

CALIFORNIA LEGISLATURE  
SENATE COMMITTEE ON EDUCATION

INFORMATIONAL HEARING

*Charter School Authorization  
in California*



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OCTOBER 23, 2017 ■ 11 AM  
RONALD REAGAN BUILDING AUDITORIUM  
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# California State Senate

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## INFORMATIONAL HEARING

### CHARTER SCHOOL AUTHORIZATION IN CALIFORNIA

October 23, 2017 – 11:00 a.m.  
Ronald Reagan Building, Los Angeles CA

### AGENDA

- I. **Welcome and Hearing Purpose**
- II. **Charter School Authorization Overview and Historical Perspective**
  - *Ryan Anderson, Fiscal and Policy Analyst, Legislative Analyst's Office*
- III. **Charter Petition Process: Are charter petitions required to contain the information needed to determine whether a school will serve students well? What is working and what is in need of reform?**
  - *Deborah Deal, Intervention Specialist, Fiscal Crisis Management and Assistance Team*
  - *Gail Ann Greely, Vice President, California Charter Authorizing Professionals*
  - *Cristina de Jesus, President and Chief Executive Officer, Green Dot Public Schools California*
- IV. **Charter Review and Approval: What is required during the charter review process? How much discretion do school boards have when determining if a charter school is likely to succeed and whether it is needed?**
  - *Chris Ungar, Trustee, San Luis Coastal Unified School District*
  - *Elizabeth Block, Board President, West Contra Costa Unified School District*
  - *Stephanie Farland, Director, Collaborative Solutions for Charter Authorizers*

- *José Cole-Gutiérrez, Director, Charter Division, Los Angeles Unified School District*

V. **Charter Appeal Process: How do charter petitions typically change during the appeal process? Why do the outcomes of charter petitions vary?**

- *Angelica Ramsey, Superintendent, Pleasant Valley School District*
- *Peri Lynn Turnbull, Board Member, Thrive Public Schools*

VI. **Public Comment**

# CHARTER SCHOOL AUTHORIZATION IN CALIFORNIA

## BACKGROUND MATERIALS

### 1. Charter Schools Act of 1992

*Text of existing statutes and regulations*

### 2. Publications & Reports

- a. *Time to Modernize Charter Authorizing in California: Analysis and Recommendations*
- b. *National Association for the Advancement of Colored People Task Force on Quality Education: Quality Education for All*
- c. *Smarter Choices, Better Education: Improving California's Charter Schools (Executive Summary)*
- d. *Proposed Guidance for Effective Charter School Authorizing in California: Values, Principles and Expectations*
- e. *Three Signs That a Proposed Charter School Is At Risk of Failing (Summary)*
- f. *Measuring up to the Model: A Ranking of State Charter Public School Laws*

### 3. Current Legislation

- a. *AB 950 (Rubio)*
- b. *AB 1224 (Weber)*
- c. *SB 808 (Mendoza)*





**EDUCATION CODE - EDC**

**TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 - 64100]** (*Title 2 enacted by Stats. 1976, Ch. 1010.*)

**DIVISION 4. INSTRUCTION AND SERVICES [46000 - 64100]** (*Division 4 enacted by Stats. 1976, Ch. 1010.*)

**PART 26.8. CHARTER SCHOOLS [47600 - 47664]** (*Part 26.8 added by Stats. 1992, Ch. 781, Sec. 1.*)

**CHAPTER 1. General Provisions [47600 - 47604.5]** (*Chapter 1 added by Stats. 1992, Ch. 781, Sec. 1.*)

47600. This part shall be known, and may be cited, as the "Charter Schools Act of 1992."

*(Added by Stats. 1992, Ch. 781, Sec. 1. Effective January 1, 1993.)*

47601. It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- (a) Improve pupil learning.
- (b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
- (c) Encourage the use of different and innovative teaching methods.
- (d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite.
- (e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- (f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.
- (g) Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

*(Amended by Stats. 1998, Ch. 34, Sec. 1. Effective January 1, 1999.)*

47602. (a) (1) In the 1998–99 school year, the maximum total number of charter schools authorized to operate in this state shall be 250. In the 1999–2000 school year, and in each successive school year thereafter, an additional 100 charter schools are authorized to operate in this state each successive school year. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter petition that it grants pursuant to subdivision (j) of Section 47605 or Section 47605.8 and to each charter notice it receives pursuant to this part, based on the chronological order in which the notice is received. Each number assigned by the state board on or after January 1, 2003, shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. The State Board of Education shall develop a numbering system for charter schools that identifies each school associated with a charter and that operates within the existing limit on the number of charter schools that can be approved each year. For purposes of this section, sites that share educational programs and serve similar pupil populations may not be counted as separate schools. Sites that do not share a common educational program shall be considered separate schools for purposes of this section. The limits contained in this paragraph may not be waived by the State Board of Education

pursuant to Section 33050 or any other provision of law.

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education shall adopt regulations to implement this section.

*(Amended by Stats. 2002, Ch. 1058, Sec. 3. Effective January 1, 2003.)*

47603. (a) This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

(b) (1) A charter school may contract with a county superintendent of schools or a county board of education for purposes of borrowing moneys pursuant to subdivision (f) of Section 1042.

(2) Moneys borrowed pursuant to subdivision (f) of Section 1042 shall be expended by a charter school solely for purposes of meeting the cash management needs of the charter school due to the deferral of apportionment payments pursuant to Sections 14041.5, 14041.6, 14041.65, and 14041.7 and pursuant to Sections 16325, 16325.5, and 16326 of the Government Code and shall not be used for purposes of making capital acquisitions.

(c) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

*(Amended by Stats. 2012, Ch. 38, Sec. 54. Effective June 27, 2012. Inoperative July 1, 2017. Repealed as of January 1, 2018, by its own provisions. See later operative version added by Sec. 55 of Ch. 38.)*

47603. (a) This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

(b) This section shall become operative on July 1, 2017.

*(Repealed (in Sec. 54) and added by Stats. 2012, Ch. 38, Sec. 55. Effective June 27, 2012. Section operative July 1, 2017, by its own provisions.)*

47604. (a) Charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1) of the Corporations Code).

(b) The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(c) An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

*(Amended by Stats. 2003, Ch. 892, Sec. 7. Effective January 1, 2004.)*

47604.3. A charter school shall promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority, the county office of education that has jurisdiction over the school's chartering authority, or from the Superintendent of Public Instruction and shall consult with the chartering authority, the county office of education, or the Superintendent of Public Instruction regarding any inquiries.

*(Amended by Stats. 2002, Ch. 1058, Sec. 4. Effective January 1, 2003.)*

47604.32. (a) Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

- (1) Identify at least one staff member as a contact person for the charter school.
  - (2) Visit each charter school at least annually.
  - (3) Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the local control and accountability plan and annual update to the local control and accountability plan required pursuant to Section 47606.5.
  - (4) Monitor the fiscal condition of each charter school under its authority.
  - (5) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
    - (A) A renewal of the charter is granted or denied.
    - (B) The charter is revoked.
    - (C) The charter school will cease operation for any reason.
- (b) The cost of performing the duties required by this section shall be funded with supervisory oversight fees collected pursuant to Section 47613.

*(Amended by Stats. 2016, Ch. 29, Sec. 17. Effective June 27, 2016.)*

47604.33. (a) Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering authority:

- (1) On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to subdivision (g) of Section 47605 satisfies this requirement.
  - (2) On or before July 1, a local control and accountability plan and an annual update to the local control and accountability plan required pursuant to Section 47606.5.
  - (3) On or before December 15, an interim financial report. This report shall reflect changes through October 31.
  - (4) On or before March 15, a second interim financial report. This report shall reflect changes through January 31.
  - (5) On or before September 15, a final unaudited report for the full prior year.
- (b) The chartering authority shall use any financial information it obtains from the charter school, including, but not limited to, the reports required by this section, to assess the fiscal condition of the charter school pursuant to paragraph (4) of subdivision (a) of Section 47604.32.
- (c) The cost of performing the duties required by this section shall be funded with supervisory oversight fees collected pursuant to Section 47613.

*(Amended by Stats. 2016, Ch. 29, Sec. 18. Effective June 27, 2016.)*

47604.4 (a) In addition to the authority granted by Sections 1241.5 and 47604.3, a county superintendent of schools may, based upon written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within that county and conduct an investigation into the operations of that charter school. If a county superintendent of schools monitors or investigates a charter school pursuant to this section, the county office of education shall not incur any liability beyond the cost of the investigation.

(b) A charter school shall notify the county superintendent of schools of the county in which it is located of the location of the charter school, including the location of each site, if applicable, prior to commencing operations.

*(Amended by Stats. 2005, Ch. 357, Sec. 3. Effective January 1, 2006.)*

47604.5 The state board, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent, take appropriate action, including, but not limited to, revocation of the school's charter, when the state board finds any of the following:

(a) Gross financial mismanagement that jeopardizes the financial stability of the charter school.

(b) Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school.

(c) Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils.

(d) Failure to improve pupil outcomes across multiple state and school priorities identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (d) of Section 47605.6.

*(Amended by Stats. 2013, Ch. 47, Sec. 75. Effective July 1, 2013.)*

**EDUCATION CODE - EDC**

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**DIVISION 4. INSTRUCTION AND SERVICES [46000 - 64100]** (*Division 4 enacted by Stats. 1976, Ch. 1010.*)

**PART 26.8. CHARTER SCHOOLS [47600 - 47664]** (*Part 26.8 added by Stats. 1992, Ch. 781, Sec. 1.*)

**CHAPTER 2. Establishment of Charter Schools [47605 - 47608]** (*Chapter 2 added by Stats. 1992, Ch. 781, Sec. 1.*)

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district if each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition is signed by 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 at the school during its first year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (c) of Section 41365 may be circulated by one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) The educational program of the charter school, designed, among other things, to identify those whom the charter school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) The annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will serve high school pupils, the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities,

as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the charter school.

(F) The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the charter school furnish it with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) The rights of an employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(6) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the charter school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against a pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state,



except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and shall not take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require an employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require a pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be used by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as that section read before July 19, 2006.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter

petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b), and shall define “reasonably comprehensive” as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local educational agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that is granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, before expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the charter school’s petition for renewal, the school may petition the state board for renewal of its charter.

(l) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

*(Amended by Stats. 2015, Ch. 303, Sec. 95, Effective January 1, 2016.)*

47605.1. (a) (1) Notwithstanding any other law, a charter school that is granted a charter from the governing

board of a school district or county office of education after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, shall locate in accordance with the geographic and site limitations of this part.

(2) Notwithstanding any other law, a charter school that is granted a charter by the state board after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, based on the denial of a petition by the governing board of a school district or county board of education, as described in paragraphs (1) and (2) of subdivision (j) of Section 47605, may locate only within the geographic boundaries of the chartering entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from a governing board of a school district, a county office of education, or the state board before July 1, 2002, but does not commence operations until after January 1, 2003, shall be subject to the geographic limitations of this part, in accordance with subdivision (e).

(b) This section is not intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other law, a charter school may establish a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized if the following conditions are met:

(1) The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.

(2) The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the charter school is authorized.

(d) Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district in which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(1) The charter school has attempted to locate a single site or facility to house the entire program, but such a facility or site is unavailable in the area in which the charter school chooses to locate.

(2) The site is needed for temporary use during a construction or expansion project.

(e) (1) For a charter school that was granted approval of its charter before July 1, 2002, and provided educational services to pupils before July 1, 2002, this section only applies to new educational services or schoolsites established or acquired by the charter school on or after July 1, 2002.

(2) For a charter school that was granted approval of its charter before July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section only applies upon the expiration of a charter that is in existence on January 1, 2003.

(3) Notwithstanding other implementation timelines in this section, by June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools shall be required to comply with this section for schoolsites at which educational services are provided to pupils before or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition before July 1, 2002. To achieve compliance with this section, a charter school shall be required to receive approval of a charter petition in accordance with this section and Section 47605.

(4) This section is not intended to affect the authority of a governmental entity to revoke a charter that is granted on or before the effective date of this section.

(f) A charter school that submits its petition directly to a county board of education, as authorized by Section 47605.5 or 47605.6, may establish charter school operations only within the geographical boundaries of the county in which that county board of education has jurisdiction.

(g) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

- (1) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).
- (2) Federally affiliated Youth Build programs.
- (3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.
- (4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code.
- (5) Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

*(Amended by Stats. 2016, Ch. 186, Sec. 46. Effective January 1, 2017.)*

47605.2. The Delta Charter High School, located in the County of Santa Cruz, is exempt from the geographic and site limitations contained in subdivision (a) of Section 47605.

*(Added by Stats. 2004, Ch. 112, Sec. 1. Effective January 1, 2005.)*

47605.3. Notwithstanding subdivision (d) of Section 47605, a charter school with a schoolsite physically located in the attendance area of a public elementary school in which 50 percent or more of the pupil enrollment is eligible for free or reduced price meals may give a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located. This section is not intended to affect the requirement contained in subdivision (d) of Section 47605 that a public school converting partially or entirely to a charter school adopt and maintain a policy that gives an admission preference to pupils who reside within the former attendance area of that public school.

*(Amended by Stats. 2003, Ch. 62, Sec. 54. Effective January 1, 2004.)*

47605.5. A petition may be submitted directly to a county board of education in the same manner as set forth in Section 47605 for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. Any denial of a petition shall be subject to the same process for any other county board of education denial of a charter school petition pursuant to this part.

*(Added by Stats. 1998, Ch. 34, Sec. 7. Effective January 1, 1999.)*

47605.6. (a) (1) In addition to the authority provided by Section 47605.5, a county board of education may also approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by a county office of education. A county board of education may approve a countywide charter only if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county. A petition for the establishment of a countywide charter school pursuant to this subdivision may be circulated throughout the county by any one or more persons seeking to establish the charter

school. The petition may be submitted to the county board of education for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or 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 the school for its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a charter school pursuant to this section.

(B) The petition is signed by 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 at the school during its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a charter school pursuant to this section.

(2) An existing public school shall not be converted to a charter school in accordance with this section.

(3) After receiving approval of its petition, a charter school that proposes to establish operations at additional sites within the geographic boundaries of the county board of education shall notify the school districts where those sites will be located. The charter school shall also request a material revision of its charter by the county board of education that approved its charter and the county board of education shall consider whether to approve those additional locations at an open, public meeting, held no sooner than 30 days following notification of the school districts where the sites will be located. If approved, the location of the approved sites shall be a material revision of the school's approved charter.

(4) A petition shall include a prominent statement indicating that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(b) No later than 60 days after receiving a petition, in accordance with subdivision (a), the county board of education shall hold a public hearing on the provisions of the charter, at which time the county board of education shall consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. Following review of the petition and the public hearing, the county board of education shall either grant or deny the charter within 90 days of receipt of the petition. However, this date may be extended by an additional 30 days if both parties agree to the extension. A county board of education may impose any additional requirements beyond those required by this section that it considers necessary for the sound operation of a countywide charter school. A county board of education may grant a charter for the operation of a school under this part only if it is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605. The county board of education shall deny a petition for the establishment of a charter school if it finds one or more of the following:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (e).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) The educational program of the charter school, designed, among other things, to identify those pupils whom the charter school is attempting to educate, what it means to be an "educated person" in the

21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) The annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will enroll high school pupils, the manner in which the charter school will inform parents regarding the transferability of courses to other public high schools. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered to be transferable to other public high schools.

(iv) If the proposed charter school will enroll high school pupils, information as to the manner in which the charter school will inform parents as to whether each individual course offered by the charter school meets college entrance requirements. Courses approved by the University of California or the California State University as satisfying their prerequisites for admission may be considered as meeting college entrance requirements for purposes of this clause.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and aptitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The location of each charter school facility that the petitioner proposes to operate.

(E) The governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement.

(F) The qualifications to be met by individuals to be employed by the charter school.

(G) The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the charter school furnish it with a criminal record summary as described in Section 44237.

(H) The means by which the charter school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(I) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the state board, and the manner in which audit exceptions and deficiencies shall be resolved.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The procedures to be followed by the charter school and the county board of education to resolve disputes relating to provisions of the charter.

- (M) Admission requirements of the charter school, if applicable.
- (N) The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.
- (O) The rights of an employee of the county office of education, upon leaving the employment of the county office of education, to be employed by the charter school, and any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.
- (P) The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of public records.
- (6) A declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).
- (7) Any other basis that the county board of education finds justifies the denial of the petition.
- (c) A county board of education that approves a petition for the operation of a countywide charter may, as a condition of charter approval, enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report to the county board of education on the operations of the charter school. The county board of education may prescribe the aspects of the charter school's operations to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the county board of education.
- (d) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.
- (2) Charter schools shall on a regular basis consult with their parents and teachers regarding the charter school's educational programs.
- (e) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, gender identity, gender expression, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state.
- (2) (A) A charter school shall admit all pupils who wish to attend the charter school.
- (B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the county except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual charter school basis and only if consistent with the law.
- (C) In the event of a drawing, the county board of education shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand.
- (f) The county board of education shall not require an employee of the county or a school district to be employed in a charter school.
- (g) The county board of education shall not require a pupil enrolled in a county program to attend a charter school.
- (h) The county board of education shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to,

the facilities to be used by the charter school, the manner in which administrative services of the charter school are to be provided, and potential civil liability effects, if any, upon the charter school, any school district where the charter school may operate, and upon the county board of education. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(i) In reviewing petitions for the establishment of charter schools within the county, the county board of education shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as that section read before July 19, 2006.

