



### District Facilities and Public Charter Schools

27 states have enacted policies that try to provide charter schools with better access to district facilities. Some of these policies are stronger than others. The ones that are the strongest (at least on paper) are California, D.C., Indiana, Maine, Mississippi, New Mexico, Ohio, South Carolina, and Washington.

<b>Alaska</b>	Alaska law provides that a charter school may be operated in an existing school district facility or in a facility within the school district that is not currently being used as a public school, if the chief school administrator determines the facility meets requirements for health and safety applicable to public buildings or other public schools in the district.
<b>Arizona</b>	Arizona law requires the state department of education, in conjunction with the state department of administration, to compile and publish an annual list of vacant and unused buildings (or portions of buildings) owned by the state or school districts that may be suitable for the operation of a charter school. However, nothing requires the owner to offer the right of first refusal to charter schools (nor sale or lease to such schools).
<b>Arkansas</b>	Arkansas law gives open enrollment charter schools the right of first refusal to purchase or lease at fair market value a closed public school (or unused portions) located in a district from which it draws its students. It also provides that a district may not require lease payments that exceed the fair market value of a property, and that a district is not required to lease to an open enrollment charter school if an offer higher than fair market value is offered by an entity other than the charter school through a competitive bid process.

<b>California</b>	California law requires districts to provide charter schools with facilities that are sufficient to accommodate charter school needs and reasonably equivalent to other district facilities, through an annual application process. It allows a district to charge a charter school only a proportionate share of its facilities costs that are paid from the general fund.
<b>Colorado</b>	Colorado law specifies that a charter school may not be charged rent for using space in a school district facility, although other costs for facilities operations and maintenance must be negotiated between the charter school and the school district. The law explicitly allows charter schools to lease or purchase land from the state.
<b>Connecticut</b>	Connecticut law creates incentives for school districts to enter into voluntary agreements with high performing charter schools to provide material support to such schools, such as the use of a district facility. By doing so, districts are given permission to count the performance of the charter school students as part of the district for the purposes of NCLB compliance.
<b>Delaware</b>	Delaware law requires the state department of education and state department of administrative services to publish a list of all vacant and unused buildings and portions of buildings owned by the state or school districts that may be suitable for charter schools. Delaware law provides that school districts must make unused buildings or space in buildings available for charter schools and must bargain in good faith over the cost of rent, services and maintenance related to such space.
<b>D.C.</b>	D.C. law requires the mayor and the DC government to give charter schools a right of first offer for the purchase, lease, transfer, or use of surplus public facilities or properties, but this statutory preference is openly flouted in practice.
<b>Georgia</b>	Georgia law requires each local board of education to make available any vacant or otherwise unused facility to locally-authorized charters at no lease cost, with any additional terms of use to be negotiated by the parties.
<b>Hawaii</b>	Hawaii law also requires the state department of education to make vacant public school facilities available to charter schools.

<b>Idaho</b>	Idaho law gives school districts the authority to authorize the transfer or conveyance of any surplus district-owned property to various public entities including charter schools.
<b>Indiana</b>	Indiana law requires school districts to provide a list of buildings that are closed, unused, or unoccupied for a period of two years to the state department of education and make them available for lease or purchase to any charter school. If a charter school wishes to use a school building on the list, the school district must lease the building for \$1 a year for a term at the charter school's discretion or sell the building for \$1. The charter school is required to use the building for classroom instruction no later than two years after acquiring the building. If during the term of the lease, the charter school closes or ceases using the school building for instruction, the building will be placed again on the state department of education's list.
<b>Louisiana</b>	Louisiana law requires local school boards to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at fair market value.
<b>Maine</b>	Maine law provides that charter schools have right of first refusal to purchase or lease at or below fair market value a closed noncharter public school facility or property or unused portions of a noncharter public school facility or property located in a school administrative unit from which it draws its students if the school administrative unit decides to sell or lease the noncharter public school facility or property. The school administrative unit may not require purchase or lease payments that exceed the fair market value of the property.
<b>Maryland</b>	If, with the approval of the state superintendent of education, a county school board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided required notice, Maryland law requires county school boards to notify public charter schools about school sites and buildings available for occupation and use on terms determined by the county school board. However, the law does not give charter schools the right of first refusal to purchase or lease these sites or buildings at or below fair market value.

