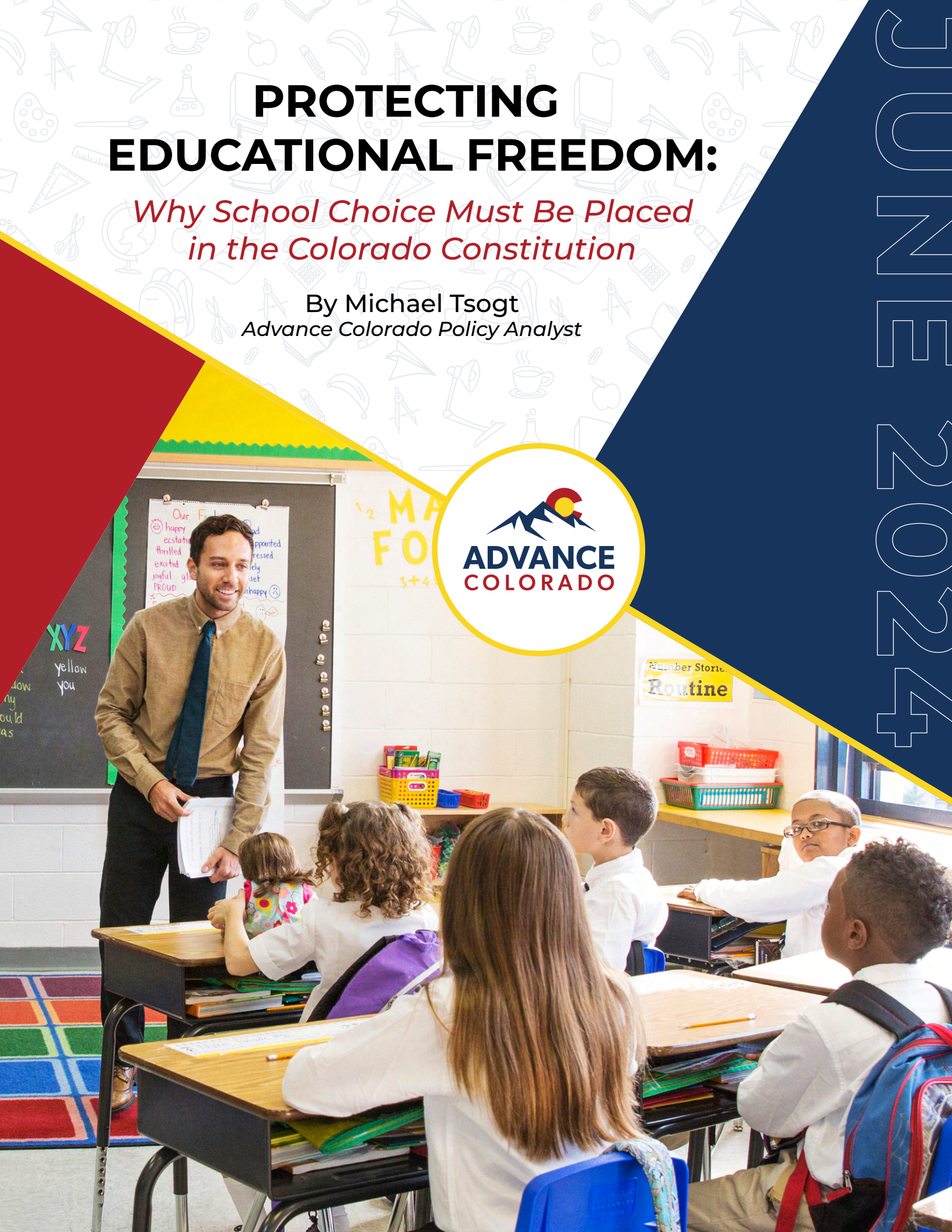


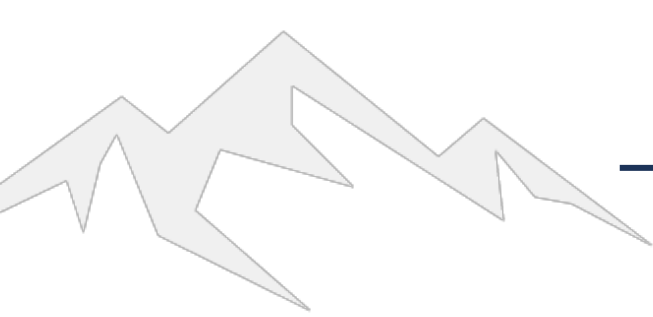
# PROTECTING EDUCATIONAL FREEDOM:

*Why School Choice Must Be Placed  
in the Colorado Constitution*

By Michael Tsogt  
Advance Colorado Policy Analyst



JUNE 2024



## *Issue Summary*

School choice in Colorado has a decades-long record of popularity among families and educators, opening doors for students to choose schools that better suit their needs backed by bipartisan support at the State Capitol. Despite this, school choice faces an annual barrage of legislative assaults—including an existential threat to charter schools this year. The most effective way to protect school choice in Colorado is to put this basic right into the state Constitution.

