendations, not aligned with 2, and somewhat aligned with 1.

CHART 5- MCPCS ALIGNMENT

ALIGNMENT	MISSISSIPPI FIRST 2010 WHITE PAPER CRITERION	CHARTER COALITION 2012 KEY COMPONENTS	EVIDENCE FROM THE MISSISSIPPI CHARTER SCHOOLS ACT OF 2013 (MISS. CODE ANN.)	EXPLANATION
Highly Aligned	N/A	1.a. Caps brick-and-mortar charter schools at 15 per year.	§ 37-28-7(2)(b)	The law caps the number of charter schools that the Authorizer Board can approve at 15 each year.
Not Aligned	N/A	1.a. Caps virtual schools at 3 total.	--	There is no mention of virtual schools in the law.
Not Aligned	N/A	2. Employees of charters held by state entities or instrumentalities may participate in the state retirement system.	§ 37-28-47(2)(c)	The law states that charter school employees are not eligible to participate in the state retirement system.
Highly Aligned	N/A	3. Charters are granted for five-year terms.	§ 37-28-21(1); § 37-28-33(1)	The law establishes that the initial term of a charter and any renewal terms are five years.
Highly Aligned	N/A	3. Charter schools must be non-profits.	§ 37-28-39(2)	The law requires that all charter schools and any education service provider which provides comprehensive management for a charter school must be non-profit educational organizations.
Somewhat Aligned	N/A	4. Provide charter schools equal access to state facilities programs as well as access to closed or unused traditional public school space.	§ 37-28-61(1)	A charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or an unused portion of a public school facility or property.
			§ 37-47-9	Under the law, charter schools may not receive annual grant funds from the state for the construction or maintenance of facilities.



AREAS OF WEAKNESS: MISALIGNMENT

PARTICIPATION IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Mississippi is the only state with charter school legislation that does not allow for any charter school employees to participate in the state retirement system. No access to Mississippi PERS may greatly limit a charter school's ability to attract experienced teachers. For all public school teachers hired on or after July 1, 2007, PERS requires teachers to work for eight years in order to become vested, which enables teachers to achieve full retirement benefits and access to employer contributions upon retiring. Unvested public school teachers who make a choice to work in public charter schools will not continue to accrue the required years to reach full retirement benefits. High-quality charter management organizations (CMOs) have cited this weakness in the law as one of the reasons why they will not expand their schools into Mississippi.

TEACHER CERTIFICATION

One of the biggest controversies about the bill involved the qualifications of charter school teachers. Original versions of the bill sought to allow charter teachers to be highly qualified under federal law but not state certified. After a lot of consternation and quite a bit of misinformation, this provision was changed to a 75% requirement, which would allow 25% of a charter school's teachers three years to acquire a state certification. A drafting error in the law allows for 25% of teachers to be without certification at the time of the charter application's approval, but all teachers in a charter school must be certified three years from the approval date. After year three, charter schools are allowed no flexibility to hire highly talented teachers who lack a state license due to this error. This greatly compromises the autonomy that charter schools need to educate Mississippi's lowest-performing students. Research has not confirmed that strict teacher certification requirements will lead to a higher-quality teaching workforce. Instead, barriers to entry to the teaching profession, such as strict certification laws, may discourage high-quality professionals from lending their talents to schools. Tasked with the challenge to offer a high-quality education to some of our state's most underperforming students, charter schools must be able to recruit the most effective educators, whether they have a certification or not.

PREFERENCE TO CHARTERS IN DISTRICTS WITH FAILING SCHOOLS

Our law allows for charter schools to open in any district in the state. However, in an A-, B-, or C-rated district, charter applicants must get the approval of the district's school board before the charter authorizer board will review their application. In this way, the law gives preference to charter schools in districts with D or F ratings, which designate low performance under the current state accountability system. However, there are 56 schools with D or F ratings in A-, B-, and C-rated districts. Currently, the law does not give preference to charter applicants seeking to serve the children in these low-performing schools because the law still requires the local school board's blessing prior to the submission of a charter school application. This greatly decreases the chance that the families in these schools will have access to a high-quality charter school.

