

Nos. 24-394 and 24-396

IN THE
Supreme Court of the United States

OKLAHOMA STATEWIDE CHARTER
SCHOOL BOARD, *et al.*,

Petitioners,

v.

GENTNER DRUMMOND, ATTORNEY
GENERAL OF OKLAHOMA, *ex rel.* OKLAHOMA

Respondent.

ST. ISIDORE OF SEVILLE
CATHOLIC VIRTUAL SCHOOL,

Petitioner,

v.

GENTNER DRUMMOND, ATTORNEY
GENERAL OF OKLAHOMA, *ex rel.* OKLAHOMA

Respondent.

ON WRITS OF CERTIORARI TO
THE SUPREME COURT OF OKLAHOMA

**BRIEF OF *AMICI CURIAE* CHARTER SCHOOLS
IN SUPPORT OF RESPONDENT**

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INTEREST OF *AMICI CURIAE*¹

Amici curiae schools—Achievement First (Connecticut, New York, Rhode Island), Ascend Charter Schools (New York), Aspire Public Schools (California), Blackstone Valley Prep Mayoral Academy (Rhode Island), Crown Pointe Academy (Colorado), Democracy Prep Public Schools (Nevada, New York, Texas), DREAM Charter Schools (New York), Green Dot Public Schools (California), Heritage Heights Academy (Colorado), Loveland Classical Schools (Colorado), Mountain Middle School (Colorado), Peak to Peak Charter School (Colorado), Pikes Peak School of Expeditionary Learning (Colorado), Prospect Schools Inc. (New York), Wallace Stegner Academy (Utah), and West Ridge Academy (Colorado)—operate 161 public charter schools in eight states. In their schools, *amici* provide a public education to approximately 64,000 public school students.

Amicus curiae KIPP Foundation (“Foundation”) is a not-for-profit corporation that, as part of its philanthropic mission, supports public charter schools that utilize the name “KIPP.” In total, the Foundation supports 278 KIPP public charter schools operating in 21 states and the District of Columbia. These KIPP public charter schools provide a public education to approximately 125,000 public school students.

1. Pursuant to Supreme Court Rule 37, counsel for *amici* affirms that no counsel for a party authored this brief in whole or in part, and that no person other than *amici* or their counsel contributed money intended to fund preparing or submitting this brief.

All told, *amici* educate or support the education of approximately 189,000 students in 438 schools across 25 states and the District of Columbia. The schools that they operate and support are an integral part of their respective public school systems.

Amici submit this brief in support of Respondent. They have an interest in this matter that aligns with that of the Respondent but is independently important. *Amici* can provide broader, clarifying perspective on public charter schools, the public education that they provide, and the public school students that they educate.

SUMMARY OF THE ARGUMENT

At the heart of *amici*'s interest in this case is a simple fact: charter schools are public schools. Yes, states created these schools to foster innovation and ensure all students receive a quality education. But, as *amici* know from their experience opening, running, and supporting charter schools, their missions and their public nature are not at odds. Indeed, *amici* exist to serve the educational needs and respect the rights and dignity of every student that walks through their doors.

First, charter schools like *amici* must and intentionally chose to open as public schools. Charter schools are creations of the state and creatures of statute. And these statutes uniformly establish charter schools as public schools. *Amici* and their communities know this full well as they had to receive public approval to operate. For *amici*, this is a feature, not a bug. These schools were formed by community members deeply engaged in and committed to serving children in their towns and neighborhoods, especially historically disadvantaged students.

Second, charter schools operate on a day-to-day basis as public schools. They are open to students on a non-discriminatory basis. They are free to attend. They are publicly funded, receiving the overwhelming majority of their funds from the State. And their states heavily regulate them, touching upon everything from the teachers that they employ to the curriculum that they utilize, ensuring state standards are met. States promote public oversight by imposing transparency requirements on charter schools. And states monitor these schools' performance, using everything from inspections to mandated student assessments. *Amici* schools not only comply with these requirements but often supplement them, for instance, by ensuring that their schools are accessible to students across their communities.

Finally, charter schools add value to the public school system. They do so via the education that they provide in their schools as well as the assistance that they provide to traditional public schools. States created charter schools to provide all comers, and especially at-risk students, with an innovative, quality public education. They also created charter schools to improve the entirety of the public school system. *Amici* fulfill these mandates within their walls through curriculum designed to elevate and empower their diverse student bodies. This not only relieves strain on too often over-burdened traditional public schools but also provides those schools with models for how to utilize best and emerging pedagogical practices.

Charter schools open, operate, and serve as public schools. This all stands in contrast to private schools—who exist outside of such confines and expectations. The Oklahoma Supreme Court recognized the distinctly public

design and nature of charter schools and rightly held that they must respect the constitutional rights of their students. *Drummond ex rel. State v. Oklahoma Statewide Virtual Charter Sch. Bd.*, 558 P.3d 1, 10-14 (Okla. 2024).

ARGUMENT

I. Charter schools must and intentionally open as public schools.

Charter schools are creations of the State. Parents and community members who band together to form charter schools know this. More than this, they welcome the public status of charter schools as consistent with their mission of ensuring innovative educational opportunities for every student in their communities.

Charter schools are public from the start. They “are *strictly* creatures of statute.” *Wilson v. State Bd. of Educ.*, 75 Cal. App. 4th 1125, 1135 (1999) (emphasis in original); *see also* Cal. Educ. Code §§ 47600-01 (creating public charter schools in California); Nev. Rev. Stat. Ann. § 388A.075 (same in Nevada); N.Y. Educ. Law § 2850(2)(e) (same in New York); Conn. Gen. Stat. Ann. § 10-66aa(1) (same in Connecticut); R.I. Gen. Laws Ann. § 16-77-3.1(a) (same in Rhode Island); Colo. Rev. Stat. Ann. § 22-30.5-102(3) (same in Colorado); Utah Code Ann. § 53G-5-104(7) (same in Utah); Tex. Educ. Code Ann. § 12.001 (same in Texas). States specify in their authorizing statutory and regulatory regimes that charter schools are public schools. Cal. Educ. Code § 47601(e); Conn. Gen. Stat. Ann. § 10-66aa(1); Nev. Rev. Stat. Ann. § 388A.223(1)(b); N.Y. Educ. Law. § 2853(1)(c); R.I. Gen. Laws Ann. § 16-77-3.1(a); Colo. Rev. Stat. Ann. § 22-30.5-102(1)(f); Utah Code Ann. § 53G-

5-401(1)(a); Tex. Educ. Code Ann. § 12.001.² These regimes often go a step further, explicitly stating that they are not a means of supporting or transforming private schools into public schools. Utah Code Ann. § 53G-5-401(2-3); Conn. Gen. Stat. Ann. § 10-66bb(b); Nev. Rev. Stat. Ann. § 388A.075(2); Colo. Rev. Stat. Ann. § 22-30.5-106(2); N.Y. Educ. Law § 2852(3); R.I. Gen. Laws Ann. § 16-77-3.1(d); Cal. Educ. Code § 47602(b).