School choice, as defined by National School Choice Week, is “the process of allowing every family to choose the K-12 educational options that best fit their children” because “every child deserves an effective, challenging, and motivating education.” (1)

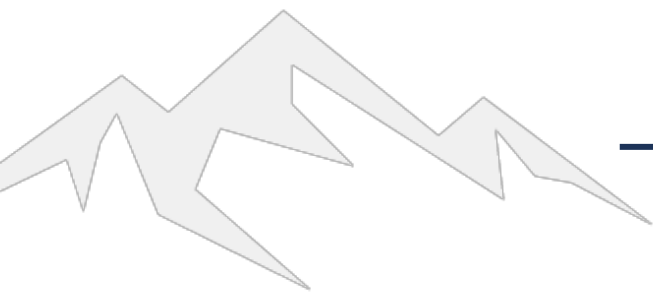
Colorado has a rich history of bipartisan support for school choice. While school choice includes many options in Colorado — charter, private, and home schools as well as online schools and open enrollment — several recent reports have illustrated exactly how charter schools became an important focus for educational options in the state.

Ready Colorado, an education reform group, released a 2023 [report](#) studying the rise of school choice in Colorado over the past three decades; the National Charter Schools Founder Library released a [timeline](#) of the charter school movement in Colorado; and the Progressive Policy Institute released a 2019 [report](#) on the progressive roots of charter schools with a section on Colorado. (2)(3)(4)

These three reports all arrived at the same conclusion: the school choice movement in Colorado, which began with the Charter Schools Act of 1993, was strongly bipartisan.

The [Charter Schools Act of 1993](#) was authored by then State Senator Bill Owens, a Republican who later went on to serve as Governor from 1999 to 2007, and Democrat State Representative Peggy Kerns. Despite attempts by the opposition coalition to fatally weaken the bill, Democrat Governor Roy Romer signed it into law after it passed both chambers of the General Assembly with bipartisan support. This earned Colorado a place as a school





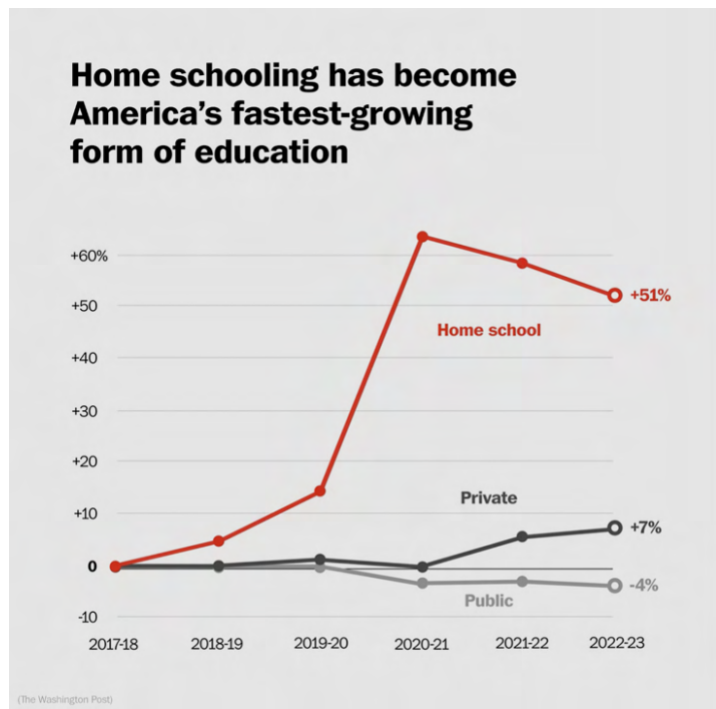
choice pioneer, becoming just the third state to authorize public charter schools. Three months later, Colorado’s first charter school opened in Pueblo. (4)(5)

Former Governor John Hickenlooper, a Democrat, said this about charter schools:

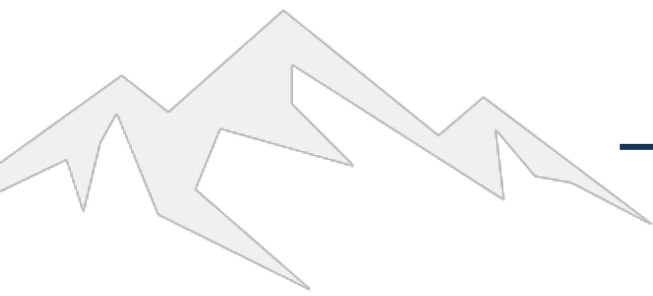
“What charter schools have done is dramatically expand the choices consumers – our citizens – get to use so that there are all kinds of different types of schools – longer school days, more intensive language study, science and technology focus...we’re giving our citizens more choice than they could ever have imagined 20 years ago.” (6)

The Charter Schools Act is not the only way Colorado law supports school choice. The Public Schools of Choice law, commonly referred to as “Open Enrollment,” allows students to enroll in a public school outside of their assigned neighborhood school, which is determined by where they live. (7)(8)

Homeschooling is also supported by Colorado law. In 1988, the Colorado legislature passed a bill that made it significantly easier for parents to homeschool their children while also “holding parents accountable for their children’s attendance, academic achievement, and completion of standardized testing.” Parents were no longer required to obtain the approval of the state board to homeschool their children. (2)(9)



(12)



“It's relatively simple to homeschool in CO. You have three options. If you're licensed to teach in the state, you can just start. For those of us without teaching experience, you can either file a notice of intent with your local school district or use an umbrella school. If you follow the requirements set by the umbrella school, you do not need to register with the state or school district.”—Sunny R. in Castle Rock, CO (10)(11)

According to a national Washington Post study, America has seen “the most significant expansion of home education in history” in the last six years – making homeschooling the fastest-growing form of education. (12)

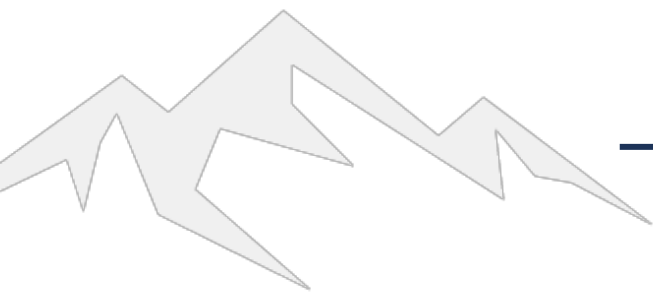
Colorado parents can also send their children to private schools, sometimes referred to as “non-public” schools, which include independent and parochial schools. These non-public schools are considered private businesses.

According to the Colorado Department of Education, “neither the State Board of Education nor any local board of education has jurisdiction over the internal affairs of any non-state independent or parochial school in Colorado.” (13) Parents often send their kids to private schools for reasons such as smaller class sizes, more personalized education options, or a faith-based education and learning environment.

Every Colorado child, regardless of their zip code, race, ethnicity, or income, can apply to attend the public school that best fits their needs. According to National School Choice Week, public options in Colorado cover a wide variety, as Colorado families can choose from traditional public schools, public charter schools, magnet schools (public schools with specialized courses or curricula), or online learning schools. (14)

School choice is important because it allows each family to choose what schools are the best fit for their children. Parents, not the government, know their children the best and they should decide the school that will best educate their children.





## The Statistics

According to the American Federation for Children, 47 states have some form of public or private school choice. The school choice movement that began changing the laws of only a few states in the early '90s is now the predominant and preeminent educational worldview across the political spectrum. (15)

Colorado falls into the category of a state with public charter school laws but without a private school choice program. This means that Colorado allows multiple school choice options but does not fund private or home school options with state dollars. The one exception to this is the Universal Preschool Program (UPK). The UPK program, which started in fall 2023, uses state dollars to fund a specific number of hours per week for qualifying students at public or private preschools. (16)

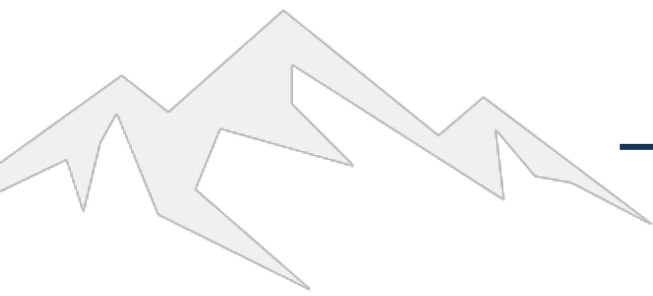
Private school enrollment in Colorado continues to rise after the pandemic, whereas nationwide numbers for private school enrollment have flattened. According to Axios Denver, 12.9 percent of students in Colorado were enrolled in private schools in 2022 up from 11.2 percent in 2019 before the pandemic. (17)