ACCESS TO STATE FACILITIES PROGRAMS

The law gives charter schools the right of first refusal to purchase or lease closed public school facilities or properties located in the district where a charter school is approved to open. School districts are required to offer the facilities or properties for purchase or lease at or below fair market value. However, under § 37-47-9 of the law, state grant funds for establishing and maintaining physical facilities for public schools are only available to traditional school districts. Not only is this inequitable, it also presents a great challenge for charter applicants seeking to open schools in Mississippi. Under the Mississippi Adequate Education Program (MAEP), which provides funding to all public schools on a per-pupil basis, there is no funding for the start-up facilities costs that many charter schools will incur. Without access to state facilities programs, charter schools must either raise funds or enter into financing agreements for start-up building costs. Such challenges might discourage quality school leaders from opening schools in Mississippi, especially in regions of the state where fundraising is especially challenging.



ADDITIONAL WEAKNESSES IN THE LAW

As with any long and complicated piece of legislation, there are multiple opportunities for vague language, drafting errors, or other last-minute changes or controversies to result in weak policy. The charter bill was no different. In this section, we describe the weaknesses that crept into the bill prior to passage that we did not previously address in a position paper. (Additional weaknesses including the qualifications of the Executive Director of the Authorizer Board were addressed by the 2014 Legislature and are not discussed here.)

CROSSING DISTRICT LINES

The House version of the bill, which eventually became the law, included a sentence to clarify that students residing anywhere in a school district could attend a charter school. This sentence was believed to thwart attempts by anti-charter advocates who wanted potential charter school students to be limited to the school zone in which the charter was located. However, because this sentence replaced language stating a child living anywhere in the state could attend a charter school, the provision has been interpreted as preventing children from being able to cross district lines to attend charter schools.

The inability to cross district lines presents a great challenge to creating school choice in small, rural school districts. Additionally, high-quality CMOs have cited it as another reason why they are unwilling to expand to Mississippi at this time.¹¹ Though charter schools vary greatly in school design and structure, each school has a projected enrollment figure that will allow the school to operate on public dollars alone. In larger school districts, there are enough students in each grade to fill a charter school to its projected enrollment without depleting a traditional school district of a sustainable level of resources. In small districts, this is not the case. If families could cross district lines to attend a charter school, the charter school could draw students from many districts to meet enrollment goals without impacting the sustainability of each school district's budget.

TRANSPORTATION

Under current Mississippi law, traditional public schools must provide transportation to children in their school zone living more than 1 mile from their school. The state provides transportation funds on a formula basis to school districts to offset this cost, although many school districts supplement these funds. The state also regulates transportation to ensure student safety. The Senate version of the 2013 law required charter schools to provide transportation on the same basis as traditional districts. The House version, which became the law, provides equal transportation funding to charter schools but only requires them to submit a transportation plan in their applications. According to the 2014 charter school application, transportation plans must include details pertaining to how safe and reliable transportation will be provided to all students but the Authorizer Board does not have a policy mandating charter schools provide transportation to any group of students.¹ Requiring in the law for charter schools to provide transportation on the same basis as traditional districts clarifies the expectations of the schools and increases the opportunity for all families in need to exercise school choice, which is the intent of the law.

GRADUATION REQUIREMENTS

Charter schools are exempt from the requirements in the state performance-based accreditation system. When a charter school is approved by the Authorizer Board, the State Board of Education automatically grants the school accreditation, which is typical charter school policy. However, in a strange quirk of Mississippi law and policy, the State Board of Education's authority to set graduation requirements is part of its authority to

¹ There is one exception to this statement. The federal *Individuals with Disabilities Education Act* requires that public schools provide transportation to students for whom transportation is needed as part of an Individualized Education Plan. Charter schools are bound by this law like any other public school.



