



District- and School-Level Waivers

Since 1995, the General Assembly has created various kinds of waivers to allow public schools – both charter and traditional – to be exempt from some of the rules and regulations governing education in Arkansas. What began with limited parameters, however, has grown significantly in the last few years.

By the middle of the 2016-17 school year, in fact, Arkansas public school districts, schools and charter systems operated under nearly 3,000 waivers from the state’s education laws and rules. Those educational entities accounted for almost 35% of the state’s public school enrollment that year.

Legislative Background

Waivers from education laws were first legislated in Act 1126 of 1995 for the purpose of creating **conversion charter schools**, which were to operate free from some of the state’s education laws and rules as well as local policies in order to execute plans to improve student achievement.

When no public school pursued the charter school course, the General Assembly broadened the law in 1999 to allow nonprofit organizations to apply to operate **open-enrollment charter schools**, with waiver requests from education laws and rules being part of the application. Charter schools of both sorts were in operation by the early years of the new millennium.

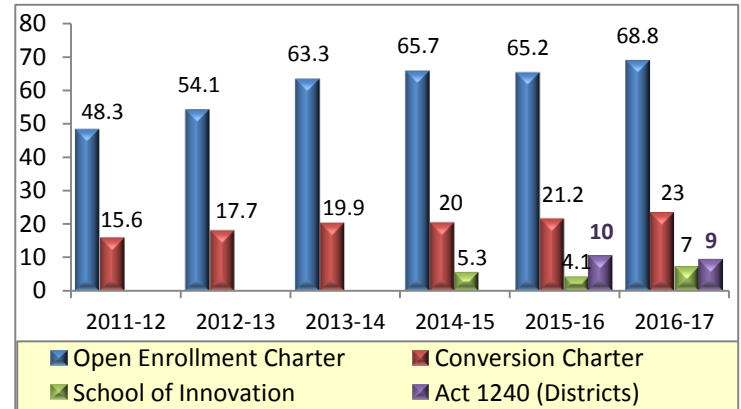
In 2013, Act 601 created **districts and schools of innovation**, which allowed these public educational entities to apply for and operate under waivers from many Arkansas laws and rules similar to their charter counterparts. (Though the law allows the creation of districts, the applications approved so far are for schools of innovation only.)

The General Assembly passed **Act 1240 in 2015**. The law allows the State Board of Education to grant some or all of **school districts’** requests for waivers that exactly mirror the waivers from laws and rules granted to open-enrollment charter schools that draw students from the school district. While any school may develop a plan and ask for any eligible waiver to become a school of innovation, Act 1240 districts (the law does not apply to schools) may request only the same waivers held by any open-enrollment charter that enrolls a student from the school district.

One more type waiver worth mentioning is the **minimum school district waiver** made possible by Act 377 of 2015. As the name implies, this waiver is granted specifically to allow a school district to operate below the 350 enrollment threshold set by Act 60 of the Second Extraordinary Session of 2003. It does not provide waivers from any other laws or rules.

Growing Numbers of Waivers

The number of schools, districts and charter systems receiving waivers has grown in recent years, as has the average number of waivers received by each school within its category as the following graph shows:



Types of Waivers

When analyzed by waiver topic, waivers having to do with teacher licensure outnumber other areas of waivers in 2016-17, making up a quarter of all waivers school and school districts operated under that year. One reason is that several laws and rules regarding teacher licensure overlap, so several have to be waived to accomplish the goal of employing teachers who do not hold licenses for the classes they teach. These are not waivers for individual teachers, but rather apply to the schools’ teaching staffs as a whole. And it’s also important to remember that in 2016-17, only charter schools were allowed to place non-licensed teachers in core subject classes

Other common waiver categories are curriculum, library media, gifted and talented, board of directors and school elections, and class size and teaching load.

Impact of Waivers

It will be important to look at the impact of waivers, both on spending patterns for funding purposes and on student performance as the legislation for most waivers (with the exclusion of Act 1240 districts) includes a goal of improved student performance.

BLR analyzed 2016-17 school year spending patterns by looking at 65 schools and charter organizations that had been operating under waivers for at least three years. When looking at classroom teachers, library/media specialist, technology and instructional materials expenditures, the only significant difference in spending patterns emerged with library/media specialists, for which schools operating with waivers tended to spend less than those without waivers.

A richer analysis of the impact of waivers will be possible in future years as there are more schools and districts with waivers to include in the analysis and student performance and growth data also are available.