Homeschooling is now the fastest-growing form of education in the country. In the Centennial State, homeschooling has seen a 17 percent increase in the last six years. District 49, a school district on the east side of Colorado Springs, saw a 280 percent increase in homeschooling in the same time frame. (18)

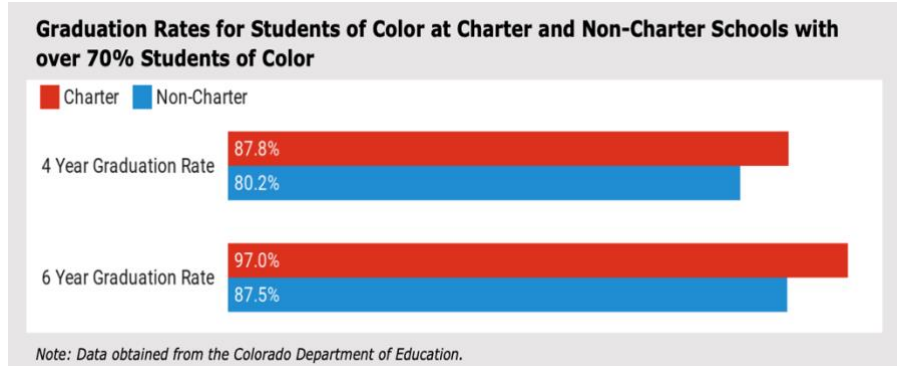
Colorado's charter schools have also found widespread success. Seven of the top 10 public high schools in Colorado, according to the 2022 US News & World Report, were charter schools. (19)

- #1** Over 134,000 students attend charters in Colorado. If it were a district it would be the largest
- 265** Number of charter schools state-wide, spread across 70 different cities and towns
- 15%** of public school students in Colorado currently attend charter schools
- +5%** In Colorado, charter schools serve five percent more English language learners and students of color than the state's non-charter schools
- 7** of the top 10 public high schools in 2022 were charter schools (USNWR, 2022)
- 2nd** strongest charter school law in the country because of its focus on transparency and accountability

(19)



Furthermore, a 2020 Common Sense Institute [study](#) found that the charter school experiment has proven capable of “improving outcomes for traditionally underserved students.” (20)



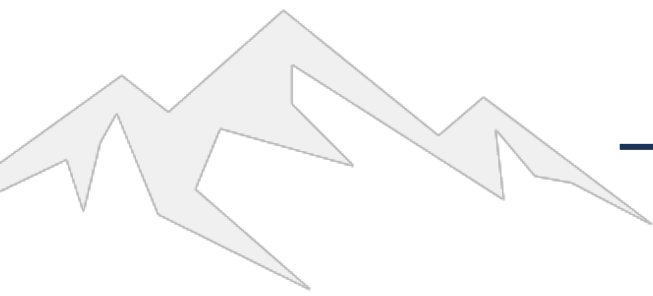
(21)

A 2023 Cygnal poll commissioned by Ready Colorado found that “charter schools retained a positive image at 61 favorable to 21% unfavorable.” In addition, 65 percent supported equal funding for all charter schools. Most significantly, 68 percent of Colorado voters would support a constitutional amendment that guarantees every child the right to school choice. (22)

Democrats for Education Reform (DEFER), a group dedicated to electing and supporting Democratic leaders committed to their vision for a public education system, conducted polling in the summer of 2019 finding that a plurality of Democrats supported public charter schools. Among likely Democrat primary voters, 61 percent and 66 percent of Black and Latino voters had a favorable view of public charter schools; only 44 percent of White likely Democrat primary voters viewed public charter schools favorably. (23)(24)

The DEFER poll also found that 78 percent of Democrats supported public charter schools as part of a public school choice educational system. (25) According to DEFER, the relationship between Democrats and public charter schools might be complicated, but charter school policies have had the support of Democrats and progressives since the policy’s inception. (25)

Current State Senator James Coleman, a Democrat, understands “that different students and families have different needs, and every parent deserves the opportunity to choose the school that works best for their child.” (26)



Public charter schools have improved the quality of education in Colorado and across the country. But the system of public education in Colorado is far from perfect.

## *The Problem*

The school choice movement in the United States is a rejection of the one-size-fits-all model of education. In Colorado, which has one of the best school choice statutes in the nation, the next move is to preserve school choice for future generations by cementing it as a right in the Colorado Constitution. This is necessary due to a rising attack against the right to school choice for all.