2. As outlined above and for the sake of brevity, this brief will primarily focus on the states—California, Colorado, Connecticut, Nevada, New York, Rhode Island, Texas, and Utah—in which *amici* operate schools. (Democracy Prep’s schools in Texas are campus public charter schools subject to Subchapter C, Tex. Educ. Code Ann. §§ 12.051-.065, of the state’s charter code. Accordingly, this brief focuses on this subchapter. These campus charter schools, as discussed above and below, have much in common with those in the other seven states profiled. So too Texas open-enrollment public charter schools. *See, e.g.*, Tex. Educ. Code Ann. §§ 12.105 (public), 12.108(a) (free), 12.110-11 (rigorous application process featuring non-discrimination requirement); Tex. Admin. Code § 100.1207 (open enrollment).) The additional 18 jurisdictions in which *amicus* Foundation supports schools—Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, and the District of Columbia—have similar relationships with public charter schools. For instance, they also specify in their authorizing statutory regimes that charter schools are public schools. Ark. Code Ann. § 6-23-102(5); Fla. Stat. Ann. § 1002.33(1); Ga. Code Ann. § 20-2-2062(3); 105 Ill. Comp. Stat. Ann. 5/27A-5(a); Ind. Code Ann. § 20-24-1-4; La. Rev. Stat. Ann. § 17:3973(2)(a); Md. Code Ann., Educ. § 9-101(b); Mass. Gen. Laws Ann. 71 § 89(c); Mich. Comp. Laws Ann. § 380.551-52; Minn. Stat. Ann. § 124E.03(1); Mo. Ann. Stat. § 160.400(1); N.J. Stat. Ann. § 18A:36A-3(a); N.C. Gen. Stat. Ann. § 115C-218.15(a); Ohio Rev. Code Ann. § 3314.01(B); Okla. Stat. Ann. tit. 70 § 3-132.2(C)(1)(b); 24 Pa. Cons. Stat. Ann. § 17-1703-A; Tenn. Code Ann. § 49-13-106(a); D.C. Code § 38-1802.04(b)(1).

Community members seeking to start a charter school are deeply versed in the fact that they are founding a public school. To start, they must apply to the State for the charters necessary to open their proposed schools. Utah Code Ann. § 53G-5-302; Cal. Educ. Code § Code 47605; Conn. Gen. Stat. Ann. § 10-66bb(c); Nev. Rev. Stat. Ann. § 388A.249(1); Colo. Rev. Stat. Ann. § 22-30.5-106(1); N.Y. Educ. Law § 2851(1); R.I. Gen. Laws Ann. §§ 16-77.2-3(b), 77.3-3(b), 77.4-3(b).

These rigorous applications underline the public nature of the schools at every turn. Charter applications require information on the proposed school's mission. Utah Code Ann. § 53G-5-302(2)(a); Conn. Gen. Stat. Ann. 10-66bb(d)(1); Nev. Rev. Stat. Ann. § 388A.246(2); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(2), 77.3-2(a)(2), 77.4-2(a)(2); N.Y. Educ. Law § 2851(2)(a); Colo. Rev. Stat. Ann. § 22-30.5-106(1)(b). They require proposed enrollment policies and procedures, ensuring equitable, non-discriminatory admissions. Cal. Educ. Code § 47605(c)(5)(H); Conn. Gen. Stat. Ann. 10-66bb(d)(8); Nev. Rev. Stat. Ann. § 388A.246(6-7); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(10), 77.3-2(a)(10), 77.4(a)(10); N.Y. Educ. Law § 2851(2)(d); Colo. Rev. Stat. Ann. § 22-30.5-106(1)(l); Utah Code Ann. § 53G-5-302(2)(d). They seek information about the school's proposed academic program and/or instructional design, ensuring state standards will be met. Utah Code Ann. § 53G-5-302(3)(a); Conn. Gen. Stat. Ann. 10-66bb(d)(5); Nev. Rev. Stat. Ann. § 388A.246(8-9); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(2), 77.3-2(a)(2), 77.4(a)(2); N.Y. Educ. Law § 2851(2)(b); Colo. Rev. Stat. Ann. § 22-30.5-106(1)(e). They require information on how schools will measure academic performance. Cal. Educ. Code § 47605(c)(5)(C); Utah Code Ann. § 53G-5-302(2)(e), (3)(b); Conn. Gen. Stat.

Ann. 10-66bb(d)(9); Nev. Rev. Stat. Ann. § 388A.246(3); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(4), 77.3-2(a)(4), 77.4(a)(4); N.Y. Educ. Law § 2851(2)(b); Colo. Rev. Stat. Ann. § 22-30.5-106(1)(f). Applications request information about how schools will serve at-risk students, including those who are struggling academically, have disabilities, or are English-language learners. Utah Code Ann. § 53G-5-302(2)(g); Nev. Rev. Stat. Ann. § 388A.246(10); N.Y. Educ. Law § 2851(2)(s); Colo. Rev. Stat. Ann. § 22-30-5-106(1)(q); *see also* Cal. Educ. Code § 47601(b) (stating legislative intent of serving “pupils . . . identified as academically low achieving”). They ask for disciplinary policies, Cal. Educ. Code § 47605(c)(5)(J); Utah Code Ann. § 53-G-5-302(3)(d); Nev. Rev. Stat. Ann. § 388A.246(14); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(11), 77.3-2(a)(11), 77.4-2(a)(11); N.Y. Educ. Law § 2851(2)(h); Colo. Rev. Stat. Ann. § 22-30.5-106(1)(p), and proposed budgets and/or business plans, Utah Code Ann. § 53G-5-302(2)(k); Conn. Gen. Stat. Ann. § 10-66bb(d)(4); Nev. Rev. Stat. Ann. § 388A.246(29); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(15), 77.3-2(a)(14), 77.4-2(a)(15); N.Y. Educ. Law § 2851(2)(e); Colo. Rev. Stat. Ann. § 22-30-5-106(1)(g).

