

# FINDINGS

## Participation Rates

For the forty states with charter laws, Table 2 indicates which require charter schools to participate in the state retirement system and which make this optional. Observe (in the “Notes” column) that the various ways by which charters may avoid participation can be complicated.<sup>13</sup>

**Table 2. State Charter Laws Governing Participation in Retirement Systems**

STATE	PARTICIPATION IN STATE RETIREMENT SYSTEM		NOTES
	REQUIREMENT	OPTION	
Alaska	x		
Arizona		x	
Arkansas	x		
California		x	
Colorado	x		
Connecticut	x		Required participation is new as of July 1, 2010; schools retain the option for teachers hired before that date
Delaware		x	
Florida		x	As long as schools operate as public employers, they have the option to participate; schools operating as private employers may not participate
Georgia	x		
Hawaii	x		
Idaho	x		
Illinois	x		Certified teachers in Chicago must participate in the Chicago Teachers Pension Fund, but non-certified teachers may not participate
Indiana		x	
Iowa	x		
Kansas	x		
Louisiana		x	Louisiana has five types of charters; while Type 4 charters are required to participate, the other types retain the option
Maryland	x		

13. We obtained a table from the National Alliance for Public Charter Schools (NAPCS) summarizing these laws as of December 2007. We updated the information in January 2011 with the assistance of state charter school associations and state departments of education.

**Table 2. State Charter Laws Governing Participation in Retirement Systems** (continued)

STATE	PARTICIPATION IN STATE RETIREMENT SYSTEM		NOTES
	REQUIREMENT	OPTION	
Massachusetts	x		
Michigan		x	Charter schools have an option to participate by virtue of how they hire their employees (see state profile for details)
Minnesota	x		
Mississippi	x		There are no charter schools currently operating in Mississippi
Missouri	x		Charter schools are required to participate in local retirement systems
Nevada	x		
New Hampshire		x	
New Jersey	x		
New Mexico	x		
New York		x	Charter schools in New York City have the option of participating in the Teachers' Retirement System of the City of New York (see state profile for details)
North Carolina		x	
Ohio	x		
Oklahoma		x	
Oregon	x		
Pennsylvania		x	In order to avoid opting in to the system, a school must demonstrate that it has an alternative retirement option in place
Rhode Island		x	Only "mayoral academy" charters have the option; all others are required to participate
South Carolina		x	
Tennessee	x		
Texas	x		
Utah		x	
Virginia	x		
Wisconsin		x	District-authorized instrumentality charter schools have the option of participating; all other types of charters are not permitted to participate
Wyoming	x		

This study examines six states in which charter schools have the choice of participating in the state teacher pension plan: Arizona, California, Florida, Louisiana, Michigan, and New York. These states had 2270 charter schools in operation during the 2008-09 school year, comprising 46 percent of all charter schools in the United States and more than 75 percent of the schools that qualified for inclusion in this study based on state laws. As a group, charter schools accounted for 5.5 percent of public school enrollment in these six states in 2010.<sup>14</sup>

Table 3 summarizes the rates at which charter schools in the six states participate in their respective state retirement systems.

STATE	PARTICIPATION RATE
Arizona	41%
California	91%-93%
Florida	23%
Louisiana	71%
Michigan	28%
New York	28%

Note: Participation rates were adjusted for Arizona, California, and Florida based on phone calls with school personnel. Staff at some schools indicated that their schools were participating employers in the state retirement system, despite not being listed as such by the state agency. The percentage for New York was also adjusted based on estimates of the number of charter schools in New York City that opt in to the Teachers' Retirement System of the City of New York.

Participation rates vary greatly among the six states—from over 90 percent in California to less than one out of every four charters in Florida. While many factors influence this range, one critical element is whether or not teachers in the state participate in Social Security.<sup>15</sup> In California and Louisiana, charter schools that participate in the state retirement system need not participate in Social Security. This seems to create an incentive for charter schools in those states to opt in to their respective state retirement systems—because opting *out* of the state retirement system means opting *in* to Social Security, and thus trading the pension contribution for the Social Security contribution (which, while lower than the pension contribution in both California and Louisiana, significantly decreases the cost savings because most charters then layer on their own alternative plan). Because charter schools in California and Louisiana

14. Calculation based on numbers from “National Charter School and Enrollment Statistics” (Washington, D.C.: Center for Education Reform, 2010), [http://www.edreform.com/\\_upload/CER\\_charter\\_numbers.pdf](http://www.edreform.com/_upload/CER_charter_numbers.pdf); and the *Digest of Education Statistics 2010* (Washington, D.C.: National Center for Education Statistics, 2010), [http://nces.ed.gov/programs/digest/d10/tables/dt10\\_036.asp](http://nces.ed.gov/programs/digest/d10/tables/dt10_036.asp).