(j) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the school districts within the county, the Superintendent, and the state board.

(k) If a county board of education denies a petition, the petitioner may not elect to submit the petition for the establishment of the charter school to the state board.

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to the county office of education, the Controller, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

*(Amended by Stats. 2016, Ch. 186, Sec. 47, Effective January 1, 2017.)*

47605.7. (a) A petition for the establishment of a charter school shall not be denied based on the actual or potential costs of serving individuals with exceptional needs, as that term is defined pursuant to Section 56026.

(b) Notwithstanding subdivision (a), this section shall not be construed to prevent a school district from meeting its obligation to ensure that the proposed charter school will meet the needs of individuals with exceptional needs in accordance with state and federal law, nor shall it be construed to limit or alter the reasons for denying a petition for the establishment of a charter school pursuant to subdivision (b) of Section 47605.

*(Added by Stats. 2000, Ch. 88, Sec. 1, Effective January 1, 2001.)*

47605.8. (a) A petition for the operation of a state charter school may be submitted directly to the state board, and the state board shall have the authority to approve a charter for the operation of a state charter school that may operate at multiple sites throughout the state. The State Board of Education shall adopt regulations, pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) for the implementation of this section. Regulations adopted pursuant to this section shall ensure that a charter school approved pursuant to this section meets all requirements otherwise imposed on charter schools pursuant to this part, except that a state charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools. The petitioner shall submit a copy of the petition, for notification purposes, to the county superintendent of schools of each county in which the petitioner



proposes to operate the state charter school. The petitioner also shall ensure that the governing board of each school district in which a site is proposed to be located is notified no later than 120 days prior to the commencement of instruction at each site, as applicable.

(b) The state board shall not approve a petition for the operation of a state charter school pursuant to this section unless the state board makes a finding, based on substantial evidence, that the proposed state charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county. The finding of the state board in this regard shall be made part of the public record of the proceedings of the state board and shall precede the approval of the charter.

(c) The state board, as a condition of charter petition approval, may enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report on, the operations of the state charter school. The state board may prescribe the aspects of the operations of the state charter school to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the state charter school to the state board.

(d) The state board shall not be required to approve a petition for the operation of a state charter school, and may deny approval based on any of the reasons set forth in subdivision (b) of Section 47605.6.

*(Amended by Stats. 2007, Ch. 215, Sec. 1, Effective January 1, 2008.)*

47606. (a) A school district may convert all of its schools to charter schools under this part only if it meets all of the following conditions:

(1) Fifty percent of the teachers within the school district sign the charter petition.

(2) The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who choose not to attend charter schools.

(b) Notwithstanding subdivision (b) of Section 47605, the districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education.

*(Added by Stats. 1992, Ch. 781, Sec. 1, Effective January 1, 1993.)*

47606.5. (a) On or before July 1, 2015, and each year thereafter, a charter school shall update the goals and annual actions to achieve those goals identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6. The local control and accountability plan and annual update to the local control and accountability plan shall be developed using the template adopted pursuant to Section 52064 and shall include all of the following:

(1) A review of the progress toward the goals included in the charter, an assessment of the effectiveness of the specific actions described in the charter toward achieving the goals, and a description of changes to the specific actions the charter school will make as a result of the review and assessment.

(2) A listing and description of the expenditures for the fiscal year implementing the specific actions included in the charter as a result of the reviews and assessment required by paragraph (1).

(b) The expenditures identified in subdivision (a) shall be classified using the California School Accounting Manual pursuant to Section 41010.

(c) For purposes of the review required by subdivision (a), a governing body of a charter school may consider qualitative information, including, but not limited to, findings that result from school quality reviews conducted pursuant to subparagraph (J) or paragraph (4) of subdivision (a) of Section 52052 or any other reviews.

(d) To the extent practicable, data reported pursuant to this section shall be reported in a manner consistent with how information is reported on a school accountability report card.

(e) The charter school shall consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing the local control and accountability plan and annual update to the local control and accountability plan.

*(Amended by Stats. 2016, Ch. 29, Sec. 19. Effective June 27, 2016.)*

<sup>47607.</sup> (a) (1) A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education, or the state board may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

(2) Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

(3) (A) The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to grant a charter renewal.

(B) For purposes of this section, "all groups of pupils served by the charter school" means a numerically significant pupil subgroup, as defined by paragraph (3) of subdivision (a) of Section 52052, served by the charter school.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever date occurs later, a charter school shall meet at least one of the following criteria before receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years both schoolwide and for all groups of pupils served by the charter school.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent shall review the materials and make recommendations to the chartering authority based on that review.

The review may be the basis for a recommendation made pursuant to Section 47604.5.

(D) A charter renewal may not be granted to a charter school prior to 30 days after that charter school submits materials pursuant to this paragraph.

(5) Qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

(c) (1) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

(A) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(B) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(C) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(D) Violated any provision of law.

(2) The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter.

(d) Before revocation, the authority that granted the charter shall notify the charter school of any violation of this section and give the school a reasonable opportunity to remedy the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

(e) Before revoking a charter for failure to remedy a violation pursuant to subdivision (d), and after expiration of the school's reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke and notice of facts in support of revocation to the charter school. No later than 30 days after providing the notice of intent to revoke a charter, the chartering authority shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, the chartering authority shall issue a final decision to revoke or decline to revoke the charter, unless the chartering authority and the charter school agree to extend the issuance of the decision by an additional 30 days. The chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings.

(f) (1) If a school district is the chartering authority and it revokes a charter pursuant to this section, the charter school may appeal the revocation to the county board of education within 30 days following the final decision of the chartering authority.

(2) The county board of education may reverse the revocation decision if the county board of education determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The school district may appeal the reversal to the state board.

(3) If the county board of education does not issue a decision on the appeal within 90 days of receipt, or the county board of education upholds the revocation, the charter school may appeal the revocation to the state board.

(4) The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The state board may uphold the revocation decision of the school district if the state board determines that the findings made by the chartering authority under subdivision (e) are supported by substantial evidence.

(g) (1) If a county office of education is the chartering authority and the county board of education revokes a charter pursuant to this section, the charter school may appeal the revocation to the state board within 30 days following the decision of the chartering authority.

- (2) The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence.
- (h) If the revocation decision of the chartering authority is reversed on appeal, the agency that granted the charter shall continue to be regarded as the chartering authority.
- (i) During the pendency of an appeal filed under this section, a charter school, whose revocation proceedings are based on subparagraph (A) or (B) of paragraph (1) of subdivision (c), shall continue to qualify as a charter school for funding and for all other purposes of this part, and may continue to hold all existing grants, resources, and facilities, in order to ensure that the education of pupils enrolled in the school is not disrupted.
- (j) Immediately following the decision of a county board of education to reverse a decision of a school district to revoke a charter, the following shall apply:
- (1) The charter school shall qualify as a charter school for funding and for all other purposes of this part.
  - (2) The charter school may continue to hold all existing grants, resources, and facilities.
  - (3) Any funding, grants, resources, and facilities that had been withheld from the charter school, or that the charter school had otherwise been deprived of use, as a result of the revocation of the charter shall be immediately reinstated or returned.
- (k) A final decision of a revocation or appeal of a revocation pursuant to subdivision (c) shall be reported to the chartering authority, the county board of education, and the department.

*(Amended by Stats. 2012, Ch. 576, Sec. 3, Effective January 1, 2013.)*

47607.3. (a) If a charter school fails to improve outcomes for three or more pupil subgroups identified pursuant to Section 52052, or, if the charter school has less than three pupil subgroups, all of the charter school's pupil subgroups, in regard to one or more state or school priority identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, in three out of four consecutive school years, all of the following shall apply:

- (1) Using an evaluation rubric adopted by the state board pursuant to Section 52064.5, the chartering authority shall provide technical assistance to the charter school.
  - (2) At the request of the chartering authority, the California Collaborative for Educational Excellence may, after consulting with the Superintendent, and with the approval of the state board, provide advice and assistance to the charter school pursuant to Section 52074.
- (b) A chartering authority shall consider for revocation any charter school to which the California Collaborative for Educational Excellence has provided advice and assistance pursuant to subdivision (a) and about which it has made either of the following findings, which shall be submitted to the chartering authority:
- (1) That the charter school has failed, or is unable, to implement the recommendations of the California Collaborative for Educational Excellence.
  - (2) That the inadequate performance of the charter school, based upon an evaluation rubric adopted pursuant to Section 52064.5, is either so persistent or so acute as to require revocation of the charter.
- (c) The chartering authority shall consider increases in pupil academic achievement for all pupil subgroups served by the charter school as the most important factor in determining whether to revoke the charter.
- (d) A chartering authority shall comply with the hearing process described in subdivision (e) of Section 47607 in revoking a charter. A charter school may not appeal a revocation of a charter made pursuant to

this section.

*(Amended by Stats. 2017, Ch. 15, Sec. 28, Effective June 27, 2017.)*

47607.5. If either a school district governing board or a county board of education, as a chartering agency, does not grant a renewal to a charter school pursuant to Section 47607, the charter school may submit its application for renewal pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (j) of Section 47605.

*(Added by Stats. 2000, Ch. 160, Sec. 1, Effective January 1, 2001.)*

47608. All meetings of the governing board of the school district and the county board of education at which the granting, revocation, appeal, or renewal of a charter petition is discussed shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

*(Amended by Stats. 1998, Ch. 34, Sec. 9, Effective January 1, 1999.)*

**EDUCATION CODE - EDC**

**TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 - 64100]** (*Title 2 enacted by Stats. 1976, Ch. 1010.*)

**DIVISION 4. INSTRUCTION AND SERVICES [46000 - 64100]** (*Division 4 enacted by Stats. 1976, Ch. 1010.*)

**PART 26.8. CHARTER SCHOOLS [47600 - 47664]** (*Part 26.8 added by Stats. 1992, Ch. 781, Sec. 1.*)

**CHAPTER 3. Charter School Operation [47610 - 47615]** (*Heading of Chapter 3 amended by Stats. 1999, Ch. 78, Sec. 32.1.*)

47610. A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

- (a) As specified in Section 47611.
- (b) As specified in Section 41365.
- (c) All laws establishing minimum age for public school attendance.
- (d) The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.
- (e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

*(Amended by Stats. 2006, Ch. 538, Sec. 110. Effective January 1, 2007.)*

47610.5. A charter school facility is exempt from the requirements of subdivision (d) of Section 47610 if either of the following conditions apply:

- (a) The charter school facility complies with Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.
- (b) The charter school facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

*(Amended by Stats. 2006, Ch. 538, Sec. 111. Effective January 1, 2007.)*

47611. (a) If a charter school chooses to make the State Teacher's Retirement Plan available, all employees of the charter school who perform creditable service shall be entitled to have that service covered under the plan's Defined Benefit Program or Cash Balance Benefit Program, and all provisions of Part 13 (commencing with Section 22000) and Part 14 (commencing with Section 26000) shall apply in the same manner as the provisions apply to other public schools in the school district that granted the charter.

(b) (1) If a charter school offers its employees coverage by the State Teachers' Retirement System or the Public Employees' Retirement System, or both, the charter school shall inform all applicants for positions within that charter school of the retirement system options for employees of the charter school.

(2) The information shall specifically include whether the charter school makes available to employees coverage under the State Teachers' Retirement System, the Public Employees' Retirement System, or both systems, and that accepting employment in the charter school may exclude the applicant from further coverage in the applicant's current retirement system, depending on the retirement options offered by the charter of the charter school.

*(Amended by Stats. 2000, Ch. 1025, Sec. 40. Effective January 1, 2001.)*

47611.3. (a) At the request of a charter school, a school district or county office of education that is the chartering authority of a charter school shall create any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System. The county superintendent of schools, employing agency, or school district that reports to those systems pursuant to Section 23004 of this code or Section 20221 of the Government Code shall submit the required reports on behalf of the charter school. The school district or county office of education may charge the charter school for the actual costs of the reporting services.

(b) As a condition of creating and submitting reports for the State Teachers' Retirement System and the Public Employees Retirement System, the school district or county office of education shall not require a charter school to purchase payroll processing services from the chartering authority. Information submitted on behalf of the charter school to the State Teachers' Retirement System, the Public Employees' Retirement System, or both, shall be in a format conforming to the requirements of those systems.

*(Added by Stats. 2000, Ch. 466, Sec. 1, Effective January 1, 2001.)*

47611.5. (a) Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code shall apply to charter schools.

(b) A charter school charter shall contain a declaration regarding whether or not the charter school shall be deemed the exclusive public school employer of the employees at the charter school for the purposes of Section 3540.1 of the Government Code. If the charter school is not so deemed a public school employer, the school district where the charter is located shall be deemed the public school employer for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of the Government Code.

(c) If the charter of a charter school does not specify that it shall comply with those statutes and regulations governing public school employers that establish and regulate tenure or a merit or civil service system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees.

(d) The Public Employment Relations Board shall take into account the Charter Schools Act of 1992 (Part 26.8 (commencing with Section 47600)) when deciding cases brought before it related to charter schools.

(e) The approval or a denial of a charter petition by a granting agency pursuant to subdivision (b) of Section 47605 shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board.

(f) By March 31, 2000, all existing charter schools must declare whether or not they shall be deemed a public school employer in accordance with subdivision (b), and such declaration shall not be materially inconsistent with the charter.

*(Amended by Stats. 2000, Ch. 135, Sec. 45, Effective January 1, 2001.)*

47612. (a) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not necessarily limited to, appropriations made for purposes of this chapter.

(b) The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The state board shall, on or before January 1, 2000, adopt regulations defining "satisfactory progress."

(c) A charter school shall be deemed to be a "school district" for purposes of Article 1 (commencing with Section 14000) of Chapter 1 of Part 9 of Division 1 of Title 1, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of Division 3, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

(d) For purposes of calculating average daily attendance, no pupil shall generate more than one day of attendance in a calendar day. Notwithstanding any other law, a charter school that operates a multitrack calendar shall comply with all of the following:

(1) Calculate attendance separately for each track. The divisor in the calculation shall be the calendar days in which school was taught for pupils in each track.

(2) Operate no more than five tracks.

(3) Operate each track for a minimum of 175 days. If the charter school is a conversion school, the charter school may continue its previous schedule as long as it provides no fewer than 163 days of instruction in each track.

(4) For each track, provide the total number of instructional minutes, as specified in Section 47612.5.

(5) No track shall have less than 55 percent of its schooldays before April 15.

(6) Unless otherwise authorized by statute, no pupil shall generate more than one unit of average daily attendance in a fiscal year.

(e) Compliance with the conditions set forth in this section shall be included in the audits conducted pursuant to Section 41020.

*(Amended by Stats. 2013, Ch. 357, Sec. 33. Effective September 26, 2013.)*

47612.1. (a) Except for the requirement that a pupil be a California resident, subdivision (b) of Section 47612 shall not apply to a charter school program that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).

(2) Federally affiliated Youth Build programs.

(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Section 14406 or 14507.5 of the Public Resources Code.

(b) This section shall become operative on July 1, 2015.

*(Amended by Stats. 2016, Ch. 186, Sec. 48. Effective January 1, 2017.)*

47612.5. (a) Notwithstanding any other provision of law and as a condition of apportionment, a charter school shall do all of the following:

(1) For each fiscal year, offer, at a minimum, the following number of minutes of instruction:

(A) To pupils in kindergarten, 36,000 minutes.

(B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.

(C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.

(D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.

(2) Maintain written contemporaneous records that document all pupil attendance and make these records



available for audit and inspection.

(3) Certify that its pupils have participated in the state testing programs specified in Chapter 5 (commencing with Section 60600) of Part 33 in the same manner as other pupils attending public schools as a condition of apportionment of state funding.

(b) Notwithstanding any other provision of law and except to the extent inconsistent with this section and Section 47634.2, a charter school that provides independent study shall comply with Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 and implementing regulations adopted thereunder. The State Board of Education shall adopt regulations that apply this article to charter schools. To the extent that these regulations concern the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

(c) A reduction in apportionment made pursuant to subdivision (a) shall be proportional to the magnitude of the exception that causes the reduction. For purposes of paragraph (1) of subdivision (a), for each charter school that fails to offer pupils the minimum number of minutes of instruction specified in that paragraph, the Superintendent shall withhold from the charter school's apportionment for average daily attendance of the affected pupils, by grade level, the sum of that apportionment multiplied by the percentage of the minimum number of minutes of instruction at each grade level that the charter school failed to offer.