Nor are these applications just for show. If proposed schools cannot demonstrate that they are “consistent with sound educational practice and . . . the interests of the community in which the school is proposing to locate[,]” then they are rejected. Cal. Educ. Code § 47605(c); *see also* Utah Code Ann. § 53G-5-304-06 (approving or rejecting based on similar equities); Nev. Rev. Stat. Ann. § 388A.252 (same); R.I. Gen. Laws Ann. §§ 16-77.2-3(c-d), 77.3-3(e-f), 77.4-3(e)-(f) (same); N.Y. Educ. Law § 2852(2) (same); Conn. Gen. Stat. Ann. § 10-66bb(e)-(f) (same); Colo. Rev. Stat. Ann. § 22-30.5-107 (same). Authorizing

states likewise can revoke charters where schools fail to live up to state standards. Cal. Educ. Code § 47607(f); Utah Code Ann. § 53G-5-503(1); Conn. Gen. Stat. Ann. § 10-66bb(i); Nev. Rev. Stat. Ann. § 388A.300(1); R.I. Gen. Laws Ann. §§ 16-77.2-4(a), 77.3-4(a), 77.4-4(a); N.Y. Educ. Law § 2855(1); Colo. Rev. Stat. Ann. § 22-30.5-110(3).

The surrounding community knows that these are public schools as well. Charter school applications request evidence of community support for the school. *See, e.g.*, Conn. Gen. Stat. Ann. § 10-66bb(d)(2); Nev. Rev. Stat. Ann. § 388A.246(5); Colo. Rev. Stat. Ann. § 22-30.5-106(d). Charter petitions in California must be “signed by a number of parents or legal guardians of pupils residing within the county that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in . . . its first year of operation.” Cal. Educ. Code § 47605(a)(1)(A). In the alternative, “a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed . . . during its first year of operation” must sign. *Id.* at § 47605(a)(1)(B). Whether there is sufficient community support is often tested at a public hearing or hearings. *See, e.g., id.* at § 47605(b) (“No later than 60 days after receiving a petition, . . . the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board . . . shall consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents.”); Nev. Rev. Stat. Ann. § 388A.252, .255 (requiring public meeting to consider application no later than 120 days after receiving it); R.I. Gen. Laws Ann. § 16-77.2-3(b) (“[T]he [Commissioner of Elementary and Secondary Education] will provide

for a public comment period of not less than sixty (60) days, during which they will hold at least two (2) public hearings on the proposed charter.”); Colo. Rev. Stat. Ann. § 22-30.5-107(2) (“[T]he local board of education shall hold community meetings . . . to obtain information to assist [it] in its decision to approve a charter school application.”).

Amici went through such processes because doing so was consistent with who they are and the schools that they wanted to establish. Charter schools are frequently founded by “a group of parents, teachers and/or community members” who know their towns and neighborhoods. *About Us*, Crown Point Academy, <https://tinyurl.com/27upv5kt>; *see also Our Schools*, Loveland Classical Schools, <https://tinyurl.com/44jdjwtp> (“Like most charter schools in Colorado, LCS was founded by parents.”); *Mission & Vision*, Heritage Heights Academy, <https://tinyurl.com/28pspbjh> (“HHA began as an idea in March of 2014 when three parents wanted something more in their children’s education.”). They often build upon pre-existing educational or service efforts within their community. *See, e.g., Our History*, Dream Charter Schools, <https://tinyurl.com/5favxfxs> (“DREAM was founded in 1991 when a group of volunteers transformed an abandoned, garbage-strewn lot into two baseball diamonds for the youth of East Harlem[.]”); *Mission & Vision*, Heritage Heights Academy, <https://tinyurl.com/28pspbjh> (“[Pre-existing public charter school] Liberty Common was willing and able to support us in our efforts to start a similar program[.]”). And they seek to extend the most important of public goods—an effective and innovative education—throughout their communities, irrespective of familial background or income bracket. *See, e.g., Charter School Application 2016-2017* at 23,

Wallace Stegner Academy (Dec. 9, 2014), <https://tinyurl.com/y87djzdw> [hereafter, “WSA Application”] (“Our prospective locations are situated in some of the most economically disadvantaged neighborhoods in [Utah].”).

Private schools do not have to go through these rigorous processes in order to operate. To start, they do not owe their existence to state statute and approval. *See, e.g.*, Cal. Educ. Code §§ 33190-93 (laying out minimal state regulations including provision of baseline school details such as its address). So, of course, they do not have to apply to open their doors. *See, e.g., id.* Relatedly, they need not prove their educational bona fides or otherwise explain how they are up to the task of providing a meaningful education. *See, e.g., id.* Nor must they demonstrate that they are supported by their communities. *See, e.g., id.* Indeed, they do not need to meet the needs of their entire communities. *See, e.g., id.* Limited private school regulations “do[] not say anything like that” because “[t]he differences between private schools” and “public school[s] are numerous and important.” *Carson v. Makin*, 596 U.S. 767, 782-83 (2022). Most elementally, while private schools benefit their students, they do not provide a *public* good—making community buy-in for and extensive regulation of them unnecessary.

Amici could have chosen to set off down this different, private path. They instead choose to partner with the State to meet educational needs facing the whole of their communities. The charter school movement’s goals and means of pursuing them make plain the foundationally public nature of its efforts.

II. Charter schools operate on a day-to-day basis as public schools.

The day-to-day existence of *amici* schools confirms their public labels and builds upon their public foundations. Their authorizing statutes and regulations require that they open their doors to all and provide a public education within their classrooms. In exchange for doing so, authorizing states fund public charter schools in a manner akin to how they fund traditional public schools. Again, this is all in stark juxtaposition with how private schools operate.

Amici charter schools are open to all in their communities. Subject only to capacity and/or geographical limitations,³ “charter school . . . [e]nrollment must be open to any child[.]” *Id.*; see also Cal. Educ. Code § 47605(e)(2)(A) (same); Conn. Gen. Stat. Ann. § 10-66bb(d)(8) (same); Utah Code Ann. § 53G-6-502(2) (same); Nev. Rev. Stat. Ann. § 388A.453(2) (same); Tex. Educ. Code Ann. § 11.174(i) (same); N.Y. Educ. Law 2854(2)(b) (same); 200 R.I. Code R. § 20-05-2.6.2(A) (same). They cannot discriminate in admission on grounds including “disability,⁴ race [inclusive of hairstyle], creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services.” Colo. Rev. Stat. Ann. §§ 22-30.5-104(3)(a), (b)(I)-

3. For instance, Colorado requires that the prospective student reside “within the [corresponding] school district.” Colo. Rev. Stat. Ann. § 22-30.5-104(3)(a).

4. Moreover, federal regulations mandate that children with disabilities attending public charter schools are entitled to the same services as those attending traditional public schools. 34 C.F.R. 300.209.