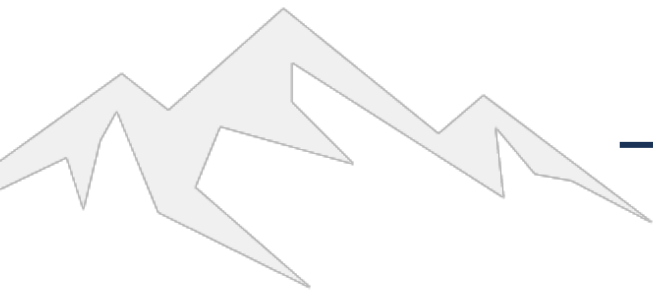
Despite its popularity across the political spectrum, there are groups of ideologues who seek the destruction of school choice in Colorado by going after public charter schools. Exhibit A is House Bill [24-1363](#) – the so-called “Charter Schools Accountability” bill – marketed by its sponsors as the beginning of the end for charter schools. (27)

While Republican opposition to these efforts is well known, many Democrats in Colorado would also oppose the passage of bills like HB 1363. Governor Jared Polis, a longtime advocate of school choice and charter schools, founder of New America Charter, and co-founder of the Academy of Urban Learning, stated that he “strongly opposes [this bill].” (28)(29)

The Gazette Editorial Board [found](#) that this bill, although “touted as an effort to increase accountability,” “would deliver a death by a thousand cuts.” (30)

“A few of HB24-1363’s provisions are straightforward enough to expose the bill’s underlying intent outright — like its repeal of a charter school applicant’s right to appeal to the state when a local, anti-charter school board rejects a charter application a second time. But most of the dirty work in the legislation consists of obscure, arcane policy twists that do their damage while flying under the radar. The net effect is to create a broad array of hurdles.” (30)





The transparent attempt to shutter charter schools in Colorado defies parental preferences as students continue to remain on charter school waiting lists across the state. Multiple school districts have rejected charter applications that included hundreds of families who signed paperwork indicating they would immediately enroll — most recently in Durango and Boulder Valley. (31)(32)

Demonstrating that the bipartisan support for charter schools remains intact – for now – the anti-charter bill was defeated by an 8-3 margin in the House Education Committee.

These anti-choice actions, led by the teachers’ union, indicate a grave indifference to parental involvement in education, high academic performance for children, and the common-sense idea that competition encourages more innovation and leads to greater success for all.

## *The Solution*

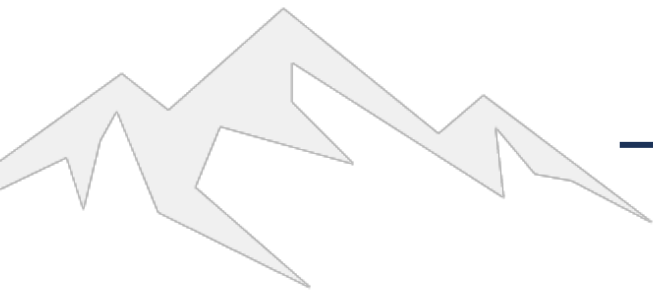
The rich history of school choice in Colorado lends itself to an eventual outcome – cementing the right to school choice in the state constitution.

Parents are at the forefront of this [movement](#). According to a recent [report](#) by The National School Choice Awareness Foundation, over 70 percent of parents in almost every state support school choice policies. (33)(34)

Given the current anti-school choice makeup of the General Assembly, putting the right to school choice in Colorado’s constitution must be accomplished by a citizens’ initiative.

Because of the recent assaults on school choice, it is only a matter of time before the opportunity to cement this right ceases. This year, Advance Colorado is leading the effort to put school choice in our constitution with [Initiative #138](#). (35)

The language of this citizens’ initiative, which passed the single subject requirement and has its title set for the ballot, reads as follows:



- (1) Purpose and Findings. The people of the state of Colorado hereby find and declare that all children have the right to equal opportunity to access a quality education; that parents have the right to direct the education of their children; and that school choice includes neighborhood, charter, private, and home schools, open enrollment options, and future innovations in education.
- (2) Each K-12 child has the right to school choice.

The people of Colorado cannot afford to wait for anti-choice activists to take away educational options for children. Putting the right to school choice in the Colorado Constitution grants it legal advantages a normal statute does not have.

If lawmakers ever wanted to repeal or revise this right, they would have to go to a vote of the people. In addition, the Colorado State Supreme Court would be required to apply strict scrutiny for every law that infringes upon the right to school choice.

For the sake of Colorado's future, we must preserve charter schools, home schools, private schools, trade schools, magnet schools, online learning, open enrollment, and future innovations in education by putting school choice in our state constitution.