15. The original Social Security Act passed in 1935 excluded state and local workers. Amendments to the act in the 1950s permitted state and local workers to elect to participate (as units, not individuals). The majority of teachers did, and the Bureau of Labor Statistics estimates that 73 percent of teachers today participate in Social Security. See *National Compensation Survey: Retirement Benefits in State and Local Governments in the United States, 2007* (Washington, D.C.: Bureau of Labor Statistics, 2008), <http://stats.bls.gov/ncs/ebs/sp/ebsm0008.pdf>. Currently, the Social Security (FICA) contribution rates are 6.2 percent for the employee and 6.2 percent for the employer, for a combined total of 12.4 percent.

opt in to their state retirement systems at the highest rates among the six states in the study, this appears to be an important factor influencing whether the charter schools in these states participate in their state systems—a finding supported by conversations with charter operators and sponsors.<sup>16</sup> Other nuances of the laws governing Social Security law (e.g., the Windfall Elimination Provision) may play a role as well. At present we do not fully understand why (or even if) Social Security has such a deterrent effect. This is clearly a topic for further research.

Restrictions and idiosyncrasies in state law also seem to affect charter participation rates. In Florida, for example, charter schools are required to identify themselves as either private or public employers; while the former are excluded entirely from the state retirement system, the latter have the option of participating. However, many charter operators are unaware of this distinction and may inadvertently opt out of the Florida Retirement System by choosing to operate as private employers. This renders them ineligible to participate by virtue of their employer status (or perhaps, by operating as private employers, they are trading off the option to participate in the state pension plan in exchange for less binding private-sector collective bargaining laws). Other nuances unique to each state are common; for one such example, see *Louisiana Limbo*.

Charter operators cite additional influences on schools' decisions to opt in or not. One consideration is whether participation in the state retirement system will serve as a positive or negative teacher-recruitment tool. The nature of this correlation depends on a school's pool of prospective teachers: If the pool is generally older and most of its members are already vested in the state system, opting in may aid recruitment. However, if a charter school primarily recruits new teachers, particularly young teachers unlikely to or unsure of whether they want to make a career of public school teaching, participation has less allure.

## LOUISIANA LIMBO

After the devastation caused by Hurricane Katrina in 2005, Louisiana passed a temporary law to allow teachers employed by hurricane-impacted districts to take a leave of absence from their respective districts (enabling them to teach at public charter schools) while maintaining their enrollment in the Teachers' Retirement System of Louisiana (TRSL). When the leave of absence law expired in 2010, the legislature passed Act 999, permanently extending the TRSL opt-in for charter school teachers, provided that a teacher had been enrolled in TRSL prior to his or her employment with a charter school. However, under the language of the bill, the law required approval by the IRS. TRSL requested a ruling from the IRS in March 2010; as of June 2011, fifteen months later, this request was still pending. Since the bill's provisions are on hold until the IRS renders its decision, Louisiana charters remain in pension limbo.

16. In March 2011, the Thomas B. Fordham Institute convened a day-long meeting of charter school operators and other charter school organizations to discuss this research. Throughout this report, we draw on comments from those participants, as well as from numerous phone conversations with charter school operators and organizations.

## Participation Patterns

In addition to state-level variation, charter school participation rates vary according to school location (urban, rural, etc.), as shown in Table 4 (California, Louisiana, and New York are excluded from this analysis).<sup>17</sup> In Arizona, Florida, and Michigan, participation rates are generally higher for charter schools in rural and town locales than for schools in suburban and city locales.

LOCALE	ARIZONA	FLORIDA	MICHIGAN
Rural	47% (88)	14% (76)	37% (41)
Town	44% (59)	19% (16)	36% (11)
Suburb	33% (85)	14% (214)	28% (94)
City	39% (294)	12% (159)	24% (137)

It is possible that charter schools in rural areas or smaller communities have less access to nontraditional teacher hires. Thus they compete directly with traditional public schools in attracting teachers already vested in the state system. Charter schools in metropolitan areas are more likely to have a larger and more diverse teacher-recruitment base.

Participation rates also differ depending on whether a school is freestanding (“mom and pop”) or is run by a management organization (either a nonprofit charter management organization, or CMO, or a for-profit education management organization, or EMO). Four states had sufficient data to analyze this trend: Arizona, Florida, Louisiana, and Michigan.<sup>18</sup> In all four of these states, the participation rates were lower for charter schools operated by management organizations. Charter watchers suggest that CMOs and EMOs are more likely to have an established alternative to the state retirement system, such as a 401(k) or 403(b) plan, while freestanding schools must devise their own. Thus schools operated by management organizations are more inclined to choose not to opt in to the state system.