(d) (1) Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

(2) Except as provided in paragraph (2) of subdivision (b) of Section 47634.2, a charter school that receives a determination pursuant to subdivision (b) of Section 47634.2 is not required to reapply annually for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. Notwithstanding any provision of law, the State Board of Education may require a charter school to provide updated information at any time it determines that a review of that information is necessary. The State Board of Education may terminate a determination for funding if updated or additional information requested by the board is not made available to the board by the charter school within a reasonable amount of time or if the information otherwise supports termination. A determination for funding pursuant to Section 47634.2 may not exceed five years.

(3) A charter school that offers nonclassroom-based instruction in excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2 to receive funding each time its charter is renewed or materially revised pursuant to Section 47607. A charter school that materially revises its charter to offer nonclassroom-based instruction in

excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2.

(e) (1) Notwithstanding any other provision of law, and as a condition of apportionment, “classroom-based instruction” in a charter school, for the purposes of this part, occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification in accordance with subdivision (l) of Section 47605. For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by the charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Section 47612.5.

(2) For the purposes of this part, “nonclassroom instruction” or “nonclassroom-based instruction” means instruction that does not meet the requirements specified in paragraph (1). The State Board of Education may adopt regulations pursuant to paragraph (1) of subdivision (d) specifying other conditions or limitations on what constitutes nonclassroom-based instruction, as it deems appropriate and consistent with this part.

(3) For purposes of this part, a schoolsite is a facility that is used principally for classroom instruction.

(4) Notwithstanding any other provision of law, neither the State Board of Education, nor the Superintendent may waive the requirements of paragraph (1) of subdivision (a).

*(Amended by Stats. 2005, Ch. 543, Sec. 5, Effective January 1, 2006.)*

47612.6. (a) The State Board of Education may waive fiscal penalties calculated pursuant to subdivision (c) of Section 47612.5 for a charter school that fails to offer the minimum number of instructional minutes required pursuant to subdivision (a) of Section 47612.5 for the fiscal year.

(b) For fiscal penalties incurred as a result of providing insufficient instructional minutes in the 2002–03 fiscal year, or any fiscal year thereafter, the State Board of Education may grant a waiver only upon the condition that the charter school agrees to maintain minutes of instruction equal to those minutes of instruction it failed to offer and the minimum number of instructional minutes required pursuant to subdivision (a) of Section 47612.5 for twice the number of years that it failed to maintain the required minimum number of instructional minutes for the fiscal year. Compliance with the condition shall commence no later than the school year following the fiscal year that the waiver was granted and shall continue for each subsequent school year until the condition is satisfied.

(c) Compliance with the condition set forth in subdivision (b) shall be verified in the report of the annual audit of the charter school for each fiscal year in which it is required to maintain additional time pursuant to subdivision (b). If the audit report for a year in which the additional time is required to be maintained does not verify that the additional time was provided, the waiver granted pursuant to subdivision (b) shall be revoked and the charter school shall repay the fiscal penalty calculated pursuant to subdivision (c) of Section 47612.5, in accordance with subdivision (a) of Section 41344.

(d) It is the intent of the Legislature that charter schools make every effort to make up any instructional minutes lost during the fiscal year in which the loss occurred rather than seek a waiver pursuant to this section.

*(Added by Stats. 2005, Ch. 543, Sec. 6, Effective January 1, 2006.)*

47613. (a) Except as set forth in subdivision (b), a chartering authority may charge for the actual costs of supervisory oversight of a charter school not to exceed 1 percent of the revenue of the charter school.

- (b) A chartering authority may charge for the actual costs of supervisory oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering authority.
- (c) A local educational agency that is given the responsibility for supervisory oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the actual costs of supervisory oversight, and administrative costs necessary to secure charter school funding. A charter school that is charged for costs under this subdivision may not be charged pursuant to subdivision (a) or (b).
- (d) This section does not prevent the charter school from separately purchasing administrative or other services from the chartering authority or any other source.
- (e) For purposes of this section, "chartering authority" means a school district, county board of education, or the state board, that granted the charter to the charter school.
- (f) For purposes of this section, "revenue of the charter school" means the amount received in the current fiscal year from the local control funding formula calculated pursuant to Section 42238.02, as implemented by Section 42238.03.
- (g) For purposes of this section, "costs of supervisory oversight" include, but are not limited to, costs incurred pursuant to Section 47607.3.

*(Amended by Stats. 2014, Ch. 33, Sec. 38, Effective June 20, 2014.)*

47613.1. (a) The Superintendent shall make all of the following apportionments on behalf of a charter school in a school district in which all schools have been converted to charter schools pursuant to Section 47606:

- (1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24 of Division 3, an amount for each unit of current fiscal year regular average daily attendance in the charter school multiplied by the funding rates calculated pursuant to Section 42238.02, as implemented by Section 42238.03, except that average daily attendance generated by pupils who are residents of the school district may be funded pursuant to paragraph (1) of subdivision (a) of Section 42238.05.
  - (2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.
  - (3) Funds for the programs described in former clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, as that section read on June 30, 2005, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.
- (b) Transfers of funding in lieu of property taxes pursuant to Section 47635 shall not apply to a school district in which all schools have been converted to charter schools pursuant to Section 47606.
- (c) For each pupil residing in the school district and receiving instruction provided by the county office of education, a school district in which all schools have been converted to charter schools shall, for purposes of Section 2576, be treated as a school district in which all schools have not been converted to charter schools.
- (d) The provisions of subparagraph (A) of paragraph (2) of subdivision (f) of Section 42238.02 that cap the percentage of unduplicated pupils used for calculating the concentration grant add-on to the percentage of unduplicated pupils of the school district in which the charter school is physically located shall not apply to a school district described in this section.
- (e) Consistent with Section 47630, necessary small school funding shall not be provided to a school

district described in this section.

*(Amended by Stats. 2014, Ch. 33, Sec. 39, Effective June 20, 2014.)*

**47614.** (a) The intent of the people in amending Section 47614 is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.

(b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

(1) The school district may charge the charter school a pro rata share (based on the ratio of space allocated by the school district to the charter school divided by the total space of the district) of those school district facilities costs which the school district pays for with unrestricted general fund revenues. The charter school shall not be otherwise charged for use of the facilities. No school district shall be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter school students.

(2) Each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education.

(3) Each school district's responsibilities under this section shall take effect three years from the effective date of the measure which added this subparagraph, or if the school district passes a school bond measure prior to that time on the first day of July next following such passage.

(4) Facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district.

(5) The term "operating," as used in this section, shall mean either currently providing public education to in-district students, or having identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year.

(6) The State Department of Education shall propose, and the State Board of Education may adopt, regulations implementing this subdivision, including but not limited to defining the terms "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," "facilities costs," as well as defining the procedures and establishing timelines for the request for, reimbursement for, and provision of, facilities.

*(Amended November 7, 2000, by initiative Proposition 39, Sec. 6. Note: Prop. 39 is titled the Smaller Classes, Safer Schools and Financial Accountability Act.)*

**47614.5.** (a) The Charter School Facility Grant Program is hereby established, and shall be administered by the California School Finance Authority. The grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools.

(b) (1) Commencing with the 2017–18 fiscal year, and subject to available funding in the annual Budget Act, eligible charter schools shall receive an amount equivalent to one of the following, whichever is less:

(A) Seventy-five percent of annual facilities rent and lease costs for the charter school.

(B) For the 2017–18 fiscal year, an amount equal to one thousand one hundred seventeen dollars (\$1,117) per unit of average daily attendance, as certified at the second principal apportionment. Commencing with the 2018–19 fiscal year, the amount of funding provided per unit of average daily attendance in the preceding fiscal year, as adjusted by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(b) In any fiscal year, if the funds appropriated for purposes of this section by the annual Budget Act are insufficient to fully fund the approved amounts, the California School Finance Authority shall apportion the available funds on a pro rata basis.

(c) For purposes of this section, the California School Finance Authority shall do all of the following:

(1) Inform charter schools of the grant program.

(2) Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced-price meals, and a preference in admissions, as appropriate. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. A charter schoolsite is eligible for funding pursuant to this section if the charter schoolsite meets either of the following conditions:

(A) The charter schoolsite is physically located in the attendance area of a public elementary school in which 55 percent or more of the pupil enrollment is eligible for free or reduced-price meals and the charter schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.

(B) Fifty-five percent or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced-price meals.

(3) Inform charter schools of their grant eligibility.

(4) Make apportionments to a charter school for eligible expenditures according to the following schedule:

(A) An initial apportionment by August 31 of each fiscal year or 30 days after enactment of the annual Budget Act, whichever is later, provided the charter school has submitted a timely application for funding, as determined by the California School Finance Authority. The initial apportionment shall be 50 percent of the charter school's estimated annual entitlement as determined by this section.

(B) A second apportionment by March 1 of each fiscal year. This apportionment shall be 75 percent of the charter school's estimated annual entitlement, as adjusted for any revisions in cost, enrollment, and other data relevant to computing the charter school's annual entitlement, less any funding already apportioned to the charter school.

(C) A third apportionment within 30 days of the end of each fiscal year or 30 days after receiving the data and documentation needed to compute the charter school's total annual entitlement, whichever is later. This apportionment shall be the charter school's total annual entitlement less any funding already apportioned to the charter school.

(D) Notwithstanding subparagraph (A), the initial apportionment in the 2013–14 fiscal year shall be made by October 15, 2013, or 105 days after enactment of the Budget Act of 2013, whichever is later.

(d) For purposes of this section:

(1) The California School Finance Authority shall use prior year data on pupil eligibility for free or reduced-price meals to determine eligibility pursuant to paragraph (2) of subdivision (c). A new charter school that was not operational in the prior year shall be eligible in the current year if it meets the free or reduced-price meal eligibility requirements specified in paragraph (2) of subdivision (c) based on current year data. Prior year rent or lease costs provided by charter schools shall be used to determine eligibility for the grant program until actual rent or lease costs become known or until June 30 of each fiscal year.

(2) If prior year rent or lease costs are unavailable, and the current year lease and rent costs are not immediately available, the California School Finance Authority shall use rent or lease cost estimates provided by the charter school.

(3) The California School Finance Authority shall verify that the grant amount awarded to each charter school is consistent with eligibility requirements as specified in this section and in regulations adopted by the authority. If it is determined by the California School Finance Authority that a charter school did not receive the proper grant award amount, either the charter school shall transfer funds back to the authority as necessary within 60 days of being notified by the authority, or the authority shall provide an additional apportionment as necessary to the charter school within 60 days of notifying the charter school, subject to the availability of funds.

(e) Funds appropriated for purposes of this section shall not be apportioned for any of the following:

(1) Units of average daily attendance generated through nonclassroom-based instruction as defined by paragraph (2) of subdivision (e) of Section 47612.5 or that does not comply with conditions or limitations set forth in regulations adopted by the state board pursuant to this section.

(2) Charter schools occupying existing school district or county office of education facilities, except that charter schools shall be eligible for the portions of their facilities that are not existing school district or county office of education facilities.

(3) Charter schools receiving reasonably equivalent facilities from their chartering authorities pursuant to Section 47614, except that charter schools shall be eligible for the portions of their facilities that are not reasonably equivalent facilities received from their chartering authorities.

(f) Funds appropriated for purposes of this section shall be used for costs associated with facilities rents and leases, consistent with the definitions used in the California School Accounting Manual or regulations adopted by the California School Finance Authority. These funds also may be used for costs, including, but not limited to, costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, and improving sites.

(g) If an existing charter school located in an elementary attendance area in which less than 50 percent of pupil enrollment is eligible for free or reduced-price meals relocates to an attendance area identified in paragraph (2) of subdivision (c), admissions preference shall be given to pupils who reside in the elementary school attendance area into which the charter school is relocating.

(h) The California School Finance Authority annually shall report to the department and the Director of Finance, and post information on its Internet Web site, regarding the use of funds that have been made available during the fiscal year to each charter school pursuant to the grant program.

(i) The California School Finance Authority shall annually allocate the facilities grants to eligible charter schools according to the schedule in paragraph (4) of subdivision (c) for the current school year rent and lease costs. However, the California School Finance Authority shall first use the funding appropriated for this program to reimburse eligible charter schools for unreimbursed rent or lease costs for the prior school year.

(j) It is the intent of the Legislature that the funding level for the Charter School Facility Grant Program for the 2012–13 fiscal year be considered the base level of funding for subsequent fiscal years.

(k) The Controller shall include instructions appropriate to the enforcement of this section in the audit guide required by subdivision (a) of Section 14502.1.

(l) The California School Finance Authority, effective with the 2013–14 fiscal year, shall be considered the senior creditor for purposes of satisfying audit findings pursuant to the audit instructions to be developed pursuant to subdivision (k).

(m) The California School Finance Authority may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(n) Notwithstanding any other law, a charter school shall be subject, with regard to this section, to audit conducted pursuant to Section 41020.

*(Amended by Stats. 2017, Ch. 15, Sec. 29. Effective June 27, 2017.)*

~~47615.~~ (a) The Legislature finds and declares all of the following:

(1) Charter schools are part of the Public School System, as defined in Article IX of the California Constitution.

(2) Charter schools are under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools, as provided in this part.

(3) Charter schools shall be entitled to full and fair funding, as provided in this part.

(b) This part shall be liberally construed to effectuate the findings and declarations set forth in this section.

*(Added by Stats. 1998, Ch. 34, Sec. 16. Effective January 1, 1999.)*



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## Charter School Regulations

Access the California Code of Regulations for specific sections regarding charter schools.

Regulations are adopted by the State Board of Education to implement specific sections of the law. Title 5 of the *California Code of Regulations (CCR)* contains regulations on education.

Listed below are several charter school specific regulations, including the section numbers.

The below regulations can be found by searching the [California Code of Regulations Web site](https://govt.westlaw.com/calregs/index).  
[<https://govt.westlaw.com/calregs/index>]

Description of Section	Regulation Code Numbers
Definitions, including Satisfactory Progress and Private Schools	5 CCR 11965
Numbering of Charter School petitions	5 CCR 11968, 11969
Charter School School Average Daily Attendance	5 CCR 11960
Charter School Facilities	5 CCR 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9
SB740 Funding Determination	5 CCR 11963, 11963.1, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6, 11963.7
Independent Study	5 CCR 11700, 11700.1, 11701, 11701.5, 11702, 11703, 11704, 11705
Appeals on Charter Petitions that have been denied	5 CCR 11967
Submission of Statewide Benefit Charter School Petitions to the State Board of Education	5 CCR 11967.6, 11967.7, 11967.8
Charter School Closure Procedures	5 CCR 11962, 11962.1

**Definitions, including Satisfactory Progress and Private Schools**  
(5 CCR 11965)

**Numbering of Charter School Petitions**  
(5 CCR 11968, 11969)

**Charter School Average Daily Attendance**  
(5 CCR 11960)

**Charter School Facilities**



(5 CCR 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9 )

**SB740 Funding Determination**

(5 CCR 11963, 11963.1, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6, 11963.7)

**Independent Study**

(5 CCR 11700, 11700.1, 11701, 11701.5, 11702, 11703, 11704, 11705)

**Appeals on Charter Petitions That Have Been Denied**

(5 CCR 11967)

Submission of Statewide Benefit Charter School Petitions to the State Board of Education

(5 CCR 11967.6, 11967.7, 11967.8)

**Closure Procedures**

(5 CCR 11962, 11962.1)

**Questions: Charter School Staff | [charters@cde.ca.gov](mailto:charters@cde.ca.gov) | 916-322-6029**

Last Reviewed: Monday, May 8, 2017

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5 CCR § 11965

**§ 11965. Definitions.**

For the purposes of Articles 1, 2 and 2.5, the following definitions shall apply:

(a) "Chartering authority" means the entity that grants a school's charter and includes the following:

(1) "County chartering authority" means a county board of education that has granted a school's charter. In making specific the provisions of Education Code section 47607(g)(1), these regulations use the term "county chartering authority" where Education Code section 47607(g)(1) uses the term "county office of education."

(2) "District chartering authority" means the governing board of a school district that has granted a school's charter. In making specific the provisions of Education Code section 47607(f)(1), these regulations use the term "district chartering authority" where Education Code section 47607(f)(1) uses the term "school district."

(3) "State chartering authority" is the State Board of Education (SBE) when the SBE has granted a school's charter. The SBE acts as a state chartering authority when it approves the operation of a charter school that has been denied by a local educational agency (LEA) and when it approves the operation of a state charter school pursuant to Education Code section 47605.8.

(b) "Final Decision" means the final written decision of the chartering authority to either revoke or decline to revoke a school's charter.

(c) "Notice of Appeal" means a written document notifying the county board of education or the SBE, as appropriate, that the charter school's governing body as described in the school's charter, or the district chartering authority is appealing the decision to revoke or reverse the revocation of a school's charter.

(d) "Notice of Intent to Revoke" means the written notice of a chartering authority's decision to pursue revocation of a school's charter due to the charter school's failure to remedy one or more violations identified in the Notice(s) of Violation. This notice shall identify all of the following:

(1) All evidence relied upon by the chartering authority in determining that the charter school failed to remedy a violation pursuant to this section;

(2) The date and time at which the chartering authority will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the chartering authority issues this notice.

