

TYPE 2 CHARTER SCHOOLS & MINIMUM FOUNDATION PROGRAM: WHAT YOU NEED TO KNOW

“TYPE 2” CHARTERS SCHOOLS: Charter schools are either authorized by a local school district or the state. The state may only authorize a “Type 2” charter school in two scenarios:

1. **Appeal:** The State may consider a charter school application if it was first rejected by a local district; the local district did not follow the charter school application process set forth in law; or, the local district places unacceptable conditions upon the charter school proposal.
2. **Academic Crisis Bypass:** If a local school district has been designated as being in “academic crisis” or has most recently received a state letter grade of a “D” or an “F,” an applicant may bypass the local district and directly submit a charter school application to the state.

A majority of state-authorized, Type 2 charter schools are approved through the appeal process.

MINIMUM FOUNDATION PROGRAM (MFP): The constitution authorizes BESE to distribute funding for all K-12 public schools and students via the MFP. Unlike the state’s general fund allocations to Higher Education Institutions, once the MFP formula is determined by BESE and approved by the legislature, then those funds become protected for the entire fiscal year. In determining the total amount owed to any given public school for enrolled students, the MFP uses a weighted funding formula that considers not only the contributions of state and local monies but the wealth disparities between the different parishes and the needs of individual students. **The Type 2 funding lawsuit is a direct threat to the ability of Type 2 public charter schools to continue receiving MFP-protected K-12 public funding for their enrolled students.**

Where are the 40 Type 2 Charter Schools Serving 16,000 Students Statewide?

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|-------------------------|--|--------------------|---|
| Avoyelles | Avoyelles Public Charter School | Orleans | International High School of N.O., International School of La., JCFA, Lycee Francais de la Nouvelle-Orleans, Milestone, New Orleans Military and Maritime Academy |
| Calcasieu | Lake Charles Academy, Lake Charles College Prep, Southwest La. Academy | Ouachita | New Vision Learning Academy, Vision Academy |
| Concordia | Delta Charter School | Plaquemines | Belle Chasse Academy |
| East Baton Rouge | Advantage, Apex Collegiate, B.R. Charter Academy at Mid-City, GEO Prep Academy, Impact, Laurel Oaks, La. Key Academy, La. Virtual Charter Academy, Madison Prep, University View Academy | Richland | Delhi Charter School |
| Iberville | Iberville Charter Academy | St. James | Greater Grace Charter Academy |
| Jefferson | JCFA, Smothers | St. Landry | J.S. Clark Leadership Academy |
| Lafayette | Acadiana Renaissance, Lafayette Renaissance, Willow Academy | St. Mary | V.B. Glencoe Charter School |
| Lafourche | The MAX Charter School | Tangipahoa | Tangi Academy |
| Lincoln | Lincoln Prep | Union | D’Arbonne Woods, Northeast Claiborne |
| Madison | Tallulah Charter School | Washington | Northshore Charter School |



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TYPE 2 MFP LAWSUIT KEY FACTS

WHAT IS THE ISSUE? Iberville Parish School Board initially filed suit in 2014 against BESE and Louisiana Department of Education (LDE), challenging the MFP funding formula used for Type 2 charter schools. The Louisiana Association of Educators quickly filed a similar suit, questioning the public nature of Type 2 charter schools and their ability to receive funds through the MFP. These suits were consolidated and the Louisiana Association of Public Charter Schools (LAPCS) with seven individual Type 2 charter schools intervened as defendants. Trial was held in early 2015 and Judge Wilson Fields of the 19th Judicial District Court ruled that Type 2 charter schools are entitled to receive MFP funds as public schools. Judge Fields further stated that the funding formula itself is a constitutional and equitable distribution of state funds. Plaintiffs appealed that ruling and an initial 3-panel hearing and two subsequent 5-panel re-hearings were held before the First Circuit Court of Appeals during 2016. On January 9, 2017, the Appellate Court ruled 3-2 reversing the District Court and enjoining Type 2 charter schools from receiving MFP funds.

WHAT WAS THE RULING? The First Circuit Appellate Court’s Opinion and Dissenting Opinion are significant for multiple reasons:

- **The Majority Opinion:**
 - Judges Chutz, Guidry, and Welch heavily relied on a 2013 holding by the Louisiana Supreme Court that the MFP cannot be used to directly fund private schools that participate in the state’s scholarship or voucher program (*Louisiana Federation of Teachers v. State*). Specifically, **the Court found that because “New” Type 2 charter schools (those authorized after 2008) operate outside of a traditional city or parish school system, they—like the private schools that participate in the voucher program—“do not meet the constitutional definition of ‘public schools’ and therefore, are not entitled to MFP funding.”**
 - Note: The Court provided no further explanation of what qualifies a school as private instead of public; nor did the Court make any distinction as to the eight “Legacy” Type 2 charter schools that were authorized prior to 2008 but also operate outside of a traditional public school system and receive MFP funds.
- **The Dissenting Opinion:**
 - Judges Holdridge and Whipple takes the majority to task for its position and **“tortured interpretation” of the constitution that Type 2 charter schools are not public schools.** Specifically, these judges note that **“neither the constitution, legislation, nor jurisprudence require that the words ‘public schools’ mean ‘public schools in parish or city school systems.’”**
 - They further acknowledge that numerous other non-traditional public schools like the New Orleans Center for Creative Arts; Louisiana School for Math, Science and the Arts in Natchitoches; University Lab Schools; and others exist outside of a city or parish school system whose MFP funding would also be jeopardized per the majority’s logic and holding.

WHAT IS NEXT? The First Circuit’s ruling was silent as to the funding formula. As a result, Plaintiffs filed a motion for rehearing on the limited issue of their alleged claim for damages. In addition, **Defendants have filed a writ application with the State Supreme Court seeking to reverse the Appellate Court’s ruling.** The Supreme Court hears the case Sept. 5 and a decision is expected as early as October.

WHAT IS OUR REQUEST? On behalf of the 40 Type 2 charter schools serving more than 20,000 public school students, LAPCS asks that policy makers: 1) **Remain engaged on this issue;** 2) **Encourage Plaintiffs to drop the lawsuit;** and, 3) **Get involved in solutions to support Type 2 and all other traditional and non-traditional public schools now and upon a final ruling by the Supreme Court.**



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