17. Participating employer data from the California State Teachers’ Retirement System were not available for 2008–09. Since the Teachers’ Retirement System of the City of New York refused to share its participating employer data with us, we were not able to evaluate specific participation patterns for New York. The small number of charter schools in Louisiana also prohibited inclusion, as there was only one charter school with a “town” classification, one charter school with a “suburb” classification, and five charter schools with “rural” classifications, compared to fifty-eight with “city” classifications. We did, however, calculate the participation rate for New Orleans as compared to the rest of the state. It was 62 percent—lower than the rest of the state, with New Orleans excluded (94 percent).

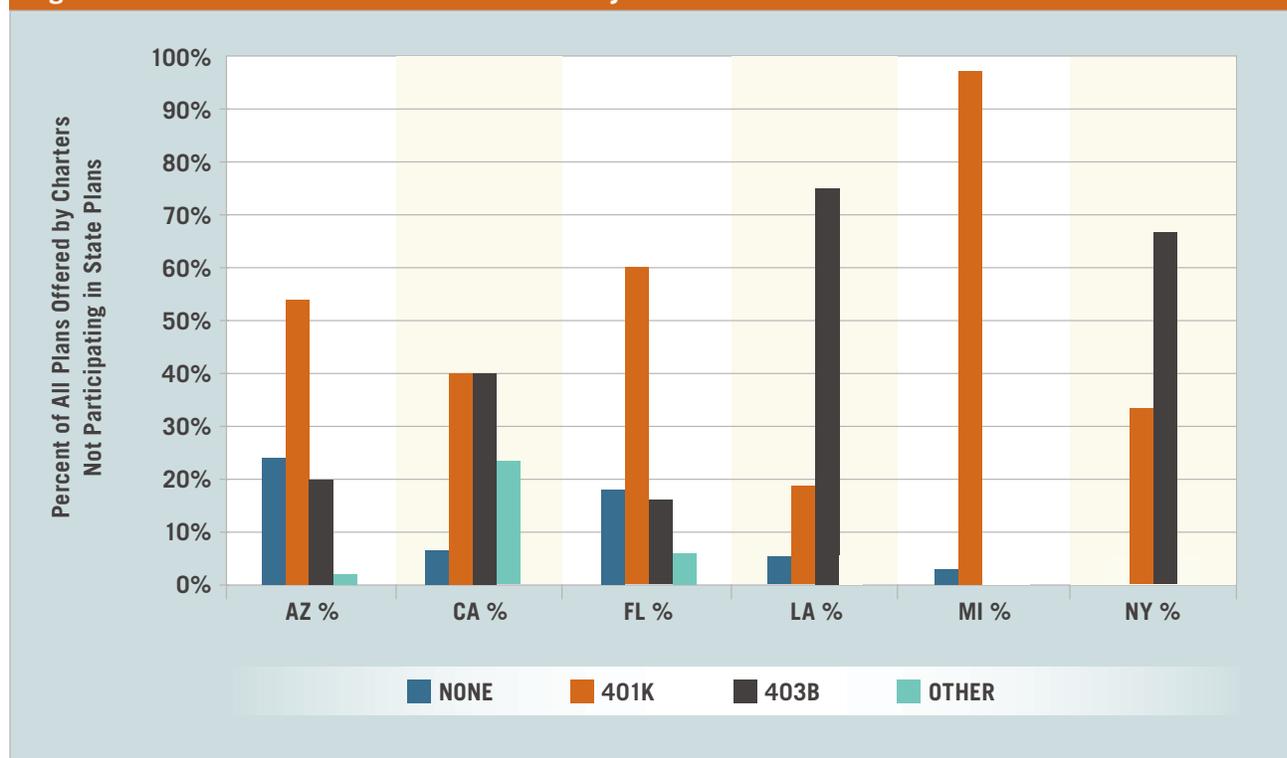
18. California and New York were excluded for the same reasons delineated in footnote 18.

## Alternative Retirement Plans

What do charter schools that do not opt in to state pension plans offer their teachers instead? This analysis surveyed a random sample of such schools and found that the most common alternative retirements are 401(k) and 403(b) plans.<sup>19</sup> Figure 1 presents the full results of the survey (see Appendix A for detailed state-level profiles).