(e) "Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety" means the written notice of a chartering authority's decision to revoke a school's charter due to a severe and imminent threat to the health or safety of the pupils. This notice shall identify all of the following:

(1) The location of the facility;

(2) The provisions of Education Code section 47607(c) that the charter school has violated and a description of the emergency or urgent conditions that have resulted from this violation;

(3) A description of how the condition(s) identified in subdivision (2) severely and imminently threatens the health or safety of pupils.

(4) For purposes of this article, "a severe and imminent threat to pupil health or safety" occurs when a charter school's structures, systems or practices are in a condition that poses a severe and imminent threat to the health or safety of pupils while at school, and where the charter school has made no reasonable attempt to remedy the condition or no remedy exists to cure the condition.

(5) For purposes of this article, "a severe and imminent threat to pupil health or safety" does not include any cosmetic or nonessential repairs or severe threats for which the school has initiated corrective action and has removed the pupils from any immediate danger.

(f) "Notice of Violation" means the written notice of a chartering authority's identification of one or more specific alleged violations by the charter school based on the grounds for revocation specified in Education Code section 47607(c). This notice shall identify all of the following:

(1) The charter school's alleged specific material violation of a condition, standard, or procedure set out in the school's charter pursuant to Education Code section 47607(c)(1); the specific pupil outcome(s) identified in the school's charter that the charter school allegedly failed to meet or pursue pursuant to Education Code section 47607(c)(2); the charter school's alleged fiscal mismanagement or specific failure to follow generally accepted accounting principles pursuant to Education Code section 47607(c)(3); or the specific provision(s) of law that the charter school allegedly failed to follow pursuant to Education Code section 47607(c)(4), as appropriate.

(2) All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision (f)(1) including the date and duration of the alleged violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued; and

(3) The period of time that the chartering authority has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

(g) "Private school" as that term is used in Education Code section 47602(b) means a school that meets the requirements set forth in Education Code sections 48222 and 48223.

(h) For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering authority is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates. For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program made pursuant to 20 U.S.C. Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

(i) "School's charter" is the document approved by the chartering authority, including any material revisions that have been approved by the chartering authority.

(j) "Statewide benefit charter" is a charter school authorized by the SBE to operate at multiple sites throughout the state pursuant to Education Code section 47605.8. In making specific the provisions of Education Code section 47605.8, these regulations use the term "statewide benefit charter" where Education Code section 47605.8 uses the term "state charter school."

Note: Authority cited: Sections 33031, 47602 and 47612, Education Code. Reference: Sections 47602, 47604.5, 47605.8, 47607 and 47612, Education Code; and 20 U.S.C. Section 1414(d).

#### HISTORY

1. New article 2 (sections 11965-11968) and section filed 2-8-99 as an emergency; operative 2-8-99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-8-99 or emergency language will be repealed by operation of law on the following day.
2. Repealer of article 2 (sections 11965-11968) and section by operation of Government Code section 11346.1(g) (Register 99, No. 31).
3. New article 2 (sections 11965-11968) and section filed 7-28-99; operative 7-28-99 pursuant to Government Code section 11343.4 (d) (Register 99, No. 31).
4. New subsection (a) designator and new subsection (b) and amendment of Note filed 11-18-99 as an emergency; operative 11-18-99 (Register 99, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-17-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-18-99 order, including amendment of subsection (b) and Note, transmitted to OAL 2-2-2000 and filed 2-22-2000 (Register 2000, No. 8).
6. Amendment of section and Note filed 11-16-2011; operative 12-16-2011 (Register 2011, No. 46).

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5 CCR § 11966.4

**§ 11966.4. Submission of a Charter School Renewal Petition to the Governing Board of a School District.**

(a) A petition for renewal submitted pursuant to Education Code section 47607 shall be considered by the district governing board upon receipt of the petition with all of the requirements set forth in this subdivision:

(1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(b)(1) When considering a petition for renewal, the district governing board shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement if any.

(2) The district governing board may deny a petition for renewal of a charter school only if the district governing board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or facts to support a failure to meet one of the criteria set forth in Education Code section 47607(b).

(c) If within 60 days of its receipt of a petition for renewal, a district governing board has not made a written factual finding as mandated by Education Code section 47605(b), the absence of written factual findings shall be deemed an approval of the petition for renewal.

(1) The district governing board and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 47607, Education Code.

**HISTORY**

1. New section filed 10-24-2011; operative 11-23-2011 (Register 2011, No. 43).

2. Editorial correction of History 1 (Register 2011, No. 44).

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5 CCR § 11966.5

**§ 11966.5. Charter Petitions That Have Not Been Renewed - Submission to County Board of Education.**

(a) When the governing board of a school district denies a charter school's petition for renewal, the charter school may submit a petition for renewal to the county board of education not later than 30 calendar days after the district governing board makes its written factual findings. The county board of education and the charter petitioner may extend this date by an additional 30 days only by written mutual agreement. A petition for renewal not submitted to the county board of education within this time shall be considered denied with no further options for administrative appeal.

(b) A petition for renewal, whether submitted to the county board of education as the chartering authority or on appeal from denial of the renewal petition by the local governing board, shall be considered by the county board of education upon receipt of the petition with all of the requirements set forth in this subdivision.

(1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition, as denied by the local board, including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(3) When applicable, a copy of the governing board's denial and supporting written factual findings, if available.

(4) A description of any changes to the renewal petition necessary to reflect the county board of education as the chartering entity.

(c)(1) When considering a petition for renewal, the county board of education shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement, if any.

(2) The county board of education may deny a petition for renewal of a charter school only if the county board of education makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth, as applicable, in Education Code sections 47605(b) and 47605.6(b), or failure to meet one of the criteria set forth in Education Code section 47607(b).

(d) If within 60 days of a county board of education's receipt of a petition for renewal the county board of education does not grant or deny the petition for the renewal of a charter school, the charter school may submit a petition for renewal to the State Board of Education (SBE). The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(e) If a county board of education denies a petition for renewal of a countywide charter school established under Education Code section 47605.6, the petitioner may not elect to submit the petition for renewal of the countywide charter school to the SBE.

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, 47605.6, 47607 and 47607.5, Education Code.

**HISTORY**

1. New section filed 10-24-2011; operative 11-23-2011 (Register 2011, No. 43).

2. Editorial correction of History 1 (Register 2011, No. 44).

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5 CCR § 11966.6

**§ 11966.6. Charter Petitions That Have Not Been Renewed Locally - Submission to State Board of Education (SBE).**

(a) When the county board of education denies or takes no action on a charter school's petition for renewal, the charter school may submit a petition for renewal to the SBE.

(b) A petition for renewal shall include all of the following and shall be considered received when submitted to the SBE with all of the requirements set forth in this subdivision.

(1) Documentation that the charter school met at least one of the criteria specified in Education Code section 47607(b).

(2) A copy of the renewal charter petition, as denied, including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(3) A copy of district governing board's written factual findings denying the petition for renewal, and evidence of the county governing board's denial or, if the county board of education failed to act, evidence that the timeline set forth in section 11966.5 (d) has expired.

(4) A description of any changes to the renewal petition necessary to reflect the SBE as the chartering entity.

(c)(1) When considering a petition for renewal, the SBE shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success, along with future plans for improvement, if any.

(2) The SBE may deny a petition for renewal of a charter school only if the SBE makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or failure to meet one of the criteria set forth in Education Code section 47607(b).

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, 47607 and 47607.5, Education Code.

**HISTORY**

1. New section filed 10-24-2011; operative 11-23-2011 (Register 2011, No. 43).

2. Editorial correction of History 1 (Register 2011, No. 44).

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5 CCR § 11967

**§ 11967. Appeals on Petitions for the Establishment of a Charter School That Have Been Denied.**

(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education not later than 180 calendar days after the denial. A charter school petition that has been previously denied by a county board of education must be received by the State Board of Education (SBE) not later than 180 calendar days after the denial. Any petition received by the county board of education or SBE more than 180 days after denial shall not be acted upon by the county board of education or the SBE.

(b) When filing a petition with the county board of education or the SBE for the establishment of a charter school, petitioner(s) shall provide the following:

(1) A complete copy of the charter petition as denied, including the signatures required by Education Code section 47605.

(2) Evidence of the governing board's action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b).

(3) A signed certification stating that petitioner(s) will comply with all applicable law.

(4) A description of any changes to the petition necessary to reflect the county board of education or the SBE as the chartering entity, as applicable.

(c) The county board of education or SBE shall deny a petition for the establishment of a charter school only if that board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)-(5).

(d) If within 60 days of a county board of education's receipt of a petition appealing the denial to establish a charter school, the county board of education does not grant or deny the petition for the establishment of a charter school, the charter school may submit the petition for the establishment of a charter school to the SBE. The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(e) If, within 120 days of the SBE's receipt of a petition appealing the denial to establish a charter school, the SBE does not grant or deny the charter petition, the decision of the governing board of the school district to deny the petition is subject to judicial review. The SBE and the charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(f) In considering charter petitions that have been previously denied, the county board of education or SBE are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(b).

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Section 47605, Education Code.

**HISTORY**

1. New section filed 2-8-99 as an emergency; operative 2-8-99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-8-99 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 31).

3. New section filed 7-28-99; operative 7-28-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 31).

4. Amendment of section and NOTE filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

5. Amendment of section heading, section and Note filed 10-24-2011; operative 11-23-2011 (Register 2011, No. 43).

6. Editorial correction of History 5 (Register 2011, No. 44).

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5 CCR § 11967.5

**§ 11967.5. Review and Approval of Charter School Petitions by the State Board of Education.**

The State Board of Education shall utilize the criteria set forth in Section 11967.5.1. in reviewing the elements of a charter petition submitted for its approval in accordance with the provisions of Education Code section 47605(b) and (j). The purpose of the criteria is to convey to charter petitioners the State Board of Education's understanding of the meaning of the elements specified in Education Code section 47605(b), or otherwise to convey essential information about the elements. The criteria are intended to require no charter provisions in excess of those that the State Board of Education believes necessary to determine whether each element specified in Education Code section 47605(b) has been satisfactorily addressed. Where the criteria call for judgments to be made, the judgments will be made in such a manner as to be reasonable, rational, and fair to the petitioners and other parties potentially affected by the chartering of the school by the State Board of Education.

**HISTORY**

1. New section filed 3-1-2002; operative 3-31-2002 (Register 2002, No. 9).

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**§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions and Charter School Renewal Petitions by the State Board of Education (SBE).**

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the SBE's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the SBE.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is any of the following:

(1) A program that involves activities that the SBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the SBE determines not to be likely to be of educational benefit to the pupils who attend.

(3) If the petition is for renewal of a charter school, and either the charter school has not met the standards for renewal pursuant to Education Code section 47607(b), as applicable, or the charter school has not met the measurable pupil outcomes as described in its charter.

(c) For purposes of Education Code section 47605(b)(2), the SBE shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program."

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the SBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the SBE's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.

2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that "does not contain the number of signatures required by subdivision (a)" of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of the submission of the original charter to a school district governing board pursuant to Education Code section 47605(a). The SBE shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district. The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that "does not contain an affirmation of each of the conditions described in subdivision (d)" of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the SBE shall take the following factors into consideration in determining whether a charter petition does not contain a "reasonably comprehensive" description of each of the specified elements.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person" in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.

(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, or technology-based education).

(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.

(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.

(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.

(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.

(2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:

(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.

(B) Include the school's Academic Performance Index growth target, if applicable.

(3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.

(B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.

(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.

(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:

1. The charter school will become and remain a viable enterprise.
2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).
3. The educational program will be successful.

(5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:

(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.

(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.

(C) Specify that the requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:

(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.

(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.

(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.

(7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.

(8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.

(9) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:

(A) Specify who is responsible for contracting and overseeing the independent audit.

(B) Specify that the auditor will have experience in education finance.

(C) Outline the process of providing audit reports to the SBE, California Department of Education, or other agency as the SBE may direct, and specifying the time line in which audit exceptions will typically be addressed.

(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.

(10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:

(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.

(B) Identify the procedures by which pupils can be suspended or expelled.

(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.

(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).

(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):

1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.

2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local educational agency (LEA) (or program of any LEA) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the LEA.

(13) The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

(A) Any rights upon leaving the employment of an LEA to work in the charter school that the LEA may specify.

(B) Any rights of return to employment in an LEA after employment in the charter school as the LEA may specify.

(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the SBE determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

(A) Include any specific provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not an LEA.

(B) Describe how the costs of the dispute resolution process, if needed, would be funded.

(C) Recognize that, because it is not an LEA, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the SBE intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.

(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the SBE's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act. Education Code section 47605(b)(5)(O) recognizes that the SBE is not an exclusive public school employer. Therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (commencing with Government Code section 3540).

(g) A "reasonably comprehensive" description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

(1) Is substantive and is not, for example, a listing of topics with little elaboration.

(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.

(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

(4) Describes, as applicable among the different elements, how the charter school will:

(A) Improve pupil learning.

(B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

(C) Provide parents, guardians, and pupils with expanded educational opportunities.

(D) Hold itself accountable for measurable, performance-based pupil outcomes.

(E) Provide vigorous competition with other public school options available to parents, guardians, and students.

Note: Authority cited: Sections 33031 and 47605, Education Code. Reference: Section 47605, Education Code.

#### HISTORY

1. New section filed 3-1-2002; operative 3-31-2002 (Register 2002, No. 9).

2. Amendment of section heading, section and Note filed 10-24-2011; operative 11-23-2011 (Register 2011, No. 43).

3. Editorial correction of History 2 (Register 2011, No. 44).

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**WESTLAW California Code of Regulations**[Home Table of Contents](#)**§ 11967.6. Submission of Statewide Benefit Charter School Petitions and Amendments to the State...**

5 CA ADC § 11967.6

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations Currentness

Title 5. Education

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 19. Charter Schools

Article 2. General Provisions

5 CCR § 11967.6

**§ 11967.6. Submission of Statewide Benefit Charter School Petitions and Amendments to the State Board of Education.**

(a) A petition to establish a statewide benefit charter school pursuant to Education Code section 47605.8 shall:

(1) Comply with all statutory requirements otherwise applicable to charter schools, except those relating to geographic and site limitations (See Education Code section 47605.8).

(2) If applicable, comply with all requirements of law relative to the provision of independent study.

(A) A charter that does not expressly provide for independent study shall not be interpreted as allowing independent study beyond that which is incidental and required to address the temporary needs of particular students.

(B) If the independent study (nonclassroom-based instruction) exceeds the percentage specified in Education Code section 47612.5, it shall be funded only in keeping with a determination of funding approved pursuant to Education Code section 47634.2.

(3) Describe how an annual independent audit of the statewide benefit charter school will be conducted in keeping with applicable statute and regulation and indicate how the statewide benefit charter school's individual schools will be appropriately included in the audit process.

(4) Incorporate a plan that provides for initial commencement of instruction in at least two schools, which shall be in at least two different school districts or two different counties. The plan for instruction shall describe how the instructional services will provide a statewide benefit, as specified in section 11967.6(b) that cannot be provided by a charter school operating in only one school district, or only in one county. Existing charter schools previously approved by a charter authorizer may not be included in a petition to establish a statewide benefit charter school.

(5) Include an assurance that the instructional services for similar student populations described in the charter will be essentially similar at each school and, thus, that each pupil's educational experience will be reasonably the same with regard to instructional methods, instructional materials, staffing configuration, personnel requirements, course offerings, and class schedules.

(6) Describe how the statewide benefit charter school will participate as a member of a special education local plan area, and ensure a coordinated structure for the provision of necessary programs and services specific to students with individualized education programs (IEPs).

(7) Demonstrate success in operating charter schools previously approved in California as evidenced by improved pupil academic performance and annual financial audits with no audit findings or exceptions. Data that shall be considered in determining the likelihood of a charter operator to successfully operate a statewide benefit charter school include, but are not limited to, a statewide or similar schools ranking of 8 or higher on the Academic Performance Index, evidence of having met growth targets over time, and other alternative indicators of success as defined in the alternative accountability system pursuant to subdivision (h) of Education Code section 52052.

(8) Describe how local community input for each school included in the plan was solicited (or will be solicited). Satisfaction of this paragraph shall involve the holding of at least one publicly noticed meeting for each school, with a summary of the input received at the meeting(s) being provided to the State Board of Education (SBE).

(9) Contain sufficient signatures either of parents, guardians, or of teachers in keeping with Education Code section 47605(a)(1) for each school proposed in the first year.

(10) Address all charter elements specified in Education Code section 47605 adapted appropriately for application at the statewide level.

(11) Contain or address any provisions or conditions specified by the SBE at the time of charter approval.

(12) Contain a plan for operations of the statewide benefit charter school that describes the distinction between centralized and individual school level responsibilities and includes a staffing plan to implement the activities at the designated level. This plan shall be a part of the petition as initially approved by the SBE. If amendments to the plan are proposed, these amendments must be submitted to the SBE for approval. The plan shall address statewide benefit charter school operations including, but not limited to:

- (A) Academic program,
- (B) Facilities and school operations,
- (C) Legal and programmatic compliance,
- (D) Financial administration,
- (E) Governance, and
- (F) Decision-making authority.