ADDITIONAL WEAKNESSES IN THE LAW

accredit schools, meaning that no separate law grants the State Board power over graduation requirements. By exempting charter schools from the accreditation system, the law does not specifically address what the graduation requirements of charter schools should be. This is an obvious oversight by the Legislature. Since the Authorizer Board has not yet approved a charter high school, the issue has not become a crisis. The topic of graduation is important enough, though, that the issue cannot be left to the interpretation of any given charter school operator. Charter schools should have to meet or exceed the requirements for graduation set by the State Board, and that requirement should have the force of law.

CONVERSION FACILITIES

A conversion charter school is a charter school that previously existed as a non-charter public school. In addition to meeting all application requirements, conversion charter school applicants must demonstrate support for the school by supplying the Authorizer Board with a petition signed by a majority of teachers in the school, a petition signed by a majority of parents of students in the school, or a majority vote of the local school board. In 2014, a lack of clarity within the law about the ownership and usage rights of a conversion charter school's facility prompted the Mississippi Charter School Authorizer Board to request an Attorney General's opinion. The Attorney General's opinion states that the school board acting on behalf of the district would maintain control over the property and facilities of a school that has successfully converted to a charter school. The opinion references charter schools' right of first refusal to purchase or lease a closed or vacant property owned by the district at or below fair market value if the district decides to sell or lease the property. School districts seeking to hamper the efforts of a conversion charter school may try to withhold the facility by refusing to sell or lease it. Without a right to continue to use their facility, school communities may see little benefit from converting a school. This would drastically reduce the number of turnaround schools that may result from the charter law.

PREFERENCE TO CHARTERS IN C DISTRICTS

Original versions of the bill allowed only A- and B-rated districts to have veto power over a charter application filed within their districts. The House version, which became law, allows for A-, B- and C-rated districts to have such authority. According to the 2014 Mississippi Public School Accountability Standards, school and district ratings of A through F are assigned according to the accumulation of points granted in nine accountability component areas that include proficiency and growth rates on the statewide assessments in math, English, science, and history as well as high school graduation rates. School districts can collect a maximum of 900 points.² Currently, districts only have to gain 57% of the points available (a minimum of 540) to earn a C rating. This leaves ample room for poor performance in each of the nine accountability component areas. For many families, a C rating does not indicate sufficient quality. Charter applicants should not be required to obtain school board approval in C districts.

² School districts with a 12th grade can earn a maximum of 900 points. School districts without a 12th grade can only earn 700 points. The cut scores are adjusted for such districts. The Clay County School District is the only school district in Mississippi without a 12th grade.



RECOMMENDATIONS

All of the areas of weakness in the law will need to be remedied through the legislative process. MSF has ranked the necessary amendments in order of priority from high to low.

HIGH PRIORITY

1. **CROSSING DISTRICT LINES**—*Clarify the language in the law to ensure that students may cross district lines to attend a charter school.*

Of all the weaknesses in the law, the most severe is the failure of the law to clearly provide for students to cross district lines. This language alone not only prevents high-quality CMOs from opening schools in Mississippi but also prevents many communities from opening a school. The Legislature should amend the charter law to allow students from anywhere in the state to attend a charter, as the Senate version of the bill originally stated.

2. **GRADUATION REQUIREMENTS**—*Require charter schools to adopt graduation requirements that meet or exceed the standards set by the State Board of Education.*

While no high school charters have been approved, the current lack of clarity in the law could have serious ramifications for charter school students. The Legislature should add to the charter law a requirement that charter schools adopt graduation requirements that meet or exceed the standards set by the State Board for a regular high school diploma.

3. **PERS**—*Allow all public school teachers – whether in a charter school or traditional school – to have access to PERS by removing the restriction in the law.*

All public school teachers should have access to the state's retirement system for public employees. Charter school teachers are public school teachers. The Legislature should amend the law to enable charter schools to choose whether to join PERS, as is the practice in most other states.