(II); *see also* Cal. Educ. Code §§ 212.1(b)-(c), 220, 47605(e) (1) (prohibiting discrimination on the basis of “disability, gender, gender identity, gender expression, nationality, race or ethnicity [inclusive of hairstyle], religion, [or] sexual orientation”); Conn. Gen. Stat. Ann. §§ 10-15c, 10-66bb(d)(8)(D), 46a-51(23) (prohibiting “discrimination on account of race [inclusive of hairstyle], . . . color, sex, gender identity or expression, religion, national origin, sexual orientation or disability”); Nev. Rev. Stat. Ann. § 388A-453(6), (9) (prohibiting “discriminat[ion] based on the [r]ace [inclusive of hairstyle][,] [g]ender[,], [r]eligion[,], [e]thnicity[,], [d]isability[,], [s]exual orientation[,], or [g]ender identity or expression of a pupil”); N.Y. Educ. Law §§ 11(9-10), 12(1), 2854(2)(a) (prohibiting discrimination based on “actual or perceived race [inclusive of hairstyle], color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex”); Tex. Educ. Code Ann. § 12.059(4) (prohibiting “discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability”); R.I. Gen. Laws Ann. §§ 16-77.2-7(15-16), 77.3-7(15-16), 77.4-7(13-14) (prohibiting discrimination in admission on basis of race, sex, and age); Utah Code Ann. §§ 53G-6-502(9), 10-206(2)(a)(ii)(C) (prohibiting discrimination on “basis of individual’s race, color, national origin, religion, disability, sex, or sexual orientation”).

Public charter schools are not just theoretically accessible to all. They are free to attend. Cal. Educ. Code § 47605(e)(1); Utah Code Ann. § 53G-5-404(2); Nev. Rev. Stat. Ann. § 388A.366(1)(c); Conn. Gen. Stat. Ann. § 10-66bb(d)(4); N.Y. Educ. Law § 2854(2)(a); R.I. Gen. Laws Ann. § 16-77-6.1(a); Colo. Rev. Stat. Ann. § 22-30.5-

104(5); Tex. Educ. Code Ann. §§ 12.055(a), 25.001(a).⁵ And states often require that public charter schools engage in outreach across their communities during their enrollment process. *See, e.g.*, Nev. Rev. Stat. Ann. § 388A.450(1) (“[A]t least 45 days before a new charter school . . . begins accepting applications for enrollment” it “shall make a reasonable effort to notify each household within 2 miles from the charter school regarding” enrollment process).

Amici schools are also subject to pervasive state regulation ensuring that they provide a quality public education. They must have credentialed or licensed teachers. Cal. Educ. Code § 47605(1)(1); Conn. Gen. Stat. Ann. § 10-66dd(b)(2); Utah Code Ann. § 53G-5-407(4)(a); Nev. Rev. Stat. Ann. § 388A.518(1); N.Y. Educ. Law § 2854(3)(a-1); R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(12), 77.3-2(a)(12), 77.4-2(a)(12); Tex. Admin. Code § 100.1212(c); 1 Colo. Code Regs. § 301-8:3.04(1)(a). Charter school teachers must hold the same credentials as traditional public school teachers in some states. *See, e.g.*, Cal. Educ.

5. Again, the 18 jurisdictions in which the Foundation supports charter schools operate similarly. In each of these states, charter schools are open to all students on a non-discriminatory basis and are free of charge. Ark. Code Ann. §§ 6-23-306(6), 401(a)(6); Fla. Stat. Ann. § 1002.33(9)(d), (f), (10)(b); Ga. Code Ann. §§ 20-2-2065(b)(10), 2066; 105 Ill. Comp. Stat. Ann. 5/27A-4(a), 5(e); Ind. Code Ann. §§ 20-24-5-1, 8-2(a)(2); La. Rev. Stat. Ann. §§ 17:3991(C)(1), (E)(3-4); Md. Code Ann., Educ. § 9-102(3), (7-8); Mass. Gen. Ann. Laws, 71 § 89(m); Mich. Comp. Laws Ann. §§ 380.504(2), (3), 556(2-3); Minn. Stat. Ann. § 124E.11(b), (c); Mo. Rev. Stat. §§ 160.410(1), 415(11); N.J. Stat. §§ 18A:36A-7, 8(a); N.C. Gen. Stat. Ann. §§ 115C-218.45(a), .50(b); Ohio Rev. Code Ann. §§ 3314.06(A), .08(F); Okla. Stat. Ann. tit. 70 § 3-136(9); 24 Pa. Stat. Ann. §§ 17-1723-A(a-b(1)), 1725-A(a)(1); Tenn. Code Ann. §§ 49-13-106(e), 113(d)(1); D.C. Code. §§ 1802.04(c)(2), .06(a-b).

Code 47605(l)(1); R.I. Gen. Laws Ann. § 16-11-1; Utah Code Ann. § 53E-3.401(1)(a), (8), 53-G-401(1)(b); Utah Admin. Code r. 277-309-3(1). In states where some flexibility in credentialing is allowed, that flexibility is itself a creation of statute, and strict baseline requirements are enforced. *See, e.g.*, Conn. Gen. Stat. Ann. §§ 10-145q, 10-66dd(b) (5) (requiring non-certified teachers, administrators, and pupil service providers to obtain “a charter school education permit” and limiting their numbers to 30% of the total employees in those categories in each school); Nev. Rev. Stat. Ann. § 388A.518(1), (3) (requiring 100% of those teaching “core academic subjects” and 80% of teachers overall hold a license). *Amici* schools must also abide by their state’s instructional and curricular parameters. Cal. Educ. §§ Code 47605(d)(1), 60605(a)(1) (A); Nev. Rev. Stat. Ann. § 388A.366(1)(i); Conn. Gen. Stat. Ann. §§ 10-4, 10-66dd(b)(1); Colo. Rev. Stat. § 22-30.5-106(1)(e); Tex. Educ. Code Ann. § 12.059(1); R.I. Gen. Laws Ann. §§ 16-77.2-7(14), 77.3-7(14), 77.4-7(12); 200 R.I. Code R. § 20-10-1-1.2.1; Utah Admin. Code r. 277-700-1, 3-6.⁶ Finally, just like traditional public schools, they must test student achievement and progress via annual assessments required by state law. Cal. Educ. Code §§ 47605(d)(1), 60605, 60640(b)(1)(A), (b)(2)(A); Utah Code Ann. § 53E-4-302(1)(c); Conn. Gen. Stat. Ann. §§ 10-66bb(d)(9), 10-14; Nev. Rev. Stat. Ann. § 388A.366(1)(g); R.I. Gen. Laws Ann. §§ 16-22-9, 77.2-7(13), 77.3-7(13), 77.4-7(11); N.Y. Educ. Law § 2854(1)(b), (d); Colo. Rev. Stat. Ann. § 22-7-1006.3(1)(a), (3), 30.5-110(2)(a); Tex. Educ. Code Ann. § 12.059(2).

6. Where there is flexibility in who teaches and what is taught in the classroom, that is similar to how traditional public schools now operate. *See, e.g.*, Okla. Stat. Ann. tit. 70, §§ 6-122.3(G) (allowing traditional public schools to hire non-certified teachers), 11-1036(N)(2) (requiring state Board of Education to allow curricular flexibility in traditional public schools).