(13) Provide a list that includes each school the statewide benefit charter school proposes to operate. This list shall be a part of the petition as initially approved by the SBE. This list shall include:

- (A) A timeline for the commencement of instruction at each school. Commencement of instruction must begin during the term of the charter.
- (B) The general location of each school and the school district and county in which each school is to be located.
- (C) A description of the potential facilities to be used at each school.
- (D) The approximate number of pupils that can safely be accommodated by each school facility.

(b) "Instructional services of a statewide benefit", as referenced in Education Code section 47605.8(b), shall include, but not be limited to, the following factors:

(1) Unique factors and circumstances related to the statewide benefit charter school's educational program that can only be accomplished as a statewide benefit charter and not as a single district- or single county-authorized charter, including specific benefits to each of the following:

- (A) The pupils who would attend the statewide benefit charter school,
- (B) The communities (including the school districts and the counties) in which the individual schools would be located (e.g., in terms of pupil demographics and performance),
- (C) The state, to the extent applicable, and
- (D) The statewide benefit charter school itself (e.g., in fund raising, community partnerships, or relationships with institutions of higher education).

(2) Neither an administrative benefit to a charter operator, nor a desire by a charter operator to provide services in more than one district and county, shall be considered sufficient in and of itself to constitute a statewide benefit.

(c) A statewide benefit charter school, regardless of the number of individual schools, is treated as a school district for all purposes, including but not limited to, compliance monitoring, data reporting and collection, student performance data, oversight, and apportionments. For purposes of compliance monitoring and oversight, the SBE, in its review, will look at each individual school's independent progress in meeting federal and state growth targets.

(d) Following its submission, a petition to establish a statewide benefit charter school may be modified or new schools added that were not included in the original petition only with the approval of the SBE.

(e) Each statewide benefit charter school shall provide an annual report to the SBE reflecting student achievement data, performance benchmarks, and other pertinent data supporting stated charter goals.

Note: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605, 47605.8, 47612.5 and 47634.2, Education Code.

#### HISTORY

1. New section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

2. Amendment of section heading and subsections (a)(6) and (a)(8), repealer of subsection (a)(10), subsection renumbering and amendment of newly designated subsections (a)(11)-(13) and subsections (c)-(e) filed 8-19-2010; operative 9-18-2010 (Register 2010, No. 34).

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5 CCR § 11967.6, 5 CA ADC § 11967.6

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5 CA ADC § 11967.6.1

**BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS**Barclays Official California Code of Regulations [Currentness](#)

Title 5, Education

Division 1, California Department of Education

Chapter 11, Special Programs

Subchapter 19, Charter Schools

Article 2, General Provisions

5 CCR § 11967.6.1

**§ 11967.6.1. Notification of Statewide Benefit Charter School Petitions and Amendments to Counties and School Districts.**

(a)(1) Prior to submitting a petition for a statewide benefit charter school to the SBE, the petitioner shall submit an identical copy of the petition to the county superintendent of schools of each county where the petitioner proposes to locate a school site.

(2) The petitioner shall, with its original petition, submit a written assurance to the SBE that a copy of the petition has been provided to the appropriate county superintendent(s) of school(s).

(b)(1) Prior to submitting a petition for a statewide benefit charter school to the SBE, and no later than 120 days prior to the commencement of instruction, the petitioner shall provide a written notice to the governing board of each school district where the petitioner proposes to locate a school site.

(2) The petitioner shall, with its original petition, submit a written assurance to the SBE that written notice has been provided to the governing board of each school district where the petitioner plans to locate a school site.

(c)(1) Prior to submitting an amendment to the SBE pursuant to section 11967.6(a)(13), adding new schools to the statewide benefit charter school's list of schools, the charter school shall submit an identical copy of the proposed amendment(s) to the county superintendent of schools of each county where the petitioning charter school proposes to locate a new school site and a written notice to the governing board of each school district where the charter school proposes to locate a new school site.

(2) The charter school shall, with its amendment, submit a written assurance to the SBE that a copy of the proposed amendment(s) has been provided to the appropriate county superintendent(s) of schools and that a written notice has been provided to the governing board of each school district where the charter school proposes to locate a new school site.

(d) When the meeting date for the SBE's consideration of an original petition under subdivisions (a) and (b), or a petition to amend under subdivision (c) becomes publicly available, the petitioner shall submit a written notice of the meeting date to the county superintendent of schools of each county where the petitioner proposes to locate a school site, and to the governing board of each school district where the petitioner plans to locate a school site.

Note: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605 and 47605.8, Education Code.

**HISTORY**

1. New section filed 8-19-2010; operative 9-18-2010 (Register 2010, No. 34).

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5 CCR § 11967.6.1, 5 CA ADC § 11967.6.1

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## 2. Publications & Reports

## a. Time to Modernize

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TIME TO MODERNIZE  
CHARTER AUTHORIZING  
IN CALIFORNIA:  
ANALYSIS &  
RECOMMENDATIONS

NATIONAL ASSOCIATION OF  
CHARTER SCHOOL AUTHORIZERS

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MARCH 2016

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## EXECUTIVE SUMMARY

With 1,184 charter schools educating nine percent of the state's students, California is by far the largest charter schooling state in the country. California's 324 charter school authorizers are almost all local school districts. Several are among the nation's largest authorizers, but more than 90 percent of California's authorizers oversee five or fewer charter schools. This means charters are subjected to a patchwork of differing authorizing standards, requirements, and practices. Serious efforts are underway to improve the professional practices of authorizers, but today, inconsistent and ineffective authorizing has produced too little charter school autonomy in some cases and too little charter school accountability in others.

California's charter schools and authorizers face several distinct obstacles:

- Inconsistent authorizer capacity and expertise
- A politicized authorizing structure and process
- Lack of professional authorizing standards
- Lack of distinct, transparent performance agreements
- Weak state-level oversight of authorizers, with little enforcement authority
- Ineffective charter renewal processes that can distort accountability

*California should move on four fronts to improve its charter authorizing climate and capacity:*

- 1. Reinforce authorizer professionalism.** Adopt national industry standards for quality charter authorizing and require authorizers to meet them. Increase transparency through annual reports on high-stakes decisions.
- 2. Strengthen school-level accountability.** Give authorizers and charter schools the tools needed to create clear agreement on performance expectations and commitments—including a Memorandum of Understanding (MOU) for each charter school and renewal decisions based on performance, not promises.
- 3. Strengthen state oversight and support.** Develop a quality control office to support the State Board's oversight functions. Increase the range of technical support needed for strengthening authorizers' professional practices.
- 4. Expand options for high-quality authorizing.** Consider a hybrid state/local approach or regional authorizing bodies. An improved authorizing structure should guarantee that every authorizer wants to be in the business and has the capacity and will to do the job correctly.

## TIME TO MODERNIZE CHARTER AUTHORIZING IN CALIFORNIA

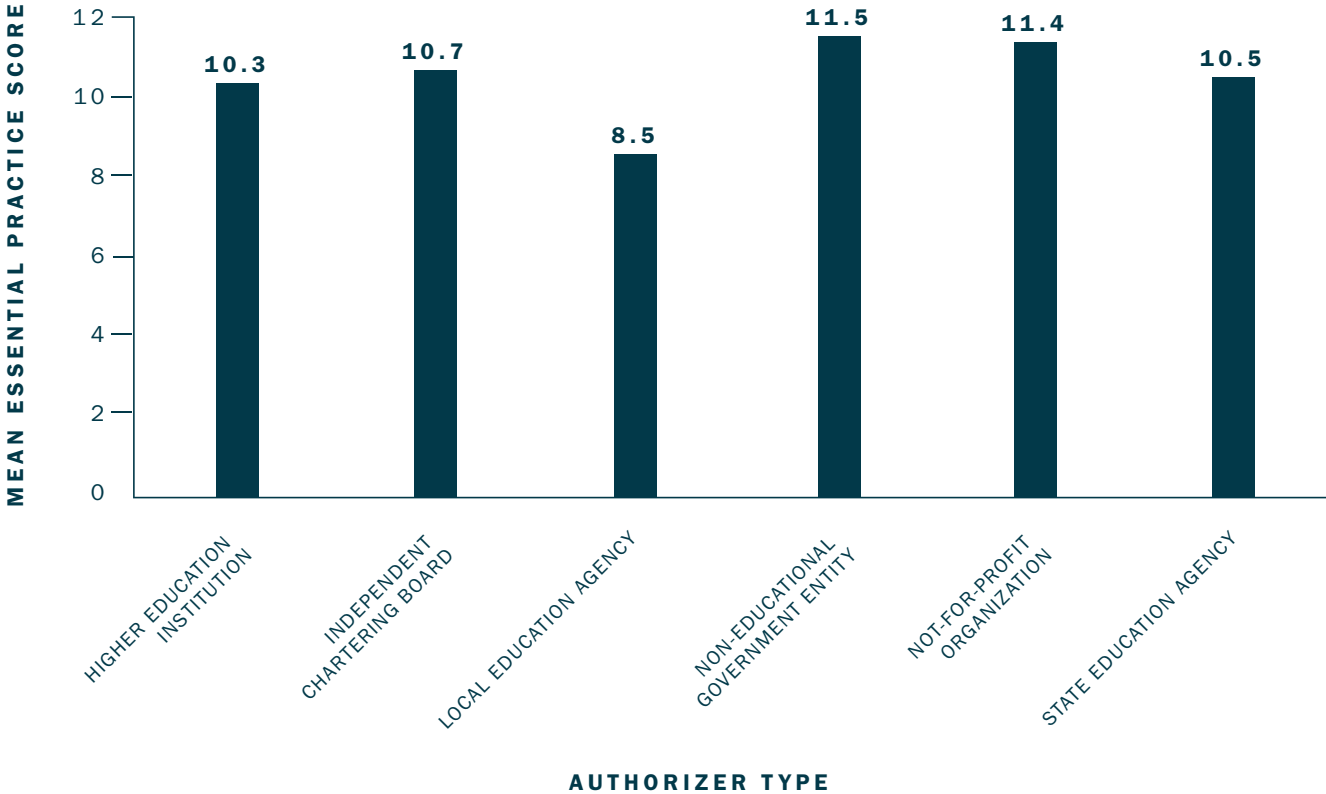
Since its enactment in 1992, California's charter school law has been amended numerous times by both legislation and initiative. Changes have clarified everything, from schools' legal status, to funding, to provision of facilities. Yet the fundamental architecture of oversight and governance of California charter schools has remained untouched. To enable charter schools to provide excellent education to students throughout the state and to keep California a national leader in charter school policy, it is time to modernize the state's approach to charter authorization.

While California's charter school sector continues to grow and achieve some highly visible successes, the state's authorizing structure creates troublesome obstacles to its quality and vitality. Hundreds of local school districts retain sole authority to grant, oversee, and renew charters, subjecting charter schools to a patchwork of differing authorizing standards, requirements, and practices. While some authorizers build strong capacity and observe nationally recognized best practices, too many lack needed expertise. Many authorizers are also hampered by a lack of legal tools needed to oversee charter schools effectively.

Charter advocates have long contended that district-only authorizing can narrow learning opportunities when promising charter applications are denied by unfriendly school boards. Active charters may also suffer from indifferent district oversight.

New evidence from an annual survey of the nation’s authorizers conducted by the National Association of Charter School Authorizers (NACSA) lends weight to these misgivings. Data culled from survey responses examines how well individual authorizers are implementing the *12 Essential Practices*, a set of fundamental professional practices that authorizers should adopt to realize the intent of state charter laws. Among all types of authorizers, Local Education Agencies or “LEAs”—which dominate the authorizing map of California—are far less likely than other types of authorizers to implement these critical practices.<sup>1</sup>

## USE OF ESSENTIAL PRACTICES BY AUTHORIZER TYPE



<sup>1</sup>The State of Charter School Authorizing, National Association of Charter School Authorizers (2015), <http://www.qualitycharters.org/research-policies/archive/essential-practices/>

NACSA is committed to helping California fulfill its promise to more than a half-million charter school students and their families. NACSA is the only national organization dedicated to building, strengthening, and supporting charter authorizing as a profession. Its [\*Principles & Standards for Quality Charter School Authorizing\*](#), a foundational text for authorizers, was recently cited by the U.S. Department of Education as a primary source of guidance for states that want to strengthen charter oversight. Nationwide, 20 states have adopted *Principles & Standards*, either directly or by reference, into state law and policy.

NACSA has high hopes for improving California's charter school policy through the kind of vigorous debate that typifies the Golden State's education policymaking. To help move these discussions forward, NACSA offers this examination of California's charter authorizing structure and recommends a short list of policy fixes aimed at enhancing achievement and protecting public and taxpayer interests.

# THE CURRENT STATE OF CHARTER AUTHORIZING IN CALIFORNIA: OVERVIEW OF STRUCTURE AND LANDSCAPE

With 1,184 charter schools educating nine percent of the state's students, California is by far the largest charter schooling state in the country. It also has the largest number of charter authorizers: 324. Unlike other states that have empowered universities, state boards, and large not-for-profits to authorize charter schools, California law allows school districts to remain the primary gatekeepers of the state's charter system. Any district can authorize, with no evidence of capacity or intent required.

California also has a two-tiered appeal structure in which charter petitions denied locally can be approved by County Offices of Education (COEs) or the State Board of Education (SBE). A COE may either authorize the school or uphold the denial. If denied by the COE, the school may then appeal to the SBE, which may also choose to uphold the denial or authorize the school. In addition to their appeal authority, COEs may also directly authorize schools of countywide benefit, and the SBE may directly authorize schools of statewide benefit.

Most California authorizers oversee a small number of charter schools: 90 percent of active authorizers in the state—293 authorizers—oversee five or fewer schools each. Of these, 155 oversee just one charter school. A significant swath of the state's charter schools is overseen by entities whose primary business is running district schools, not approving and overseeing great charters.

At the other end of the spectrum, California has some authorizers that oversee a large number of schools. Los Angeles Unified School District (LAUSD), with 264 charter schools, serves the largest number of charter school students of any authorizer in the U.S. Other large authorizers include Oakland Unified School District, San Diego Unified School District, and several county offices of education.<sup>3</sup>

## PRACTICES

Whether large or small, an effective authorizer is defined by the use of nationally recognized professional practices. Regrettably, California charter authorizers as a group fall far below national norms in implementing NACSA's *Essential*

## CALIFORNIA CHARTER FACTS

LAW ENACTED IN 1992

324 AUTHORIZERS

97% OF SCHOOLS AUTHORIZED BY LOCAL EDUCATION AGENCIES (LEAs)<sup>2</sup>

1,184 CHARTER SCHOOLS

12% OF PUBLIC SCHOOLS ARE CHARTERS

544,980 CHARTER STUDENTS

9% OF PUBLIC SCHOOL STUDENTS IN CHARTERS

*Practices* for quality charter authorizing. While 61 percent of large authorizers nationally are implementing eleven or all twelve of the *Essential Practices*, just two in California (LAUSD with 12 and Oakland Unified with 11) are in that class. Among the sample of 30 California authorizers who responded to NACSA's 2015 national survey who collectively oversaw 54 percent of California's charter schools in 2014–15,<sup>4</sup> the picture is not encouraging:

- Only 37 percent have a dedicated mission focused on quality charter authorizing (vs. 55 percent nationwide).
- Only 37 percent produce an annual public report on the performance of the charter schools they oversee (vs. 63 percent nationwide).
- Only 17 percent use external experts to help review and assess charter petitions (vs. percent nationwide).
- Only 57 percent use performance contracts to hold charter schools accountable for meeting clear, agreed-upon expectations (vs. 86 percent nationwide).

Even compared to states with similar, district-based authorizing structures such as Colorado and Florida, these are very low rates of adherence to the dozen minimum practices that NACSA has identified as essential for sound authorizing.

<sup>2</sup> LEAs include County Offices of Education. A County Office of Education may authorize on appeal and may also directly authorize schools of countywide benefit.

<sup>3</sup> Data from NACSA's 2015 annual survey of charter school authorizers (data self-reported by responding authorizers).

<sup>4</sup> Data from NACSA's 2015 annual survey of charter school authorizers (data self-reported by responding authorizers).

# KEY PROBLEMS WITH CALIFORNIA'S CURRENT CHARTER AUTHORIZING AND OVERSIGHT STRUCTURE

Ineffective authorizing has produced too little charter school autonomy in some cases and too little charter school accountability in others. California's charter schools and charter school authorizers face several distinct obstacles to producing a charter sector with the potential to improve student achievement:

- Inconsistent authorizer capacity and expertise
- Politicized authorizing structure and process
- Lack of professional authorizing standards
- Lack of distinct, transparent performance agreements
- Weak state-level oversight of authorizers, with little enforcement authority
- Ineffective charter renewal processes that can distort accountability

Each of these obstacles to success is rooted in state policy and many have been recognized in studies conducted during the past dozen years. The next section discusses them and presents NACSA's recommendations for improvement.