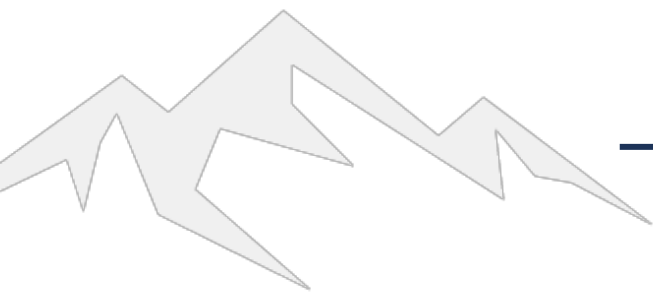


---

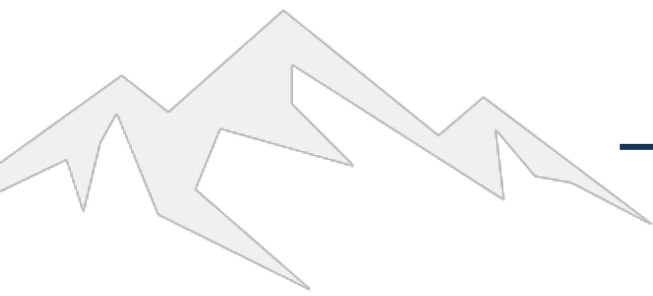
## Works Cited

1. "What is School Choice?" *National School Choice Week*, <https://schoolchoiceweek.com/what-is-school-choice/>. Last Accessed 1 April 2024.
2. "The History of School Choice in Colorado." Ready Colorado, 30 January 2023, <https://readycolo.org/schoolchoicehistory/>. Last Accessed 1 April 2024.
3. O'Brien, Barbara, et al. "Colorado - Founders Library." *National Charter Schools Founders Library*, <https://charterlibrary.org/timeline/colorado/>. Last Accessed 1 April 2024.
4. Langhorne, Emily. "The Progressive Roots of Charter Schools." Progressive Policy Institute, September 2019, <https://files.eric.ed.gov/fulltext/ED605247.pdf>. Last Accessed 1 April 2024.
5. *1993 Charter Schools Act*, [https://leg.colorado.gov/sites/default/files/images/olls/1993a\\_sl\\_227.pdf](https://leg.colorado.gov/sites/default/files/images/olls/1993a_sl_227.pdf). Last Accessed 1 April 2024.
6. "About." *Colorado League of Charter Schools*, <https://coloradoleague.org/about.html>. Last Accessed 1 April 2024.
7. "Colorado Open Enrollment." *School Choice for Kids*, <https://schoolchoiceforkids.org/colorado-open-enrollment/#toggle-id-4>. Last Accessed 1 April 2024.
8. "Public Schools of Choice | CDE." *Colorado Department of Education*, <https://www.cde.state.co.us/choice/openenrollment>. Last Accessed 1 April 2024.
9. "A History of Homeschooling in Colorado." *Coalition for Responsible Home Education*, <https://responsiblehomeschooling.org/research/histories/a-history-of-homeschooling-in-colorado/>. Last Accessed 1 April 2024.
10. "Homeschooling in Colorado: Homeschool Guidance, Tips, Laws." *Sonlight Curriculum*, <https://www.sonlight.com/homeschooling-requirements-by-state/colorado>. Last Accessed 1 April 2024.
11. *Colorado - Coalition for Responsible Home Education*, <https://responsiblehomeschooling.org/colorado/>. Last Accessed 1 April 2024.
12. Jamison, Peter, et al. "How many kids are homeschooled in the U.S.? Growth by school district." *The Washington Post*, 31 October 2023,