4. **CONVERSION SCHOOL BUILDINGS**—*Allow conversion charter schools the right to use their facilities by leasing or purchasing them at or below fair market value.*

If conversion charter schools have no right to continue to use their facilities, the concept of a conversion charter school becomes elusive. The Legislature should amend the law to state that conversion charter schools have a right to lease or buy their facilities at or below fair market value upon being granted approval by the Authorizer Board.

MEDIUM PRIORITY

1. **TEACHER CERTIFICATION**—*Exempt 25% of charter school teachers from state certification if they are highly qualified under federal rules.*

One of the most important areas of innovation for charter schools is in staffing practices. Granting charter schools more flexibility in whom they hire can illuminate new methods of training and supporting teachers that all public schools could follow, as we described in a 2013 paper on teacher quality. The Legislature should amend the current language to exempt at any time 25% of charter school teachers from state certification if those teachers are highly qualified under federal rules.

2. **TRANSPORTATION**—*Require charter schools to provide transportation to students on the same basis as traditional school districts.*

Charter schools are public schools. Decades ago, states across the country, including Mississippi, determined that providing transportation to and from school was an essential duty of public schools in order to enable the attendance of all children. Charter schools, which receive transportation funding, should also carry the same responsibility to provide transportation to children living farther than one mile from the school but within the geographic boundaries of the school zone. (Although charter schools do not have “school zones” because they can enroll district-wide, we recommend that charter schools provide transportation within the zone of the nearest traditional school that serves similar



RECOMMENDATIONS

grade levels. In other words, a charter elementary school that is in the zone of a traditional elementary school would provide transportation at least within boundaries of the traditional elementary school's zone.) The Legislature should change the law to include the language that was in the original Senate version of the bill on this topic with a clarification defining a charter school's transportation zone.

LOW PRIORITY

1. **REMOVING THE C DISTRICT VETO AND ALLOWING CHARTERS IN THE ZONES OF LOW-PERFORMING SCHOOLS IN A AND B DISTRICTS**—*Allow charters to open in C districts and the zones of D or F schools in A and B districts without the approval of the local school board.*

Currently, the school board veto of A, B, and C districts protects low-performing schools from charter conversion and prevents competition from a start-up charter school. Children in low-performing schools in these districts deserve a high-quality public school option just like children in D and F school districts. Along with crossing district lines, this is one of the most controversial of charter school topics. The heavy opposition to this idea and the prevalence of D and F districts with no charter schools makes this a low priority.

2. **STATE FACILITIES PROGRAMS**—*Allow charter schools to have access to state grant funds for establishing and maintaining physical facilities.*

Charter schools are public schools, and as such, should have access to state facilities programs for public schools. As a practical matter, though, the fact that charters do not have access to the State Facilities Fund is a moot point. For the last decade, the Legislature has moved any money that would have gone to the Facilities Fund into the state's funding formula for schools, meaning that the state has not appropriated any money specifically for public school facilities costs. Instead, local districts finance these costs with local dollars or local bonds. Charters, which cannot raise bond money, will have to rely on federal grants and loan programs to support facilities costs. This situation is not optimal, but changing this provision may engender a considerable amount of opposition with no pay-off, literally.



CONCLUSION

The *Mississippi Charter Schools Act of 2013* represents sound policy regulating charter schools, and the state is beginning to reap the benefits of the law's quality. Due to the thorough application process prescribed in the law, only 2 of 19 applicants have been approved to date. These applicants presented high-quality school proposals aimed at improving the educational outcomes of students in need. Beginning with the 2015-2016 school year, the two approved schools will serve middle school students who live within the Jackson Public School District. Mississippi First commends the Mississippi Legislature for passing this landmark legislation, and we challenge them to make it even more effective by enacting our recommendations.

ⁱ Multiple Choice: Charter School Performance in 16 States. June 2009. Center for Research on Educational Outcomes, Stanford University.

http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf

ⁱⁱ Personal communication [Letter]. January 2014. S. Shirey, Executive Director of KIPP Delta Public Schools.