<b>Mississippi</b>	Mississippi law provides that charter schools have right of first refusal to purchase or lease at or below fair market value a closed school facility or property or unused portions of a public school facility or property in the school district in which the charter school is located if the school district decides to sell or lease the public school facility or property.
<b>New Hampshire</b>	New Hampshire law allows charter schools to lease, through the school district, buildings that receive state school building aid.
<b>New Mexico</b>	The law requires the school district in which a charter school is geographically located to provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes. It allows an agreement for the use of school district facilities by a charter school to provide for reasonable lease payments.
<b>New York</b>	<p>The law that a charter school may contract with a school district or the governing body of a public college or university for the use of a school building and grounds, the operation and maintenance thereof. Any such contract shall provide such services or facilities at cost.</p> <p>Statute provides that the New York City Schools Chancellor must identify and publish which public school buildings are subject to location or co-location of charter schools. The law requires the Chancellor to develop a building usage plan that defines the allocation of classroom and administrative space between the charter and non-charter schools and the collaborative usage of shared resources and spaces (e.g., cafeterias, libraries, gyms). The law requires such allocations to result in an equitable and comparable use of public school buildings between charter and non-charter schools (including equity in any funding received for facility upgrades).</p>
<b>North Carolina</b>	At the request of a charter school, the local school board of the school district in which the charter school is located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Also, a local school board may provide a school facility to a charter school free of charge, but the charter school is responsible for the maintenance of and insurance for the school facility.

<b>Ohio</b>	Ohio law requires local school boards to offer to sell or lease school buildings that have not been used for two years to charter schools. If there is only one offer from a charter school, the district must sell the property at its appraised fair market value. If there is more than one offer from various charter schools, the district must conduct a public auction and accept a bid that is not any lower than the property's appraised fair market value (a similar process is required for leases, but at a price no higher than the fair market value of equivalent leases). The district is allowed to dispose of the property if no charter school offers to buy or lease the building within 60 days after the district makes the offer.
<b>South Carolina</b>	South Carolina law requires the state department of education to make available, upon request, a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by school districts and that may be suitable for the operation of a charter school. It provides that if a school district declares a building surplus and chooses to sell or lease the building, a charter school's board of directors or a charter committee operating or applying within the school district must be given the first refusal to purchase or lease the building under the same or better terms and conditions as it would be offered to the public.
<b>Tennessee</b>	The law requires a local educational agency (LEA) having underutilized and vacant properties to make the properties available for use by charter schools operating in the LEA. By October 1 of each year, the law requires any LEA in which one or more charter schools operates to annually catalog all vacant properties owned or operated by the LEA and all vacant space within any educational facility owned or operated by the LEA. The law requires the LEA to submit a comprehensive listing of all such properties and space to the state department of education, which must make an LEA's list available to any charter school operating in the LEA or to any sponsor seeking to establish a public charter school in the LEA. The law provides that a charter school may not be required to pay a base rent for the use of any underutilized and vacant property owned or operated by the LEA and may only be required to remit payment for the maintenance and operational costs associated with the occupancy of the property or space.
<b>Texas</b>	Texas law requires that the board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility

	<p>must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease or to any other specific entity. It also states that the board of trustees of a school district is not required to accept an offer made by an open-enrollment charter school.</p>
<b>Washington</b>	<p>Washington law provides that charter schools have the right of first refusal to purchase or lease at or below fair market value a closed public school facility or property (or any unused portions) located in a school district from which it draws its students if the district decides to sell or lease such facility or property.</p>
<b>Wisconsin</b>	<p>Wisconsin law authorizes the City of Milwaukee to sell or lease city-owned properties used for school purposes that have been deemed unused or underutilized for at least 12 consecutive months. Upon adoption by the common council of the resolution to approve the sale or lease of the property, the Milwaukee public school board is required to provide the common council and city employees and agents copies of all documents related to the property and access to and entry upon and into the property for purposes related to the sale or lease.</p>
<b>Wyoming</b>	<p>The law entitles charter schools to use available school district facilities free of rent, but does not give charter schools a right of first refusal on available public school facilities.</p>