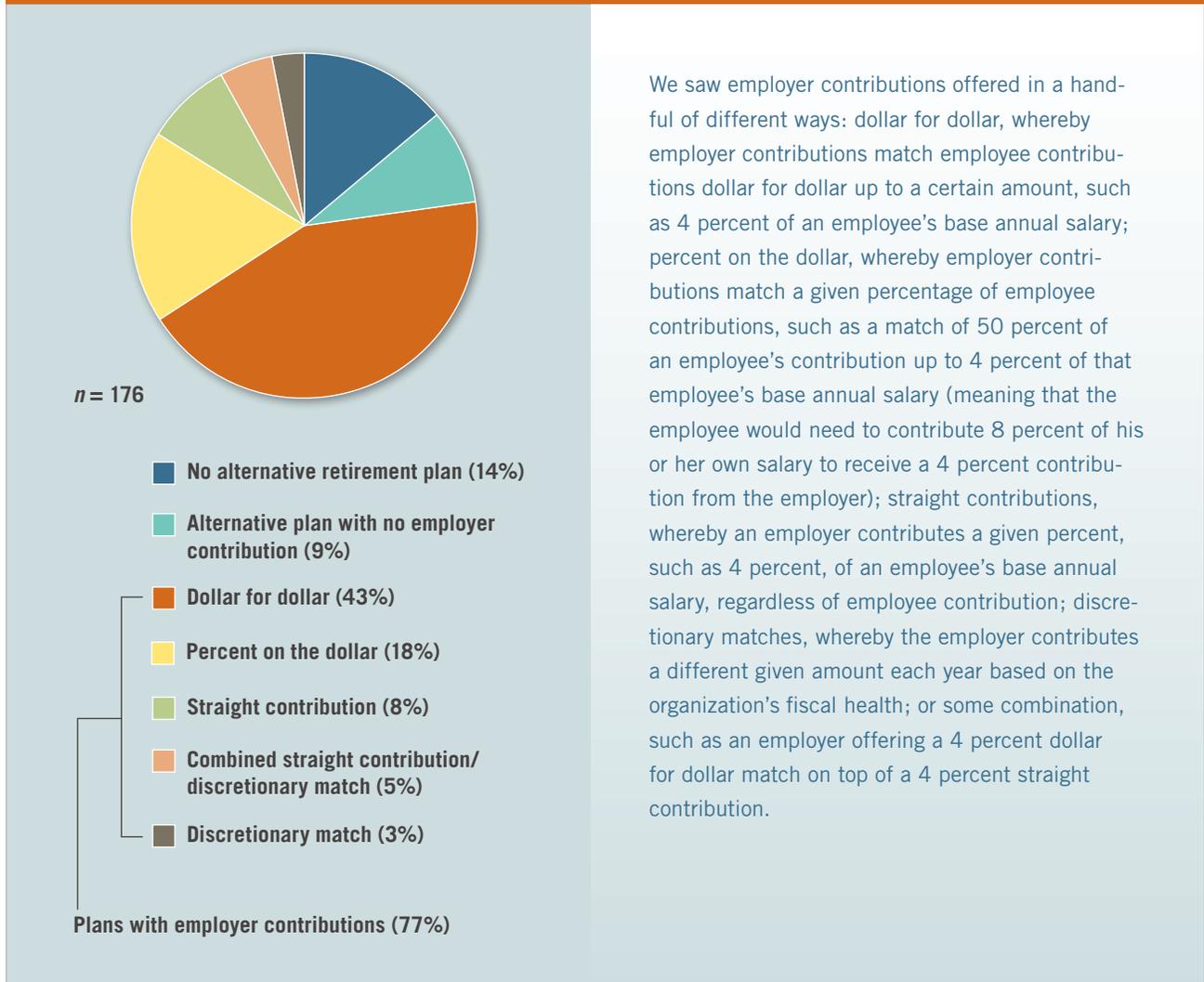
A significant number of charter schools not participating in their state retirement plans offer *no* alternative retirement plans at all for their teachers. This, too, differs by state. For instance, while only one non-participating charter school in Michigan offers no alternative, 18 percent of those in Florida and 24 percent of those in Arizona have none. In Michigan, 401(k) retirement plans are overwhelmingly the preferred alternative; a majority of charter schools in Florida and Arizona also choose those plans. Most charter schools in Louisiana and New York instead opt for 403(b) retirement plans. In California, the majority of charters is split evenly between 401(k) and 403(b) retirement plans.

Figure 1. Alternative Retirement Plans Offered by Charter Schools



19. 401(k) and 403(b) are sections of the U.S. tax code pertaining to employer defined-contribution pension plans. 401(k) plans are available to for-profit employers, whereas 403(b) plans are an option for not-for-profit employers. The IRS rules for these two types of plans are broadly similar, although there are some differences besides the primary distinction of the tax status of the employer.