They also must comply with pervasive state-mandated oversight. Some of this comes from states subjecting them to good government requirements. For instance, states require charter schools to abide by the same conflict of interest laws as other governmental entities, *see, e.g.*, Cal. Educ. Code § 47604.1(a)(4)(B), Cal. Gov't Code § 87300; Conn. Gen. Stat. Ann. § 10-6600(b); 1 Colo. Code Regs. § 301-88.2.01(A); or adopt their own conflict of interest rules, *see, e.g.*, N.Y. Educ. Code § 2851(2)(v).

And, like traditional public schools, they must follow public records laws. Cal. Educ. Code § 47604.1(b)(2)(A); Colo. Rev. Stat. Ann. §§ 24-72-202-02, 72-203; Utah Code Ann. § 53G-5-405(5)(b); Conn. Gen. Stat. Ann. § 10-66uu(2); N.Y. Educ. Law § 2854(1)(e); R.I. Gen. Laws Ann. §§ 38-2-2(1), 2-3; Tex. Educ. Code Ann. § 12.057(a). This means that they generally must produce their records in response to public requests for them. *See, e.g.*, N.Y. Pub. Off. Law §§ 86(3-4), 87(2); Utah Code Ann. §§ 63G-2-102, 2-103(23); Cal. Gov't Code § 7920.530(a); Tex. Gov't Code Ann. § 552.021.

Public charter school leadership is also subject to open meeting laws. Cal. Educ. Code § 47604.1(b)(1); Utah Code Ann. § 53G-5-405(5)(a); R.I. Gen. Laws Ann. §§ 42-46-2(5), 46-3; N.Y. Educ. Law § 2854(1)(e); Colo. Rev. Stat. Ann. §§ 22-30.5-104.9(2)(a), 24-6-402(2)(a); Tex. Educ. Code Ann. § 12.057(a). This means their meetings, like those of traditional public schools, are generally open to the public. Utah Code Ann. § 52-4-201; N.Y. Pub. Off. Law § 103(a); Cal. Gov't. Code § 11120; Tex. Gov't Code Ann. § 551.002. Charter schools must also provide the public with notice of, Cal. Gov't. Code § 54954.2(a)(1); Utah Code Ann. § 52-4-202(1); Colo. Rev. Stat. Ann. § 24-6-402(2)(c) (I-II); R.I. Gen. Laws Ann. § 42-46-6; N.Y. Pub. Off. Law

§ 104(l); Conn. Gen. Stat. Ann. § 10-66kk(a); Tex. Gov't Code Ann. § 551.041, and agendas for, Cal. Gov't. Code § 54954.2(a)(1); Utah Code Ann. § 52-4-202(1)(b); N.Y. Pub. Off. Law § 103(e); R.I. Gen. Laws Ann. § 42-46-6(b)-(c); Conn. Gen. Stat. Ann. § 10-66kk(a), their meetings. They must then make minutes available subsequent to the public meeting. Cal. Educ. Code § 48604.1(b)(1); Cal. Gov't Code § 54953.5(2); Utah Code Ann. § 52-4-203; N.Y. Pub. Off. Law § 106(3); R.I. Gen. Laws Ann. § 42-46-7; Colo. Rev. Stat. Ann. § 24-6-402(2)(d)(1); Tex. Gov't Code Ann. § 551.022; Conn. Gen. Stat. Ann. § 10-66kk(a).

Additional oversight comes from authorizing states themselves. States conduct fiscal and pedagogical reviews of schools. *See, e.g.*, Cal. Educ. Code § 1240(b); N.Y. Educ. Law § 2853(2). This can include “[v]isit[ing] each charter school at least annually[,]” Cal. Educ. Code § 47604.32(a)(2); *see also* Utah Code Ann. § 53G-5-406(2-3) (requiring periodic State visits and reviews of public charter schools), to evaluate school governance, student achievement, and organizational and fiscal operations, *Annual Performance-Based Oversight Visit Preparation Guide 2023-2024*, Los Angeles Unified School District, <https://tinyurl.com/5rchtrpd>. During the course of visits, the State may review classrooms as well as the school records for the purpose of ensuring “that the charter school is in compliance with all applicable laws, regulations and charter provisions.” N.Y. Educ. Law § 2853(2). Oversight can also include annual state-produced, Colo. Rev. Stat. Ann. § 22-11-503(1)-(3); Tex. Educ. Code Ann. § 12.1013, or state-mandated and school-produced, Conn. Gen. Stat. Ann. § 10-66cc; R.I. Gen. Laws Ann. §§ 16-77.2-2(a)(5), 77.2-8, 16-77.3-2(a)(5), 77.3-8, 77.4-2(a)(5), 77.4-8; N.Y. Educ. Law § 2857(2), reports measuring the

schools' academic and fiscal performance. And many states produce external performance reports while also requiring schools to engage in extensive self-evaluation. Utah Code Ann. §§ 53G-5-404(4)(a)(i-ii), 406(2)(b); Nev. Rev. Stat. Ann. §§ 385A.070(1), 388A.345, 388A.348; Cal. Educ. Code §§ 33126, 47604.33.

In exchange for this extensive soup to nuts regulation and oversight, public charter schools receive their share of public education funding. As with traditional public schools, charter schools receive per-pupil funding from their respective states for their operations. Some states fund public charter schools through the same per-pupil scheme as traditional public schools. Cal. Educ. Code § 42238.02; Nev. Rev. Stat. Ann. § 388A.411(1); R.I. Gen. Laws Ann. §§ 16-77.2-5, 77.3-5, 77.4-5. Others fund public charter schools using a per-pupil funding model similar to the one through which traditional public schools are funded. Colo. Rev. Stat. Ann. § 22-30.5-112; N.Y. Educ. Law § 2856; Conn. Gen. Stat. Ann. § 10-66ee(b)(1), (d)(1); Utah Code Ann. § 53F-2-702(1).⁷ Public charter schools could not operate without this state funding. Indeed, the vast majority of public charter school budgets come from State funds. *See, e.g.*, Board.Br.17 (“[T]he only state funding that St. Isidore projected in its initial five-year budget is State Aid allocation.”).