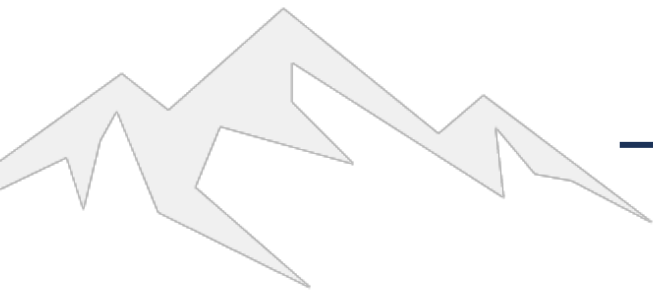




- <https://www.washingtonpost.com/education/interactive/2023/homeschooling-growth-data-by-district/>. Last Accessed 1 April 2024.
13. "Colorado Non-Public Schools | CDE." *Colorado Department of Education*, [https://www.cde.state.co.us/choice/nonpublic\\_index](https://www.cde.state.co.us/choice/nonpublic_index). Last Accessed 1 April 2024.
  14. *Colorado Snapshot*, National School Choice Week, <https://schoolchoiceweek.com/wp-content/uploads/2023/07/Colorado-Snapshot.pdf>. Last Accessed 1 April 2024.
  15. "School Choice Facts." American Federation for Children, [https://www.schoolchoicefacts.org/?gad\\_source=1&gclid=Cj0KQCQiAw6yuBhDrARIsACf94RU6eMVfbmTp8K-qTygFuQvks0eVXqc6wCYw5Bkl5Ivp9QYZyJVLrWQaAsdHEALw\\_wcB#programs](https://www.schoolchoicefacts.org/?gad_source=1&gclid=Cj0KQCQiAw6yuBhDrARIsACf94RU6eMVfbmTp8K-qTygFuQvks0eVXqc6wCYw5Bkl5Ivp9QYZyJVLrWQaAsdHEALw_wcB#programs). Last Accessed 1 April 2024.
  16. Brundin, Jenny. "Ready or not, universal preschool is coming to Colorado (and many school districts do not feel ready)." *Colorado Public Radio*, 6 February 2023, <https://www.cpr.org/2023/02/06/colorado-universal-preschool-school-district-concerns/>. Last Accessed 1 April 2024.
  17. "Colorado private school enrollment still on the rise." *Axios*, 15 February 2024, <https://www.axios.com/local/denver/2024/02/15/rcolorado-private-school-enrollment-rising>. Last Accessed 1 April 2024.
  18. Bzdek, Vince. "Homeschool is America's fastest-growing form of education. | Subscriber Content." *Colorado Springs Gazette*, 4 November 2023, [https://gazette.com/premium/homeschool-fastest-growing/article\\_14ca74ce-7843-11ee-a453-f3304c651bce.amp.html](https://gazette.com/premium/homeschool-fastest-growing/article_14ca74ce-7843-11ee-a453-f3304c651bce.amp.html). Last Accessed 1 April 2024.
  19. "Charter By Numbers 2022 PDF." Colorado League of Charter Schools, [https://drive.google.com/drive/u/0/folders/1rqNlpVf\\_p5QZS8IKKgH1OYRw-zCaV3Na](https://drive.google.com/drive/u/0/folders/1rqNlpVf_p5QZS8IKKgH1OYRw-zCaV3Na). Last Accessed 1 April 2024.
  20. Dickhoner, Brenda. "Digging Into the Data on Colorado Charter Schools." Common Sense Institute, 9 July 2020, <https://commonsenseinstituteco.org/data-co-charter-schools/>. Last Accessed 1 April 2024.
  21. Dickhoner, Brenda. "DIGGING INTO THE DATA ON COLORADO CHARTER SCHOOLS Colorado Graduation Rates by Region." *Common Sense Institute*, [https://commonsenseinstituteco.org/wp-content/uploads/2020/07/SYNOPSIS\\_DataOnCOCharterSchools.pdf](https://commonsenseinstituteco.org/wp-content/uploads/2020/07/SYNOPSIS_DataOnCOCharterSchools.pdf). Last Accessed 1 April 2024.