## SO MANY AUTHORIZERS, TOO LITTLE FOCUS ON AUTHORIZING

California's district-reliant authorizing structure is perhaps the foremost challenge to consistent quality charter school authorizing, a point made by both the Legislative Analyst's Office and the Little Hoover Commission.<sup>5</sup>

Hundreds of California school districts have chartered at least one school. They have not asked for this responsibility, nor have they had to present evidence of capacity or intent. State law simply says that they are tasked with being charter authorizers in addition to their primary responsibility of school system oversight. So far, no district has lost the right to charter because of negligent performance.

To be sure, there are some advantages to local oversight, including direct familiarity with student needs and relationships with social services. But the current policy has produced a crazy quilt of charter oversight characterized by extreme variances in authorizing attitudes, practices, and

quality from one district to the next.

Many of these districts are tiny jurisdictions to begin with, and therefore, will never charter at greater scale—in fact, of the state's 324 authorizers, 155 oversee just one charter. In such cases, the complex requirements of charter approval and oversight are handled by a fraction of one employee's time—if anyone is designated at all as the go-to person for charter schools. Without a change in policy or additional forms of support, the odds are slim that most California authorizers will develop the needed skills.

## INSUFFICIENT INSULATION FROM DISTRICT POLITICS

Despite the inherent tension between direct management of public schools and serving as an authorizer of charters, it's quite possible for traditional districts to become effective authorizers. Among California districts, two are already implementing 11 or 12 of NACSA's 12 [Essential Practices](#). But in small authorizing districts such as those that dominate the California landscape, it is difficult to create a tight focus on authorizing practice and to build the insulation needed to keep that practice from being buffeted by district politics. Larger districts with factionalized boards have also produced instances of questionable approvals or turndowns, renewals of charter schools that have not earned the right to continue, and instances of micromanagement by staff trying to anticipate every possible objection from a divided board.

These political dynamics play out in appeals of initial petitions and renewals reaching the State Board, appeals which have increased steadily since the appellate process was established in 1998. Such appeals tend to be from well-prepared charter petitioners who come ready to challenge any negative decision; applicants without deep pockets are often deterred by the cost of an appeal. The volume of appeals—40 in the past six years alone—has turned the SBE into one of California's busiest chartering venues, draining energy from its main mission of setting statewide education policy. Since it oversees schools approved on appeal, the SBE has itself become a large authorizer, overseeing 33 schools in 2015—a task the SBE was not designed to do.

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<sup>5</sup> "Assessing California's Charter Schools," Legislative Analyst's Office (2004); *Smarter Choices, Better Education: Improving California's Charter Schools*, Little Hoover Commission (2010); "California's Charter Schools: Oversight at All Levels Could Be Stronger to Ensure Charter Schools' Accountability," Bureau of State Audits (2002).

## INADEQUATE AUTHORIZER FUNDING

California authorizers receive a percentage of charter school Average Daily Attendance funding and can also charge each charter school up to one percent of their revenue for oversight costs, or up to three percent of revenue if the authorizer is providing a substantially rent-free facility to the school. This sounds straightforward enough, but it creates some serious imbalances.

The one-percent allocation is relatively low by national standards and can be inadequate to support quality authorizing unless an authorizer oversees a sizeable portfolio of schools. Only authorizers that actually have facilities to offer may charge the three-percent fee—which limits that funding stream to large urban school districts with declining enrollment. Appellate authorizers (county offices and the SBE) generally do not have school facilities and therefore are always limited to the one-percent oversight fee. In addition, there is no funding for petition review processes or appeals; these costs are claimed through mandated cost recovery (a state reimbursement), which has been chronically underfunded.

The bottom line is this: while authorizing resources are tight for all, small authorizers are stuck without the means to build badly-needed oversight capacity.

## LACK OF PROFESSIONAL AUTHORIZING STANDARDS

California statutes provide very little guidance for the state's authorizers. The charter law states only a few basic duties, such as acting on petitions and conducting site visits, but provides no consistent professional expectations for the complex and challenging work of authorizing.

Many authorizers simply focus on basic compliance, doing what the law directly requires but losing sight of the larger intent: to foster a high-quality charter sector. This tendency is reinforced by the state's appeals structure, because compliance-focused practices are easier to defend in appeals. Without a strong set of statewide professional authorizing standards driven by guiding principles, all parties—authorizers, charter schools, and other stakeholders—can argue about

the letter of the law instead of working toward a robust, high-performing charter sector for California.

Nationally, 20 states have incorporated some version of NACSA's *Principles & Standards* into state law, either by reference or by excerpting key requirements. This is a step California should take, as well.

## LACK OF PERFORMANCE AGREEMENTS

More than 90 percent of the nation's largest authorizers execute performance contracts with their charter schools. In most other states, once a charter proposal is approved, the authorizer and the charter school negotiate and execute a binding performance contract that articulates performance expectations, responsibilities of both the school and authorizer, and the zone of autonomy to which a charter school is entitled. This is the norm across the nation and one of NACSA's 12 recommended *Essential Practices* for quality charter authorizing.<sup>6</sup>

In California, it is common practice to treat the approved charter petition itself as the contract. Why is this a problem?

Charter contracts exist primarily for the benefit of the school. An approved charter petition, which may be hundreds of pages with attachments, includes not only the intended accountability goals, but also innumerable extraneous details that can invite a hostile authorizer to focus inappropriately on minutiae—and worse, to play a game of “gotcha” at renewal time. By providing a limited set of clear, enforceable performance expectations, a contract lets both school and authorizer know what is required for charter renewal.

In California, this question has additional nuance because some local authorizers and the State Board of Education use a Memorandum Of Understanding (MOU) with their charter schools. As long as the MOU is legally binding and includes the requisite academic, financial, and operational elements, the difference in nomenclature should not be troubling. (The State Board of Education's MOU, for example, is virtually the equivalent of most charter contracts used in other states.)

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<sup>6</sup> NACSA *Spotlight on Essential Practices*, National Association of Charter School Authorizers (2013), <http://www.qualitycharters.org/wp-content/uploads/2015/08/Spotlight-on-12-EPS.pdf>

However, the practice of using MOUs is not required, and their scope and quality vary across the state.

California now requires Local Control Accountability Plans (LCAP) for each school and district, including charter schools. Charter applicants must include LCAP goals and metrics in their charter petition, and an authorizer can refuse to renew a charter for failure to meet these goals. LCAP could form the basis of academic accountability goals for California charters.

### **WEAK STATE-LEVEL OVERSIGHT OF AUTHORIZERS AND LACK OF ENFORCEMENT AUTHORITY**

California provides little state-level oversight of charter authorizers themselves. It provides no state authority that can address grievances about authorizer performance beyond appeals of petition, revocations, or renewal decisions.

Under current state law, the SBE can intervene in charter schools under certain severe circumstances and take appropriate action, including revoking the charter. However, the SBE has never exercised this authority.<sup>7</sup> County superintendents have investigative authority over charter schools in their jurisdiction, but lack the authority to officially intervene.

Outside of the appeals structure, judicial intervention, and the SBE's never-used limited intervention powers, there are no other formal but less drastic mechanisms to identify, address, or sanction poor authorizing practices:

- There is no objective way to distinguish conscientious authorizers from those that are hostile, overbearing, negligent, or otherwise performing poorly.
- There are no transparency mechanisms to ensure that an authorizer is annually verifying and appropriately measuring the academic, financial, and organizational performance of the charter schools it oversees.
- There are no mechanisms to review and evaluate, either periodically or selectively, the quality and performance of authorizers based on the performance of their schools or standards of quality authorizing.
- The State has no authority to prevent or sanction

authorizers who abuse for financial gain the charter law's limited exemption to in-district chartering—a situation that has prompted litigation among districts and led to serious questions of conflict.<sup>8</sup>

With no system to identify good or bad authorizing and no state enforcement authority or mechanisms, there is little incentive for an authorizer to improve its practices, other than the threat of appeals or judicial action.

### **UNDEFINED AND WEAK CHARTER RENEWAL PROCESS**

The number of charter schools in the bottom quartile of California Charter Schools Association's (CCSA) performance curve has increased in the past several years, from 199 schools in CCSA's 2011 report to 235 today. To be clear, this represents a declining proportion of the total number of charter schools in the state. Yet, the fact that the number has been increasing even while NACSA, CCSA, and others are calling for the closure of failing charter schools indicates the need to do more.

California's charter school renewal code has two significant problems: an undefined process and a weak standard. Schools are subject to an unpredictable renewal process that is a disservice to charter schools, authorizers, and the general public.

#### ***California has no distinct renewal process***

Charter renewal should primarily reflect how well a school has performed against the goals in its current charter term. While some states and authorizers ask additional questions about plans for the next charter term, these are of secondary importance to the question of whether the school has fulfilled its current contractual obligations.

California's charter school law actively bars this kind of renewal process. Charter renewals follow the same standards, content requirements, and petition process as new charter petitions.<sup>9</sup> Therefore, they lack the substance appropriate to inform a meaningful, performance-focused renewal decision. Some sophisticated authorizers have developed work-arounds using public data and information they have collected during

<sup>7</sup> California Education Code §47604.5(a)-(d) and §47607.4.

<sup>8</sup> In one example, the Acton-Agua Dulce Unified School District chartered a school outside its boundaries, violating the intent of California's charter school law and drawing a lawsuit from other districts. ("Five Santa Clarita Valley Superintendents Speak Out on Einstein Academy," *Santa Clarita News*, 5/13/ 2013). A similar issue has arisen more recently with respect to charters in San Diego County.

<sup>9</sup> California Education Code §47607(a)(2).



the charter term. But lacking any comprehensive framework for decision making, the law allows both schools and authorizers to cherry-pick data that can sway district boards toward their preferred outcome.

Some authorizers take a minimalist approach, simply checking whether a charter school has remained within the bounds of legal compliance. While an essential component of any renewal review, this says little or nothing about how well the school has fulfilled its educational mission. Moreover, a hostile authorizer can often find some compliance deficit to justify a politically influenced non-renewal.

**California's renewal standard can be inappropriately applied and overly subjective**

Paradoxically, California appears to have a strong renewal standard on paper, because the charter law sets forth minimum performance expectations that schools must achieve to earn renewal.<sup>10</sup> However, this is intended as a “floor” for renewal. It appears that too many authorizers are using it as a “ceiling” and stamping their approval on any school that meets it.

The renewal standard is undermined by a large loophole giving authorizers considerable discretion to renew schools that fail to meet even minimum performance standards. Under California's charter law, a charter school may not be renewed unless the school meets a defined threshold of academic achievement on state standards or the authorizer determines that “the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.”<sup>11</sup>

This “safety net” provision is there for good reason: it was intended to address rare cases where schools might warrant additional consideration despite falling below the minimum Academic Performance Index (API) renewal standard. In practice, it has come to mean that *closure is not the expected*

*outcome for a failing charter at renewal time.* Any authorizer seeking to avoid confrontation with a disappointed operator, or avoid the painful process of closure, can often find an escape route.

There are also two technical problems with current renewal policy:

- First, when the state's API was suspended, the legislature did not provide an explicit replacement for the API-based renewal thresholds, leaving a large hole in the basic design of the renewal process.
- Second, California's law continues to reflect outdated federal guidance by requiring that a chartering entity “consider increases in pupil academic achievement for all groups of pupils served...as the most important factor in determining whether to grant a charter renewal.” Recognizing the need to give equal weight to financial probity and legal compliance, the U.S. Department of Education now urges “using increases in student academic achievement as one of the most important factors in renewal decisions.”<sup>12</sup>

In 2014, roughly 95 percent of eligible California charters won renewal. This is considerably higher than the 79 percent renewal rate found in NACSA's annual survey.<sup>13</sup> And this is not a one-year blip: over the five years from 2011 to 2015, among California authorizers responding to NACSA's annual survey, just five percent of charter schools were denied renewal by their authorizer for any reason.<sup>14</sup> This track record raises serious questions about both the practices of authorizers and the incentives built into the law.

Commendably, the CCSA has tried to address this weakness through its Public Call for Non-Renewal. Using its own stringent criteria, the Association annually calls for the closure of low-performing charter schools. State policy should give more support to this brand of “tough love” for charters.

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<sup>10</sup> California Education Code §47607(a)(3).

<sup>11</sup> California Education Code §47607(b).

<sup>12</sup> From 2015 Charter School Program grant criteria.

<sup>13</sup> CCSA and NACSA annual authorizer survey data (2015).

<sup>14</sup> NACSA annual authorizer survey data (2015). The State of California does not collect comprehensive data on non-renewals.



## **WHY ISN'T THE SAFETY NET IN CALIFORNIA'S RENEWAL STANDARD WORKING AS INTENDED?**

There may be several factors that contribute to the overuse of the safety net by California authorizers. According to some authorizers and policy experts queried by NACSA, there are several factors:

- The renewal threshold was an ambitious bar when originally written but did not grow along with API, effectively lowering the bar.
- Authorizers may be advised by counsel to use the safety net provision for all schools, presumably putting the authorizer in a stronger position in appeals. There is currently little case law on the subject to offer clear guidance.
- Schools pressure authorizers to employ the lowest standard possible to keep the school open.
- School board members feel more confident in justifying their decision to constituents when they can say they have considered every legal basis for their decision.

## FOUR STEPS CALIFORNIA CAN TAKE NOW

California is unique among states for its breadth and complexity. In matters of public policy, the State usually leads rather than follows—indeed, it was one of the first states to pass a charter school law. NACSA encourages state policymakers to think anew and to create an environment in which California’s charter schools can grow with quality and integrity.

In seeking to modernize the design of California’s authorizing vehicles, we need not start from scratch. NACSA brings to this process a storehouse of knowledge about best authorizing practices and policies that California can adapt to fit its own traditions and particular situation.

The following is a short list of recommendations addressing key leverage points for the redesign of state authorizing. These reforms will foster quality growth; professionalize the work of authorizing; establish strong performance management systems; and strengthen statutory guidance on charter renewal and closure.

### 1. REINFORCE AUTHORIZER PROFESSIONALISM

#### *Adopt statewide professional standards*

Nationwide, 20 states have already adopted national industry standards for quality charter authorizing, in most cases based directly on NACSA’s Principles & Standards for Quality Charter School Authorizing. California should do likewise—and require authorizers to meet them.<sup>15</sup>

Codifying authorizing standards in statute or policy can establish consistent expectations for professional practice, whatever an authorizer’s type or size. By defining the basic tenets of sound authorizing, standards provide the State with an objective, professional basis for judgment in charter school appeals and authorizer evaluations. NACSA recommends that California endorse NACSA’s *Principles & Standards*; create incentives for authorizers to follow the standards, especially with respect to opening strong charter schools and closing weak ones; and rely on the *Principles & Standards* to shape evaluations that will hold authorizers accountable for their performance.

#### *Heighten transparency*

To facilitate public accountability and inform State oversight, California should beef up its data collection on authorizing activities with annual reports on closures, openings, renewals, and other changes. The State should also require all authorizers to produce annual public reports on the performance of their portfolio of charter schools—a task that could easily be accomplished with a charter-specific LCAP template.

As noted earlier, California’s current method of funding authorizers is unbalanced, leaving smaller authorizers (including counties) unable to staff their work properly. Rather than recommending a quick fix, NACSA suggests that the Legislature commission an independent, one-year study of authorizer finances, looking both at needs and expenditures, with particular attention to whether fees are fully dedicated to authorizing purposes. That report should be published and used to stimulate dialogue leading to a legislative proposal for adequate and consistent funding of authorizer duties.

### 2. STRENGTHEN SCHOOL-LEVEL ACCOUNTABILITY

Strengthening school level accountability starts by giving authorizers and charter schools the tools needed to create clear agreements on performance expectations and commitments.

#### *Create an MOU for each charter school*

It’s time to require that all authorizers use strong performance management tools reflecting national industry standards.

In almost all other states, this means executing a performance contract between an authorizer and every charter school it oversees—a legally binding agreement between the authorizer and school governing board, separate and distinct from the charter petition, with provisions that establish the school’s legal status, affirm its autonomy, and describe the mutual obligations of both school and authorizer.

Recommended by California’s Little Hoover Commission, this is NACSA’s most fundamental recommendation as best practice

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<sup>15</sup> For more guidance on adopting or endorsing NACSA’s professional standards in state law, see “Endorsing NACSA’s *Principles & Standards for Quality Charter School Authorizing*,” NACSA Policy Brief, National Association of Charter School Authorizers (2014) and “Setting a Minimum Threshold for Performance and Default Closure of Failing Schools,” NACSA Policy Brief, National Association of Charter School Authorizers (2014), <http://www.qualitycharters.org/policy-research/state-policy-agenda/state-policy-resources/>.

in the area of charter school performance accountability. Because a number of authorizers are already using MOUs that are virtually the equivalent of contracts, NACSA recommends that California leverage this progress and extend it to all charter schools.

Each MOU should state the conditions of the school's operation (e.g., address, length of term, assurances about compliance with the law) and articulate the rights and responsibilities of *both the school and authorizer* regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms.

### **Require a performance framework**

Incorporated within the MOU and serving as the basis for school evaluations and all charter renewal decisions,<sup>16</sup> a performance framework sets forth performance standards, measures, and targets that qualify a charter school for renewal. The performance framework should address academic, financial, and organizational performance.