Amici schools, of course, abide by applicable state mandates but also often amplify upon them. For example,

7. The distinctions between charter and traditional public school funding models in these states are modest. For instance, with limited exception, Utah funds public charter schools “on the same [per-pupil] basis as a [traditional public] school district receives funds.” Utah Code Ann. § 53F-2-702(1).

they take pride in their robust outreach efforts to every corner of their communities. They have outreach materials in multiple languages. *See, e.g., Fuerza Estudiantil Monarca*, Ánimo Jackie Robinson Charter High School,⁸ <https://tinyurl.com/yc6a43se> (Spanish-language version of website); *Spanish-Language Enrollment Brochure*, Mountain Middle School, <https://tinyurl.com/32kwdyyx>. They tailor their outreach efforts—everything from school open houses to all means of advertising imaginable—to reach “low-income, multicultural students, English-Language learners” as well as “any other group of students who are at risk of academic failure[,]” including students experiencing homelessness. WSA Application, *supra*, at 30. And, when they are over-enrolled, *amici* schools do not engage in skimming to snap up the students most likely to succeed. *See, e.g., Frequently Asked Questions*, Ascend Charter Schools, <https://tinyurl.com/4d8rjsdn> (Q: “Does a child have to pass a test to be offered a seat at an Ascend school?” A: “[N]o [prospective] student is denied a seat based on mental or physical ability[.]”). They instead have lottery admissions. *See, e.g., Enroll at Prospect*, Prospect Schools (Brooklyn, New York), <https://tinyurl.com/4xahhat6>; *Enrolling in Blackstone Valley Prep*, Blackstone Valley Prep Mayoral Academy, <https://tinyurl.com/yazx4c6v>; *Lottery and Enrollment*, Loveland Classical Schools, <https://tinyurl.com/fp8snu9f>.

This again contrasts with how private schools operate and are regulated. Most elementally, as the Supreme Court has recognized, “private schools . . . do not have to accept all students.” *Carson*, 596 U.S. at 783. For instance, private schools “often deny admission to students with

8. Ánimo Jackie Robinson is a Green Dot Public School.

disabilities or to students based on other factors like disciplinary history, which disproportionately affect students with disabilities.” *Vouchers Do Not Adequately Serve Students with Disabilities*, National Coalition for Public Education, <https://tinyurl.com/22nem5vm>. Even when theoretically open to all, in practice private schools often are not as they can charge tuition beyond the means of the low-wealth families, *Carson*, 596 U.S. at 783, *amici* schools focus on serving, *see, e.g.*, WSA Application, *supra*, at 30. Private schools are also subject to far fewer and less prescriptive state regulation of everything from teacher qualifications to classroom instruction to performance assessments. *See, e.g.*, Cal. Educ. Code §§ 33190-93 (imposing minimal regulations on private schools). This means they do not provide the “equivalent—roughly or otherwise” of a public education. *Carson*, 596 U.S. at 784. Finally, even when a state has a voucher program, it is not providing funds to private schools as part of its effort to make an education available to all; it is instead supporting families’ “wholly . . . independent private choices” of educations outside the public school system. *Zelman v. Simmons-Harris*, 536 U.S. 639, 652 (2002).

Charter schools are “public school[s] . . . operat[ing] under public supervision and direction.” 20 U.S.C. § 7221i(2)(B). In exchange for state funding, they must be open to all students, free, and provide a public education in their classrooms. *Amici* schools agree to (and expand upon) this bargain because it is the best means of reaching the at-risk student populations they strive to serve. All of this stands in contrast to how private schools admit students, run their day-to-day operations, and interact with the State.

III. Charter schools provide value to the public school system.

Charter schools play valuable roles in the public school system. Most fundamentally, their authorizing states task them with providing a quality, innovative education to all comers and especially at-risk students. But states also intended for their impact to extend beyond their walls. They were created to relieve strain on over-burdened public schools. And they were designed to serve as incubators for best and emerging pedagogical practices in the broader public school system. *Amici* schools fill these overlapping but distinct roles with aplomb—again, playing a different part than private schools.

“[C]harter schools are . . . an integral part of the [public] educational system.” Cal. Educ. Code § 47605(c). States designed charter schools to provide parents and children with more public educational options. *See, e.g.*, Utah Code Ann. § 53G-5-104(4) (creating charter schools to “increas[e] choice of learning opportunities for students”); Nev. Rev. Stat. Ann. § 388A.150(1)(a) (creating charter schools to “expand[] the opportunities for pupils”); R.I. Gen. Laws Ann. § 16-77-3.1(c)(2) (creating charter schools to “[i]ncrease learning opportunities for all pupils”); Tex. Educ. Code Ann. § 12.001(a)(2) (creating charter schools to “increase the choice of learning opportunities within the public school system”); N.Y. Educ. Law § 2850(2) (e) (creating charter schools to “[p]rovide parents and students with expanded choices in the types of educational opportunities that are available within the public school system”); Cal. Educ. Code § 47601(b) (creating charter schools to “[i]ncrease learning opportunities for all pupils”). They were and are “intended to be vanguards,

laboratories, and an expression of the on-going and vital *state* interest in the improvement of education.” R.I. Gen. Laws Ann. 16-77-3.1(b) (emphasis added); *see also* Utah Code Ann. § 53G-5-104(2) (creating charter schools to “encourag[e] the use of different and innovative teaching methods”); Colo. Rev. Stat. Ann. § 22-30.5-102(2) (c) (creating charter schools “[t]o encourage diverse approaches to learning and education and the use of different, innovative . . . teaching methods”); N.Y. Educ. Law § 2850(2)(b) (creating charter schools to “expand[] learning experiences for students”); Cal. Educ. Code § 47601(c) (creating charter schools to “[e]ncourage the use of different and innovative teaching methods”).

More particularly, states seek to reach those too frequently left behind via public charter schools. Increasing public educational options increases the opportunities to reach “pupils [who] learn differently.” Colo. Rev. Stat. Ann. § 22-30.5-102(c). And many states founded public charter schools as a means of expanding opportunities for “pupils who are at risk[,]” Nev. Rev. Stat. Ann. § 388A.0150(1)(a); *see also* R.I. Gen. Laws Ann. § 16-77-3.1(c)(2) (same), and bridging the achievement gap, N.Y. Educ. Law § 2852(9)(c)(i); Cal. Educ. Code § 47601(b). Some states envisioned public charter schools tackling even more granular challenges, such as educating students with disabilities. *See, e.g.*, Nev. Rev. Stat. Ann. § 388A.453(8)(a) (authorizing “formation of . . . charter school[s] . . . dedicated to provid[ing] educational services exclusively to pupils . . . [w]ith disabilities”); Ohio Rev. Code Ann. § 3314.061 (“A governing authority may establish a community school . . . that [provides only] . . . special education and related services to . . . students identified as autistic[.]”).

This is not mere rhetoric; states ensure their goals are met by prioritizing charter schools serving at-risk students as well as at-risk students seeking to utilize charter schools. States give preferential consideration to applications from charter schools designed to serve at-risk or underserved communities. *See, e.g.*, Cal. Educ. Code § 47605(i); Conn. Gen. Stat. Ann. § 10-66bb(c)(3); N.Y. Educ. Law § 2852(9)(c)(i). Utah even goes so far as to have its state public charter school authorizer solicit applications for schools focused “on learning opportunities for students at risk of academic failure[.]” Utah Code Ann. § 53G-5-301(2)(a)(ii). At the same time, states give a leg up to students in over-enrolled traditional public schools seeking to move to a public charter school. *See, e.g.*, Nev. Rev. Stat. Ann. § 388A.456(1)(f) (extending priority enrollment to such students).