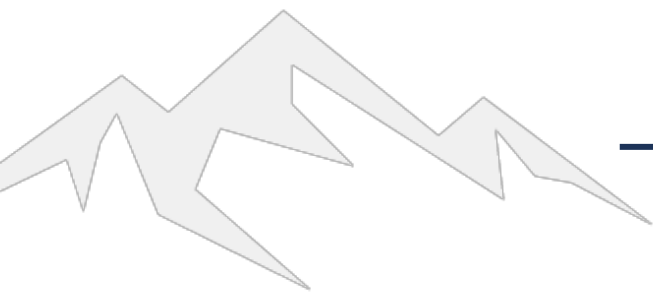


22. Ready Colorado Cygnal Poll, 15 February 2024, <https://readycolorado.org/2023poll/>. Last Accessed 1 April 2024.
23. *Democrats for Education Reform*, <https://dfer.org/about/>. Last Accessed 1 April 2024.
24. *Democrats Guide to Public Charter Schools 3rd Edition*, June 2021, <https://dfer.org/wp-content/uploads/2021/06/Dem-Guide-Vol-III-Final.pdf>. Last Accessed 1 April 2024.
25. Barone, Charles. "Democratic Guide to Public Charter Schools, 3rd Edition." *Democrats for Education Reform*, 21 June 2021, <https://dfer.org/2021/06/21/democratic-guide-to-public-charter-schools-3rd-edition/>. Last Accessed 1 April 2024.
26. "James Coleman." *Colorado Office of Economic Development and International Trade*, <https://oedit.colorado.gov/james-coleman>. Last Accessed 1 April 2024.
27. "Charter Schools Accountability | Colorado General Assembly." *Colorado General Assembly* |, 6 March 2024, <https://leg.colorado.gov/bills/hb24-1363>. Last Accessed 1 April 2024.
28. Jensen, Lindsey. "Polis against new bill, concerns of shutting down charter schools and limiting school choice." *KOAA*, 29 March 2024, <https://www.denver7.com/news/politics/gov-polis-against-new-bill-citing-concerns-of-shutting-down-charter-schools-and-limiting-school-choice>. Last Accessed 1 April 2024.
29. Goodland, Marianne, and Dell Isaac. "Proposed sweeping changes to Colorado charter schools could divide Democrats." *Colorado Politics*, 7 March 2024, [https://www.coloradopolitics.com/news/proposed-sweeping-changes-to-colorado-charter-schools-could-divide-democrats/article\\_98149256-dca2-11ee-88d3-b79c9384d0ff.html](https://www.coloradopolitics.com/news/proposed-sweeping-changes-to-colorado-charter-schools-could-divide-democrats/article_98149256-dca2-11ee-88d3-b79c9384d0ff.html). Last Accessed 1 April 2024.
30. "EDITORIAL: Another attack on Colorado's charter schools | Editorials | gazette.com." *Colorado Springs Gazette*, 11 March 2024, [https://gazette.com/opinion/editorials/editorial-another-attack-on-colorado-s-charter-schools/article\\_389c1320-ddb1-11ee-80b6-770573a8f385.html](https://gazette.com/opinion/editorials/editorial-another-attack-on-colorado-s-charter-schools/article_389c1320-ddb1-11ee-80b6-770573a8f385.html). Last Accessed 1 April 2024.
31. "Colorado Board of Education denies Ascent's appeal for Durango charter in 4-3 vote." *The Durango Herald*, 17 October 2022, <https://www.durangoherald.com/articles/colorado-board-of-education-denies-ascent-appeal-for-durango-charter-in-4-3-vote/>. Last Accessed 1 April 2024.



32. "State board denies Ascent charter school appeal of BVSD decision." *The Daily Camera*, 14 February 2019. Last Accessed 1 April 2024.
33. Skandera, Hanna. "The Results Are In: Parents Favor School Choice." *RealClearEducation*, 8 February 2024, [https://www.realcleareducation.com/articles/2024/02/08/the\\_results\\_are\\_in\\_parents\\_favor\\_school\\_choice\\_1010534.html](https://www.realcleareducation.com/articles/2024/02/08/the_results_are_in_parents_favor_school_choice_1010534.html). Last Accessed 1 April 2024.
34. "New Year, New Schools." *National School Choice Week*, 1 January 2024, [https://schoolchoiceweek.com/wp-content/uploads/2024/01/nscaf\\_2024\\_parentsurvey\\_finalx.pdf](https://schoolchoiceweek.com/wp-content/uploads/2024/01/nscaf_2024_parentsurvey_finalx.pdf). Last Accessed 1 April 2024.
35. *Initiative #138*, <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2023-2024/138OriginalFinal.pdf>. Last Accessed 1 April 2024.





## About the Author

Michael Tsogt



Michael Tsogt is a Policy Analyst at the Advance Colorado Institute. His areas of policy and research include education, budget/fiscal matters, and TABOR. He has testified on a wide range of bills before the Colorado legislature, including a bill proposing education savings accounts for special needs and foster care kids in Colorado. During his undergraduate years, Michael was elected as an Academic Senator for student government, covered sports & entertainment for the student newspaper, and participated in several political fellowships and opportunities, including the Center for the Study of Government and the Individual as a Bastiat Fellow. Prior to COVID interrupting plans, Michael was accepted into a study abroad program at Oxford University where he had intended to study Aristotle and political philosophy for a semester. Michael graduated from the University of Colorado with a degree in political science. He and his wife live in Colorado Springs.





**Advance Colorado is a non-profit dedicated to educating Coloradans on the benefit of strong and sustainable state and local governing solutions in the areas of fiscal responsibility and transparency, limited government, free enterprise, lower taxes, strong public safety, and an accountable education system.**

---

[info@advancecolorado.org](mailto:info@advancecolorado.org)

[www.advancecolorado.org](http://www.advancecolorado.org)

[@advancecolorado](#)