**Figure 2. Types of Employer Contributions for Charter Schools Not Participating in State Plans**



Note: The total *n* = 176 does not include one school in Arizona, five schools in California, six schools in Florida, and two schools in New York that we discovered were participating employers in their respective state/local retirement systems, despite not being listed as such by the state agencies.

Types of employer and employee contributions vary widely for the alternative retirement plans, as shown in Figure 2 above.

The straight contributions range from 4 percent up to 10 percent of an employee’s base annual salary. The matches start at 2 percent, and range up to a graduated 15 percent match for employees who work fifteen years or more at one school. Overall, the most common employer contribution rate for plans offering such a contribution is a dollar for dollar match in the 4 to 6 percent range.

Of the alternative retirement plans with employer contributions, 49 percent allow new hires to be vested immediately (within three months of hiring), while 11 percent have vesting periods of six years or more. The rest have vesting periods that fall somewhere in between.

Charter schools in Arizona, Florida, Michigan, and New York appear to incur lower retirement benefit costs when they offer alternative retirement plans instead of participating in their state pension systems. Except for two schools in Michigan, all of the surveyed schools with alternative retirement plans in these four states offer employer contributions that are lower than those that they would have been required to make if they had instead opted in to their state retirement plans (state retirement system employer contribution rates for the 2008-09 fiscal year are shown in the sidebar). Further, the majority of these plans offer matches rather than straight contributions—meaning that when a teacher does not contribute to his or her plan, the employer does not contribute anything, either.

The scenario is more complicated for schools in California and Louisiana, as charters in those states are required to opt in to Social Security when they do not choose the state retirement system. The financial savings realized by avoiding employer contributions to the state retirement system are somewhat offset by the financial burden of paying into Social Security. This factor is especially worth noting in California, where the employer contribution rate to the state pension plan (8.25 percent) is not much higher than the employer contribution rate to Social Security (6.2 percent). A California charter school that opts out of the state pension plan avoids the 8.25 percent state retirement system contribution, but must instead pay the 6.2 percent Social Security contribution, often in addition to a contribution to some kind of an alternative retirement plan—which we discovered could range all the way up to a match of 10 percent in California. Even taking this into account, however, it is still likely (especially in Louisiana) that charter schools offering alternative plans—while also paying into Social Security—often realize lower total retirement benefit costs. This is in part because the majority of employer contributions to these alternative plans are in the form of matches rather than straight contributions, and teachers do not always take advantage of a match.

Furthermore, charter schools with alternative retirement plans steer clear of the unpredictability that often accompanies employer contributions to state retirement systems. State retirement systems often change their employer contribution rates from year to year. In many states, these rates are projected to rise swiftly in the near future. By comparison, charter schools with alternative plans have control over their employer contribution rates. This allows them to budget accordingly and, when necessary, modify the rates to maintain their fiscal health.

### STATE RETIREMENT SYSTEM EMPLOYER CONTRIBUTION RATES 2008-09 Fiscal Year

Arizona:	9.45%
California:	8.25%
Florida:	8.74%
Louisiana:	15.5%
Michigan:	9.73%
New York State:	6.19%
New York City:	30.8%

## Next Steps

As is often the case when collecting new data, they potentially raise more questions than they answer. For example, it would be worthwhile to collect further data on whether charter school participation rates vary depending on characteristics such as authorizer type or grade span. It would also be useful to expand this research to the other ten states that offer charters the option of participating in state retirement systems.

The surveys themselves could be expanded to include additional questions for teachers and administrators, such as the following:

- To what extent do teachers value different retirement benefits, and to what extent do employees avail themselves of the alternative retirement plans that charter schools offer?
- To the extent that employees do participate in alternative retirement plans, how much do they typically contribute? What is the range of contributions, and what teacher characteristics affect contribution levels?
- If charter retirement benefit costs for teachers are lower, are other benefits or salaries higher?

Another important question not addressed here is the effect of charter pension policies on teacher recruitment, retention, and quality. Learning more about the extent to which teachers participating in those alternative plans are satisfied—not just vis-a-vis their current schools and jobs, but also in relation to their overall career trajectory—is an important next step in this line of inquiry. Clearly, there is considerable variation in retirement plans in the charter sector. But what are the consequences of this variation on the instructional workforce? Is there a relationship between teacher effectiveness and the type of retirement options that teachers seek out? Our data suggest that charter retirement benefit costs are lower. Has this had an effect on staff retention and quality?

And finally, what important lessons can be gleaned from charter school experimentation with alternative retirement systems? How can these lessons inform ongoing reform efforts in traditional public schools?