Instead of broad, long-term goals, a performance framework allows the authorizer to annually evaluate the progress of the school in meeting performance expectations. The charter school then uses this information to inform its plans for performance improvement.

Integrating Local Control Accountability Plan (LCAP) requirements will take some work, because they are not currently aligned with any renewal threshold. Authorizers must be part of the goal-setting process, and the state education department should provide both them and charter schools ample technical support in creating viable frameworks.

### **In renewals, emphasize performance, not promises**

California should establish in law a distinct renewal process focused primarily on how well the school has met the academic, financial, and organizational goals of its current charter. State statute should require a renewal petition process entirely separate—both substantively and procedurally—from that used for initial petitions.

A renewal statute reflecting national best practices should contain the following requirements:<sup>17</sup>

- Renewal decisions should be based on analyses of objective evidence defined by the performance framework in the charter agreement.
- All authorizers should be required to provide to each school, well in advance of the renewal decision, a cumulative performance report stating the authorizer's summative findings on the school's performance in academic and non-academic areas and its prospects for renewal.
- Each school should be provided an opportunity to correct or augment the authorizer's performance report.
- Authorizers should grant renewal only to schools that (a) have achieved the academic targets stated in the charter contract, (b) are organizationally and fiscally viable, and (c) have been faithful to the contract and applicable law.

A renewal process such as this makes renewal predictable for both charter schools and authorizers, narrowing the chances for surprises and politically driven decisions.

### **Eliminate the loopholes in default closure for failing charters**

The State should make explicit, in law, that charter schools failing to meet the state's academic performance standards for renewal will be closed. The law should define, with appropriate rigor and implementation guidance,

- what level of poor performance, and how many years of it, will trigger automatic closure;
- a short list of exceptions (e.g., Alternative Schools Accountability Model [ASAM] schools); and
- a process through which authorizers can state extenuating circumstances that should allow them to keep a school open (for example, a natural disaster affecting one year's test results).<sup>18</sup>

## **3. STRENGTHEN STATE OVERSIGHT AND SUPPORT**

### **Develop a quality control office to support the State Board**

California's State Board of Education has authority to oversee authorizing but has rarely, if ever, used it, in part because it lacks a designated vehicle for quality control. California should

<sup>16</sup> For more guidance on the content of a strong performance framework that meets national industry standards, see *Principles & Standards for Quality Charter School Authorizing*, National Association of Charter School Authorizers (rev. 2012), pp. 14, 23, <http://www.qualitycharters.org/for-authorizers/principles-and-standards/>.

<sup>17</sup> *Principles & Standards for Quality Charter School Authorizing*, National Association of Charter School Authorizers (rev. 2012).

<sup>18</sup> For more guidance on crafting a strong state-level default closure policy, see "NACSA Policy Recommendation: Closing Failing Schools," National Association of Charter School Authorizers (2014) and "Setting a Minimum Threshold for Performance and Default Closure of Failing Schools," NACSA Policy Brief, National Association of Charter School Authorizers (2014), <http://www.qualitycharters.org/policy-research/state-policy-agenda/state-policy-resources/>.

establish a system for effective (but not intrusive) state-level oversight of authorizing. Given that most authorizing is done within school districts, it should be made clear that the unit of accountability in these cases is the entire district, including the school board—not just the office that directly handles charter matters.

NACSA does not recommend at this time that the California Department of Education be given this responsibility, but that a separate entity (such as a respected research or policy analysis institution) be charged with supporting the State Board with respect to authorizer accountability. It should possess strong analytical capacity and would be charged with making well-informed reports and recommendations to assist the State Board in its oversight responsibilities. The entity would

- review and evaluate, periodically and selectively, the quality and performance of the state’s authorizers;
- review authorizers’ renewal decisions and make recommendations on whether the State Board should uphold or overturn them; and
- investigate allegations of inappropriate authorizing (such as out-of-district chartering that violates current law) and make recommendations for remedy.

California’s current district-only authorizing structure limits the State’s ability to impose sanctions on authorizers that fail to discharge their responsibilities, since each district now has an effective monopoly. If authorizing powers are taken away from districts, qualified operators will have no place to go with their petitions. Nonetheless, the State should have the ability to sanction an authorizer or, if warranted, revoke any authorizer’s chartering authority. Sanctions could include a restriction on fees, dispatching a state-appointed manager to serve as authorizer while the district prepares an improvement plan, and finally, removal of chartering authority. These measures must be carefully designed to avoid adverse impacts on the charter sector or leaving any jurisdiction without a viable authorizer. Sanctioning may be appropriate if an authorizer

- demonstrates abuse of its chartering authority through a

documented pattern of actions that violate the letter, spirit, or intent of California’s charter law;

- repeatedly authorizes charter schools that fail to meet state standards;
- fails to make renewal decisions that uphold the state’s established renewal standards;
- fails to close schools that perform below the state’s renewal standards; or
- persistently fails to meet state standards for quality authorizing.

### **Expand technical supports**

The State can play a key role in providing professional support geared to the needs of both large and small authorizers across the state. An appropriate state entity could offer small authorizers training, essential authorizing tools, and professional support to enable these authorizers to conduct basic quality authorizing and oversight, even if they will never charter more than a few schools. This would complement California Authorizers Regional Support Network (CARNet), the federally supported initiative (spearheaded by the Alameda County Office of Education) to build the quality and effectiveness of small authorizers in California.<sup>19</sup> (NACSA is an active partner in developing the CARNet program.)

The Fiscal Crisis and Management Assistance Team (FCMAT), a state service created in 1991 to assist school districts (and later, charter schools) by providing “fiscal advice, management assistance, training, and other related school business services,” is one logical source of support.<sup>20</sup> Although it works with districts, its current services do not directly support the improvement of authorizing. The legislature should approve an expansion of FCMAT’s portfolio to include such services, particularly those that can build critical capacity in small and mid-sized authorizers.

## **4. EXPAND OPTIONS FOR HIGH-QUALITY AUTHORIZING**

California should redesign its authorizing structure so every authorizer wants to be in the business and has the capacity and will to do the job correctly.

California’s authorizing problems stem from a policy that

<sup>19</sup> For a brief description of the Charter Authorizer Regional Support Network, see <http://www2.ed.gov/programs/charter-nationalleadership/acoe.pdf>.

<sup>20</sup> “FCMAT’s Mission”: <http://fcmat.org/>

simply assigns responsibility to local school districts and counties—and then fails to follow through with the kind of flexibility and support those agencies need.

In communities where a strong charter petition simply can't get a hearing, where a sloppy petition is approved through negligence, or where a local board plays politics with renewal decisions rather than attending to evidence, alternatives are clearly needed. Both the Little Hoover Commission (LHC) and Legislative Analyst's Office have previously recommended alternative authorizers as a priority improvement for California.<sup>21</sup>

California's challenge is to combine the strengths of local oversight with assurance that every sound charter proposal gets a fair hearing and partnership with a strong and constructive authorizer. As new paths are opened, state law should ensure that all new options offer high-quality authorizing. The door should be shut firmly on "authorizer shopping," when a charter school chooses an initial authorizer or changes authorizers specifically to avoid accountability.

NACSA suggests three potential approaches:

### ***A State/District Authorizing System***

In recent years, 16 states and the District of Columbia have established statewide authorizing bodies—commissions, boards, or institutions whose sole purpose is to foster excellent charter schools. In most cases, they have full statewide jurisdiction, but in a few states where local control is highly valued, they work in tandem with district authorizers, an approach that could work in California.

Colorado has a strong tradition of local control, and for that reason its statewide Charter Schools Institute cannot approve schools in districts that have established their bona fides and gained exclusive chartering authority from the State Board of Education. Such a system could work in California by providing charter petitioners anywhere in the state direct (not just appellate) access to a quality authorizer option, while enabling conscientious local districts to continue serving as authorizers.

An independent chartering body could be connected to the State Department of Education, but would need sufficient independence to focus solely on chartering quality schools. Creating such a body—perhaps limiting its reach to districts without exclusive chartering authority—would sharply reduce the charter-related workload of the State Board of Education, freeing it from having to hear most appeals. Instead the State Board would be solely required to approve local districts' requests for exclusive authority.

### ***Regional Authorizing Bodies***

Another option—which may make sense in light of the state's vast size and population—is to establish a small number of alternative authorizers for specific geographic regions. Given the authorizing experience of many County Offices of Education (COEs) in the state, California could readily designate as alternative authorizers a handful of COEs around the state that are already experienced in authorizing. Such regional alternatives could also help develop, demonstrate, and disseminate model practices to California's hundreds of authorizers.

Another option would allow campuses of the state university system to function as authorizers within defined regions. Universities are recognized as authorizers in 16 states, and among their number are some of the most esteemed authorizers in the country, including the State University of New York.

### ***Opt-Out/Default Options***

One problem with early charter laws—including California's—is that they simply designated categories of agencies as authorizers "by right," with no need to demonstrate their capacity or, conversely, to say that they don't want to take on the job. Small school districts that have neither the means nor the interest to become effective authorizers should have an automatic default option whereby applications in their communities would be passed to another level—initially the surrounding county, but also any regional or statewide body—that would have a larger charter portfolio and staff designated for oversight.

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<sup>21</sup> "Assessing California's Charter Schools," Legislative Analyst's Office (2004); Smarter Choices, Better Education: Improving California's Charter Schools, Little Hoover Commission (2010).

## CONCLUSION

California has more charter schools and more charter school students than any state in the nation, and more growth is expected. Yet, just as the quality of charter schools is uneven, so is the quality of the oversight of those schools. There are ample commonsense opportunities for California to improve. NACSA looks forward to discussing these proposals with California policymakers, district and county education officials, charter authorizers and operators, and the many stakeholders who contribute to the success of all California students.

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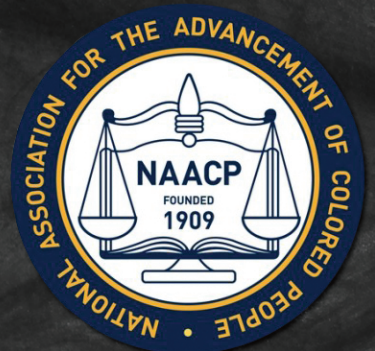
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**QUALITY EDUCATION FOR ALL...**  
**ONE SCHOOL AT A TIME**



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## EXECUTIVE SUMMARY

*Here's the moral walk: That the same quality and equity that a child would receive in Bloomfield Hills is guaranteed for every child in the city of Detroit... that we insist a system, not hodgepodes of opportunity, but a comprehensive system for all children. We started to ensure that all children are provided a quality education... That was the promise of Brown versus the Board of Education.... Now, the moral voice, Proverbs 31:8, asks: "Who will speak for those who cannot speak for themselves?" Vice President Derrick Johnson (Detroit Hearing)*

*"Can charter schools be part of the solution? Absolutely! But that solution must be intentional, well-planned growth that takes into account the health and sustainability of the entire public education system, including the so-called traditional public schools that educate 90% of our country's students". Chris Ungar, Past President, of the California School Boards Association and Former Special Education Director in the San Luis Obispo County Office of Education. (Los Angeles Hearing)*

The National Association for the Advancement of Colored People (NAACP) has always advocated for quality education of African American children as the gateway to economic prosperity and to become fully contributing citizens of society. This belief led to the NAACP sponsored lawsuit filed by Thurgood Marshall, *Brown v. Board of Education*, which ruled in NAACP's favor and ended the "legal" separate but equal doctrine relegating Black students to inferior schools. Over the years, quality education continued to be a focus of the National NAACP's program. Delegates in many conventions passed resolutions seeking solutions to the public schools' failure to yield a quality education to African American and other children of color. In July 2016, The NAACP Board of Directors approved a national resolution calling for a moratorium on the expansion of charter schools until more transparency and accountability in their operations can be achieved.

A media storm of pros and cons followed the delegates' approval of the resolution, and the Board of Directors, in October 2016, created a Task Force on Charter Schools and later expanded its charge to examine the quality of education for children of color in inner city schools. The Task Force's mission was to make recommendations to the Board of Directors on policy and actions needed to improve the quality of education for all children of color being educated with public funds and to ensure the sustainability of an effective public education system for all children.

Twelve NAACP board members were selected to serve on the Task Force. Those twelve members are State Conference Presidents, former educators, school administrators, school board members, labor representatives, and a charter school leader. Between December 2016 and April 2017, the NAACP Task Force on Quality Education convened seven hearings in major urban cities in America. The hearings were held in New Haven, Memphis, Orlando, Los Angeles, Detroit, New Orleans and New York. After more than 50 hours of public testimony in seven cities, the Task Force heard different messages at each community meeting, where over 250 persons were in attendance at each hearing. In order to ensure a balanced presentation, each hearing featured testimony from charter proponents and charter opponents, traditional public school advocates, community leaders, education policy experts, members of the community, and several students and their parents.

### **Findings**

Charter schools were created with more flexibility because they were expected to innovate and infuse new ideas and creativity into the traditional public school system. However, this aspect of the promise never materialized.



Many traditional inner city public schools are failing the children who attend them, thus causing parents with limited resources to search for a funded, quality educational alternative for their children.

Forty-three states and the District of Columbia have different approaches for overseeing charter schools, varying in who can serve as authorizers of charter schools, how they fund charters, and how they govern charter schools.

Charter schools are publicly funded, but they are privately operated under a written contract (or charter) with a state, school district or other authorizers depending on the state.

With the expansion of charter schools and their concentration in low-income communities, concerns have been raised within the African American community about the quality, accessibility and accountability of some charters, as well as their broader effects on the funding and management of school districts that serve most students of color.

State charter laws are different and unique to each state. For example, in Tennessee, for-profit charters are not allowed. While in Michigan, for-profit charters are expanding. Charter schools generally have flexibility from many laws and regulations that govern traditional public schools.

There are many types of charter schools. Some charters are closely affiliated with school districts, others operate independently, and many are part of a network of schools that may span many school districts. Some are for-profit, run by education management organizations (or EMO's), which can be nonprofit or for-profit.

For some, charter schools provide the answer to persistently failing traditional public schools in their community. To others, charter schools drain their community of limited resources and harm their children because many cannot attend the charter schools in their own neighborhood.

There were pros and cons on charters versus traditional schools in every hearing. The Task Force heard testimony that accused charters schools of “cherry-picking” students, counseling out the difficult students, manipulating funds related to average daily attendance (ADA) once students were no longer in attendance, and re-segregating the public school system. Conversely, charter school advocates criticized the traditional school system for its poor record in educating students. In every hearing, many people agreed that the current education system fails too many children because of the lack of investment in people, policies and programs that support high quality educational opportunities.

Consequently, each hearing's participants emphasized the need to protect students from failing schools and create more high quality schools, regardless of the school's structure.

A school leader at the Los Angeles hearing captured the sentiment, “we must celebrate success wherever it is happening and we must remain vigilant to guard against abuses of the public trust wherever they occur. A bad school is our common enemy”.

Hearing presenters in Detroit and New York warned that having too many charter schools in some communities, while neighborhood schools are shut down, contribute to a chaotic educational system for many families of color living in low income areas.

In Memphis and New Orleans, local elected school leaders stressed the importance of the state playing a strong role in authorizing, funding and governing charter schools so that ALL students, families and schools receive the necessary resources to educate the community's children.

Furthermore, while high quality, accountable and accessible charters can contribute to educational opportunity, by themselves, even the best charters are not a substitute for more stable, adequate and equitable investments in public education in the communities that serve our children.

Multiple parents and community members described the need for the state or district to govern all schools—traditional and charter—so that there’s one system of democratically-accountable, high-quality schools.

## **Recommendations to the NAACP Board of Directors**

The Task Force recommends the following:

- **More equitable and adequate funding for all schools serving students of color.** Education funding has been inadequate and unequal for students of color for hundreds of years. The United States has one of the most unequal school funding systems of any country in the industrialized world. Resources are highly unequal across states, across districts, and across schools, and they have declined in many communities over the last decade. In 36 states, public school funding has not yet returned to pre-2008 levels-before the great recession, and in many states, inner city schools have experienced the deepest cuts. Federal funds have also declined in real dollar terms for both Title I and for special education expenditures over the last decade.
- **School finance reform is needed.** To solve the quality education problems that are at the root of many of the issues, school finance reform is essential to ensure that resources are allocated according to student needs. States should undertake the kinds of weighted student formula reforms that Massachusetts and California have pursued, and the federal government should fully enforce the funding-equity provisions in Every Student Succeeds Act (ESSA).
- **Invest in low-performing schools and schools with significant opportunity to close the achievement gap.** Students learn in safe, supportive, and challenging learning environments under the tutelage of well-prepared, caring adults. Participants in every hearing stressed the importance of the type of classroom investments that have consistently been shown to raise student achievement. To ensure that all students receive a high-quality education, federal, state, and local policies need to sufficiently invest in: (1) incentives that attract and retain fully qualified educators, (2) improvements in instructional quality that include creating challenging and inclusive learning environments; and (3) wraparound services for young people, including early childhood education, health and mental health services, extended learning time, and social supports.
- **Mandate a rigorous authoring and renewal process for charters** One way that states and districts can maintain accountability for charter schools is through their regulation of the organizations that authorize charter schools. States with the fewest authorizers have been found to have the strongest charter school outcomes. To do this, states should allow only districts to serve as authorizers, empower those districts to reject applications that do not meet standards, and establish policies for serious and consistent oversight.
- **Eliminate for-profit charter schools** No federal, state, or local taxpayer dollars should be used to fund for-profit charter schools, nor should public funding be sent from nonprofit charters to for-profit charter management companies. The widespread findings of misconduct and poor student performance in for-profit charter schools demand the elimination of these schools. Moreover, allowing for-profit entities to operate schools creates an inherent conflict of interest.