While they relieve strain by taking on at-risk students from over-stretched schools, states also designed and approve charter schools to benefit the broader public school system in other ways. Part of the idea is that the presence of charter schools would have a salutary effect—the logic being that they would “[p]rovide vigorous competition within the public school system to stimulate continual improvement in all public schools.” Cal. Educ. Code § 47601(g); *see also* N.Y. Educ. Law § 2852(9)(b) (expressing preference for locating “charter schools in a region or regions where they . . . would provide new alternatives within the local public education system”); Colo. Rev. Stat. Ann. § 22-30.5-102(3) (“The general assembly seeks to create an atmosphere in Colorado’s public education system where research and development in developing different learning opportunities is actively pursued.”). Research bears this out. When traditional

public schools “face additional charter competition, their students achieve better outcomes.” Alison Heape Johnson et al., *Charter School Funding: Little Progress Towards Equity in the City* at 8, School Choice Demonstration Project, University of Arkansas (Aug. 2023), <https://tinyurl.com/2zs9fde5>.

But another part of the idea centers on collaborative assistance charter schools can provide traditional public schools. A corollary to charter schools’ mandate to innovate is that, in so doing, they model new educational modalities for traditional public schools. *See, e.g.*, Utah Code Ann. § 53G-5-104(5), (8) (creating public charter schools to “encourage innovation within the public education system by . . . establishing new educational modes” and increase “collaborati[on] within the public education system”). Some states give preferential consideration to charter school applications proposing to partner with traditional public schools to share educational best practices and innovations. *See, e.g.*, N.Y. Educ. Law § 2852(9)(c)(vi) (preferring applications from charter schools who would “partner[] with low performing public schools . . . to share best educational practices and innovations”). Other states go further and themselves share and/or require that charter schools share such best practices with the public school system of which they are a part. *See, e.g.*, Conn. Gen. Stat. Ann. §§ 10-66bb(d)(16) (requiring schools share “learning practices and experiences”), 10-66ii (compiling and sharing best practices itself).

Amici schools demonstrate that these regimes have provided the foundation for success in their schools and beyond. As intended, they are designed to enhance “learning opportunities for students who are at risk of academic failure.” WSA Application, *supra*, at 12. These

students “are often . . . economically disadvantaged.” *Id.*; see also *About Blackstone Valley Prep*, Blackstone Valley Prep Mayoral Academy, <https://tinyurl.com/y9mv5dne> (noting 73% of students qualify for free or reduced lunch). They “are often English-Language learners.” WSA Application, *supra*, at 12. Indeed, *amicus* Heritage Heights boasts students hailing from 26 countries on five continents. *Student Diversity*, Heritage Heights Academy, <https://tinyurl.com/y6znb6y9>.

And *amici* schools adopt policies ensuring that they reach target students. They remove barriers to enrollment as well as giving a leg up to students most in need of their services. See, e.g., *Enroll at Prospect*, Prospect Schools (Brooklyn, New York), <https://tinyurl.com/4xahhat6> (employing blind lottery admissions, “meaning no test scores grades, recommendations, or behavioral histories will be taken into considering during the application process”); *Enrollment Policy* at 2, Mountain Middle School, <https://tinyurl.com/caxt2wp9> (“Economically disadvantaged students will receive preference in the lottery by being entered twice.”); *Student and Family Handbook: 2024-2025* at 10, Aspire Public Schools, <https://tinyurl.com/mthmbvx6> (“Aspire Public Schools does not discourage students from enrolling . . . for any reason, including, but not limited to, academic performance[.]”).

Public charter schools meet the needs of their diverse student bodies with innovative teaching models. *Amici* schools employ teaching methods running the gamut from expeditionary learning, which educates through direct experience with topics, *About PPSEL*, Pikes Peak School of Expeditionary Learning, <https://tinyurl.com/4h24p4nw>, to classical education, which “utilizes the

stages of grammar, logic, and rhetoric in instruction[,]” *The Three Pillars of Loveland Classical Schools*, Loveland Classical Schools, <https://tinyurl.com/5h xv4fhu>.

Other schools have particular points of emphasis. As its name suggests, *amicus* Democracy Prep emphasizes civic engagement in its active citizenship curriculum. *Civics in Action*, Democracy Prep Public Schools, <https://tinyurl.com/bdxsk6td>. Democracy Prep students “perform acts of service to others, register voters, lobby for policy change, and use their voices and talents for the greater good.” *The Democracy Prep Difference*, Democracy Prep Public Schools, <https://tinyurl.com/mv28j3xt>; see also *Charter High Seniors Stage March Against Police Brutality*, Democracy Prep Public Schools, <https://tinyurl.com/462fr3cw> (student Kevin L. on protest: “Everyone was there to support me . . . because they [also] had a drive to bring awareness to an issue that we really care about.”). Consistent with this focus, Democracy Prep students must pass the United States Citizenship and Immigration Service (“USCIS”) Citizenship Test in order to graduate. Robert Pondiscio, *Democracy Prep Schools Boost Civic Engagement*, Education Next (May 15, 2018), <https://tinyurl.com/t8u7ax8t>.⁹

9. All *amici* strongly believe that part and parcel of being public schools is respecting their students’ constitutional rights. And, unfortunately, recent history has shown rogue public schools (including public charter schools) will abuse those rights if they are optional. See *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104, 112 (4th Cir. 2022) (holding North Carolina public charter school was state actor and violated students’ equal protection rights by “requir[ing] female students to wear skirts to school based on the view that girls were ‘fragile vessels’”). But this is a matter of particular importance to Democracy Prep—it would be the bitterest of

Amici schools employ the same innovative spirit in teaching core curriculum as well. Despite their math curriculum producing good results, *amicus* Achievement First began exploring means of better engaging their students in 2019. *Exploring New Frontiers in Math: Alicia Lynch on the Context for Learning Mathematics Pilot Program*, Achievement First, <https://tinyurl.com/w38w2spz>. Alicia Lynch, Senior Director of K-8 Math at Achievement First, recognized that “[t]oo often, math is approached as remediation for Black and Brown children, rather than recognizing the brilliance they bring to the classroom.” *Id.* With this concern front of mind, Achievement First choose to pilot the Context for Learning Mathematics curriculum at a subset of their schools. *Id.*

This curriculum does not look like a typical mathematics class. Students are out of their chairs, “participat[ing] in workshops, work[ing] collaboratively, and present[ing] their findings through posters and gallery walks.” *Id.* At the heart of the curriculum is the “Math Congress[,]” a program in which “students discuss their [problem-solving] strategies and challenge each other’s thinking.” *Id.* The idea is to take a discipline that is too often inaccessible for students and build engagement with it. *Id.* Instead of “remediation,” the new program “shows that every child is capable of independent problem-solving and critical thinkings”—skills beneficial beyond math and across their lifetime. *Id.* Yes, the new approach required “a new mindset and teaching style,” but the payoff in engaged students was worth the challenge. *Id.*

ironies to extol the virtues of democracy in the classroom while students sitting in the seats had no constitutional rights.

These sorts of innovative approaches have met with success in public charter schools. Research has shown “accelerated learning gains [in reading and math] for tens of thousands of [public charter school] students across the country.” Margaret E. Raymond et al., *As a Matter of Fact: The National Charter School Study 2023* at 5, Credo (June 19, 2023), <https://tinyurl.com/38sn9986>. This includes accelerated gains for Black and Hispanic students attending public charter schools. *Id.* at 6.

Amici schools’ students excel as well. *See, e.g., High School at BVP*, Blackstone Valley Prep Mayoral Academy, <https://tinyurl.com/533ra89c> (“In 2021, Blackstone Valley Prep High School was named the #6 High School in Rhode Island by *U.S. News & World Report*[.]”); *Home Page*, Mountain Middle School, <https://tinyurl.com/3k3y65fb> (noting students in top 8% in English Language Arts, Math, and Science); *Our Schools*, Achievement First, <https://tinyurl.com/5y5wtm8y> (“AF Amistad High is ranked the number one high school in Connecticut. And that’s not all. We’re #20 in the entire nation.”); *Peak to Peak Charter School*, *U.S. News & World Report*, <https://tinyurl.com/y5m5u86f> (ranking Peak to Peak as the fourth best high school in Colorado and the 182th best nationwide). This includes in their schools’ innovative programs. For example, Democracy Prep students pass the required USCIS Citizenship test with flying colors—scoring on average a 90% on the test. *Renewal Recommendation Report Democracy Prep New York Charter Schools’ Authority to Operate* at 5, The SUNY Charter School Institute (Jan. 24, 2024), <https://tinyurl.com/3fjj5syh>.

And, as authorizing states envisioned, charter schools ensure that their resources and successes redound to

the benefit of the broader public school system. This means serving on committees to improve the provision of public education. *See, e.g., RIDE Launches Educator Course Network*, State of Rhode Island Department of Education, <https://tinyurl.com/mvxjt57c> (Blackstone Valley Prep administrator serving on committee promoting professional learning opportunities for public school educators). It means modeling policies to ensure public schools serve all in their communities. *See, e.g., Beth Hopkins, Amid Fierce Debate About Integrating New York City Schools, a Diverse-by-Design Brooklyn Charter Offers a Model*, *The74* (Oct. 28, 2019), <https://tinyurl.com/3cmbvpng> (traditional public schools adopting admission policy designed to ensure integrated schools first modeled by Prospect School Windsor Terrace). And it means sharing successes that public charter schools have had in their classrooms with traditional public school brethren. *See, e.g., PPSEL Recognized by Colorado Department of Education*, Pikes Peak School of Expeditionary Learning, <https://tinyurl.com/5yw7hkek> (state Department of Education spotlighting Pikes Peak’s “promising practices” in literacy); *Successful CA Instructional Materials Adoption Stories: Prioritizing Teacher Success in the Adoption Process*, California Curriculum Collaborative (Dec. 12, 2023), <https://tinyurl.com/4cgy52sn> (“In this webinar we heard from Aspire Public Schools, Los Angeles, and Capistrano Unified School District about their experience in using best practices in engaging teachers early to prioritize long-term success with instructional materials.”).

Private schools need not and do not serve underserved student populations at the same level as public schools. The demographic differences are stark. As of fall 2022, public schools were 29% Hispanic and 15% Black. *Fast Facts: Public and Private School Comparison*, National Center for Educational Statistics, <https://tinyurl.com/t76eastz> (hereafter, “Public and Private School Comparison”); see also *About Blackstone Valley Prep*, Blackstone Valley Prep Mayoral Academy, <https://tinyurl.com/y9mv5dne> (noting more than three-quarter minority student enrollment); *Peak to Peak Charter School*, U.S. News & World Report, <https://tinyurl.com/y5m5u86f> (noting 40.2% minority student enrollment). Private schools were only 12% Hispanic and 9% Black as of fall 2021. Public and Private School Comparison, *supra*. Public school students were nearly twice as likely as private school students to come from a one-parent household. *Id.* (public school students: 31%; private school students: 18%). And there were marked disparities in the highest level of familial educational attainment—public school students were more than twice as likely to have not had a parent graduate from high school and half as likely to have a parent with a graduate or professional degree. *Id.* (neither parent completed high school: 11% of public school students, 5% of private school students; parent with graduate or professional degree: 15% of public school students, 32% of private school students). Public school students were also more than twice as likely as private school students to live in poverty. *Id.* (public school students: 18%; private school students: 8%); see also *About Blackstone Valley Prep*, Blackstone Valley Prep Mayoral Academy, <https://tinyurl.com/y9mv5dne> (noting “73% of BVP scholars qualify for free or reduced-price lunch”); *Our Mission and Maxims*, Dream Charter Schools, <https://tinyurl.com/>

yz3nbmc7 (noting “88% of DREAM scholars live below the poverty line”).

Relatedly, many private schools are not as well-resourced to serve at-risk students. Where half of public schools have staff with specialist assignments, only 38% of private schools can say the same. Public and Private School Comparison, *supra*. Identifying and incorporating innovative means of engaging students in mathematics is trying under the best of circumstances. But it is all the more difficult without a specialist along the lines of Achievement First’s Director Lynch on staff. *See id.* (noting only 21% of private schools had math specialists on staff). Likewise, nearly half of public schools offer instruction beyond the normal school day for students needing academic assistance—and fully 56% of public charter schools do so. *Id.*; *see also Our Mission and Maxims*, Dream Charter Schools, <https://tinyurl.com/yz3nbmc7> (noting “26% of DREAM students have identified special needs, compared to the city’s average of 20%”). However, only 35% of private schools offer commensurate services. Public and Private School Comparison, *supra*.

Authorizing states task charter schools with the most important public missions imaginable—making education that works for at-risk students readily accessible to them and then sharing their successes across the public education system. *Amici* schools handle these missions with aplomb, benefiting of their public school students as well as the broader public school system. These are not contributions that states seek from private schools and, given their very different nature, they do not provide them.

CONCLUSION

For the above reasons, this Court should affirm.

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