# **REPORT OF THE NAACP TASK FORCE ON QUALITY EDUCATION**

## **INTRODUCTION**

Unfortunately, in urban areas throughout the nation, chronically failing Black schools are the norm, not the exception.”<sup>i</sup>

-- Larry Aubry, past president of the Inglewood, CA Board of Education  
Statement made at the NAACP Task Force Hearing on Quality Education

This statement is sadly true. In 2017, over one in three Black fourth-graders and half of Black eighth-graders scored at the lowest performance level on the nationally-representative NAEP mathematics assessment.<sup>ii</sup>The academic achievement gap between White and Black students has narrowed since the 1970s, but remains large.<sup>iii</sup>And the achievement gap between children from high- and low-income families has grown in the last 50 years.<sup>iv</sup>

To address this injustice, some states and communities have looked to charter schools to provide what they hope will be higher-quality educational opportunities for students. Federal and philanthropic supports for these publicly funded but nearly always privately-operated schools have greatly expanded in the last decade, especially in central city communities. The theory of chartering is that, in exchange for a more rigorous accountability expectation, charters are given more flexibility than neighborhood public schools to help students achieve and to seed innovation and feedback into the regular school system to stimulate improvements.

Over the past 10 years, the number of students in charter schools has almost tripled, with approximately 3.1 million students in charter schools in 2016-17.<sup>v</sup> Approximately 56% of students in charter schools are from low-income families.<sup>vi</sup> Charter schools are also more likely to enroll higher concentrations of Black students than neighborhood public schools. In 2014-15, 9% of district-run public schools had student populations where more than half of their students were Black, while 24% of charter schools had student populations where more than half of their students Black.<sup>vii</sup>

With the expansion of charter schools – and their concentration in many low-income communities and communities of color -- concerns have been raised within the Black community about the quality, accessibility, and accountability of some charters, as well as their broader effects on the funding and management of school districts that must serve most students of color.

### **Overview of Task Force Hearings**

Having called for a moratorium on charter expansion, the NAACP wanted to learn about whether charters are delivering on their promise to students and families. The NAACP Task Force on Quality Education engaged educational experts, NAACP members, parents, teachers, students, and communities across seven cities (New Haven, Memphis, Orlando, Los Angeles, Detroit, New Orleans, and New York) between December 3, 2016 and April 27, 2017.

The Task Force is grateful for the hundreds of engaged students, families, educators, and leaders who shared their joys and concerns about their community’s current education system. For some, the Task Force hearing provided a forum for charter proponents to argue that charters provide the answer to under-resourced neighborhood schools in their community. Others testified that charter schools drain their community of resources and harm their children. In every hearing, many people agreed that the current education system fails too many Black children because of the lack of investment in the people, policies, and programs that support high quality educational opportunities. Consequently, participants at each hearing emphasized the need to protect students from bad schools and create more good schools.

All of the hearings featured testimony from both charter proponents and opponents. Because of the different community contexts, each hearing raised different issues: The first hearing, set in *New Haven*, Connecticut, raised issues regarding the low quality of education offered to students of color in central cities from both charter proponents and opponents. Empowering African American families was a theme throughout the hearing. One witness put it this way:

For me this mission is bigger than charters. Frankly it is bigger than choice. It is about something far more fundamental to the experience of being Black in America and that is the transference of power to our communities, returning to them the power to choose instead of being forced to accept whatever is handed to us no matter how insufficient or unsatisfactory that option might be.

Many hearings echoed concerns about inadequate funding for schools serving students of color. The *Memphis* hearing captured concerns about the closures of neighborhood schools in cities like Chicago, which hurts communities. The *Orlando* hearing raised concerns about untrained and uncertified teachers in schools serving students of color, often in charters, and the need for schools in high-need communities – whether charter or non-charter -- to attract and keep the strongest educators.

Held in the city where there are more charter schools than any other district in the country, the *Los Angeles* hearing raised the need for charters to be accountable and transparent, as well as intentional and well-planned, in order to support their own success and the sustainability of the entire public school system.

The *Detroit* hearing highlighted concerns with for-profit charter schools, as Michigan's charter sector is 79% for-profit. Also of concern is the lack of democratic control, as the school board in the Motor City was disbanded and replaced by the Education Achievement Authority. In *New Orleans*, a similar process of moving most schools under an authority removed from the school board resulted in it becoming the first and only city in the nation exclusively composed of charter schools. Students spoke passionately at the hearing about the lack of resources and lack of support in their schools. The lasting pain and frustration from the aftermath of Hurricane Katrina spilled into the hearing. Participants felt they had been ignored and unheard by policymakers, foundations and other outsiders involved with the education takeover in NOLA.

Finally, the *New York* hearing echoed concerns about charters run by for-profit corporations and charters that strategically enroll and disenroll students to maximize the money they receive from the district and state. Participants agreed that charters must have transparent regulations and be held to account for both access and for improving student achievement. For news clips of the hearings, as well as a copy of the standing resolution on charters, see the Appendix.

What follows is a brief primer on charter schools, followed by a summary of the key themes from the hearings. The report concludes with recommendations for how the U.S. education system generally, and charter schools specifically, can better meet the needs of all students, especially students of color and low-income students. These recommendations are informed by the themes heard across the hearings.

## A Primer on Charter Schools

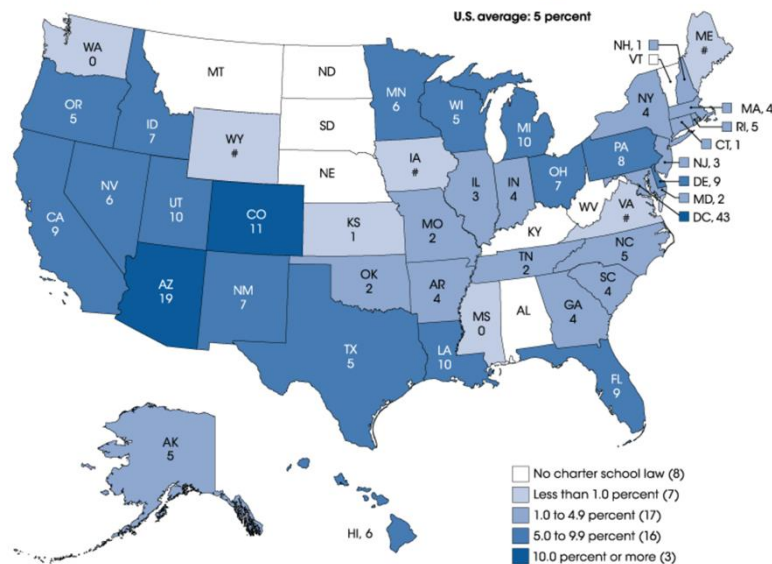
### *What are charter schools?*

Charter schools are publicly funded schools that are nearly always privately operated by an appointed board under a written contract (or “charter”) with a state, district, or other organization, depending on the state. The charter typically outlines the details of the school, such as how the school will be managed, the kind of curriculum it will offer, and the kind of outcomes it will pursue. Charter schools generally have flexibility from many laws and regulations that govern neighborhood public schools, as long as the charter school meets the terms of its charter. There are many types of charter schools. Some charters are closely affiliated with school districts; most operate independently; while still others are part of a network of schools that may span many districts. Some are brick and mortar schools, while others are virtual or cyber charters. Some charters are brand new schools and some are conversions of existing schools. In addition, some charter school chains are run by education management organizations (EMOs) or charter management organizations (CMOs) that can be nonprofit or for-profit.

### *Who attends charter schools?*

Approximately 50.4 million students attended U.S. public schools in the 2016-17 school year,<sup>viii</sup> with 3.1 million students attending public charter schools.<sup>ix</sup> Of the 7.8 million Black students in public schools, close to one million attend charter schools.<sup>x</sup> Students attend charter schools in 43 states and the District of Columbia.<sup>xi</sup> These states have laws governing charter schools, which differ in each state.

**Percentage of all public school students enrolled in public charter schools**



### *How are charter schools funded?*

Like traditional public schools, charters are funded with taxpayer dollars. States and districts fund charter schools differently. Charters also often receive private funding, beyond what they and neighborhood schools receive from public funds, through foundations, philanthropies, and families.



### *How are charter schools staffed?*

Charter schools tend to be staffed by non-unionized teachers. In the 2009-10 school year, the National Alliance for Public Charter Schools estimated that 12% of charter schools had collective bargaining agreements with teachers' unions. In 2012, the Center for Education Reform estimated that 7% of charter schools included unionized teachers.<sup>xii</sup> Multiple studies have found that teachers and principals in charter schools turnover at higher rates than educators in district-run public schools,<sup>xiii</sup> in part because charter schools tend to hire inexperienced educators who lack full teacher certification.<sup>xiv</sup> The lack of experience and increased turnover in charter schools is significant because teacher turnover can undermine student achievement.<sup>xv</sup> In addition, as teachers gain experience, they are more likely to positively influence student achievement and improve critical behaviors, including attendance.<sup>xvi</sup>

### *How do students achieve in charter schools?*

In terms of achievement, research finds mixed outcomes for charters as a group—with some doing better and others were doing worse than district-run public schools. For example, a large-scale study of student data from 16 states, from the Center for Research on Education Outcomes (CREDO) at Stanford University's Hoover Institute, found that 17% of charter schools produced academic gains that were better than traditional public schools, while 37% performed worse than their traditional public school counterparts serving similar students.<sup>xvii</sup> Forty-six percent showed no difference.<sup>xviii</sup>

However, outcomes vary across states, which have very different laws.<sup>xix</sup> For example, in Ohio and Arizona, where an unregulated market strategy has created a huge range of for-profit and nonprofit providers with few public safeguards, most charter schools have low ratings and charter school students achieve at consistently lower levels than their demographically similar public school counterparts.<sup>xx</sup>

Another recent study conducted by the Center for Research on Education Outcomes (CREDO) examined differences in performance between students attending charter schools and students attending the small subset of traditional public schools that send students to charters (usually less than 20% of public schools) across 27 states and New York City.<sup>xxi</sup> Averaged across these sites, the study found a small positive effect of being in a charter school vs. being in a "feeder" public school on reading scores, and no impact on math scores. It also found that charter school enrollment explained less than one hundredth of 1% of the variation in students' test performance. During the Los Angeles hearing, Dr. Julian Vasquez Heilig, a Professor of Educational Leadership and Policy Studies at California State University, Sacramento, testified on the size of these findings in relation to other potential education reforms:

I wanted to know how African Americans do under the CREDO study: 0.05 [standard deviations] is the impact of charters in the 2015 CREDO study. Which means that you need a telescope to see it. Class size reduction [has] 400% more impact. Pre-k? 1000% more impact than charters.

It is a concern that charter schools have had a larger influence on the national conversation about how to improve education in communities of color than these other well-researched educational investments that have been shown to have much larger effects on achievement.

## **FINDINGS**

**The findings that emerged across the seven hearing sites are presented below.  
They are organized around the following four major themes:**

**Lack of educational investment and quality education in central cities**  
**Perceived benefits of charter schools**  
**Perceived problems with charter schools**  
**Accountability concerns**

### **Lack of educational investment in central cities**

*Why are all schools failing African American students?*

*–Dr. James Comer, Yale University*

At each of the hearings there was unity on one issue: Too many students of color living in central cities are being deprived of the educational opportunities they deserve and need if they are to succeed in a world where education is the key that unlocks the door to the future. The criticisms of existing inequities were passionate. For many families in the central city, quality education is unavailable. Lester Young, a member of the New York State Board of Regents, testified:

We have communities in New York City right now where the parents say, “There’s not one middle school I can place my child in.” Now, that’s an issue and what we ought to be asking ourselves is, what is the plan?

Alycia Meriweather, Interim General Superintendent of Detroit Public Schools Community District, noted that resources are at the core of the problem:

So we can take public education and do creative things within that context. But I want to be clear that none of that is cheap. And what we have to talk about in this whole conversation is that change costs money, and we need to put it on the table that either we’re going to invest now or we’re going to pay later. And I continue to claim the best investment is now. The best investment is now, and there’s no greater investment than to invest in a human being. It’s never a waste. So in public education we look at funding. This issue of equitable funding, I would argue it’s not an achievement gap; there’s an opportunity gap and what do we need to do to fill those opportunity gaps and make sure that students get the opportunities that they need.

A number of the witnesses looked beyond the current debate about charter schools and asked the Task Force to look at these bigger issues. Robert Runcie, Superintendent of Broward County Schools in Florida, said:

When you have communities that are being pitted on traditional versus charter school, the big issues are ... really around funding, getting the right kind of resources, professionalizing teaching, and investing in our education to pipeline development. It’s almost a distraction in my mind. We need to move away from that and get to these larger issues that are impacting our kids and communities.

In Memphis David Pickler, Co-Founder and President of the American Public Education Foundation, was blunt about the politics of education:

And I will tell you, ladies and gentlemen, that I believe our public schools are under attack. And they have been for many years.

At the New Haven hearing, Jeremiah Grace, the Director of Northeast Charter Schools Network, framed the debate in terms of power:

For me this mission is bigger than charters. Frankly it is bigger than choice. It is about something far more fundamental to the experience of being Black in America and that is the transference of power to our communities, returning to them the power to choose instead of being forced to accept whatever is handed to us no matter how insufficient or unsatisfactory that option might be. This is not an either/or debate. In fact this is a with/and situation in which Black families should have the right to choose the school environment that will best serve the needs of the child, be it a district school, charter, magnet, private school or otherwise.

Many voiced a deep sense of moral outrage about a school system that divides students by race and socio-economic status. In Orlando, Albert Fields of the Hillsborough County NAACP called out a system where institutionalized racism segregates students:

We have alternative schools in Hillsborough County and they seem to be full of Black and Brown people. And they call that the warehouse on the way to prison. So as you are doing your report, I want to say please look at that as part of your process.

Yet, many noted that charters are not a tidy answer. In New Orleans, a city of all charter schools, Bill Quigley, Professor at Loyola Law School and Civil Rights Lawyer, summed up the challenge facing those in search of successful reform:

Successful reform is needed, successful reform is wanted, we all want it but that system has not been created in New Orleans, and if you're going to look at schools, we cannot look just at these schools at the top and keep everybody else out and cater to a very special few. But we should look at the system as the NAACP has always done, from the point of the most vulnerable, from the point of the most disadvantaged, from the point of the people with the most need, and from that perspective, unfortunately the charter school system in New Orleans does not receive a passing grade.

Perhaps the most powerful statement was made by Brenda Niminocks, a substitute teacher in the city school system of Detroit:

I currently teach at this school biology. The majority of my students are 9th graders. They have been without a highly qualified teacher for over two months. I am a substitute teacher in a vacancy because they could not keep a regular teacher in that position. When I came, I asked for textbooks. Only have 12 textbooks. Over half of the biology textbooks are tore up. So I'm using my own resources out of my own pocket, like many of the dedicated educators for this district, we do on a daily basis.

It's sad when you walk in a classroom here and you don't even know it's a biology classroom. We don't have the materials, we don't have the resources. I teach the young people to aim higher than just a career as a basketball player. I want to see more investment in our young people. Our young people have to walk in the middle of the street because they're walking past abandoned buildings and houses that are open. We need help, and I'm pleading and I'm appealing to everybody that's listening that can help us, please help us. This is our future.

While concerns about lack of investment in many central city schools were prominent, there was also testimony about the undying commitment of many parents to neighborhood public schools and a deep sense of loss when such schools have been closed. One Chicago parent described the hunger strike that was undertaken to save a neighborhood school from closure:

We went on a 34-day hunger strike. We did not eat, and we went to every public venue that any of the school board members or any of the politicians were at to let them know how we felt. And after 34 days, it became a historic moment that the only school that had ever been closed in the area was reopened as an open-enrollment school, a neighborhood school.... The school is open now, and the parents are involved, and that's a great thing going on. It became a win from what would have been a loss. So when the parents are listened to, good things can happen as relates to public education.

Walter Umrani, Director of New Orleans Peace Keepers, also highlighted the need for neighborhood schools to enable parent engagement:

The neighborhood school is essential in dealing with urban students. We spend 33 million on bussing when I think it used to be 17 million, years ago. You take that twenty something million and you invest it in the neighborhood schools, most of our parents are single mothers, they can't go on the other side of town for a report card conference and then we got people coming up here bashing them for not coming in, that's not right.

And Bob Wilson of Journey for Justice in Chicago noted that the goal of investments should be to offer high-quality neighborhood public schools to all students:

Every child should have a world-class education. We should be able to walk out of our house and go to a world-class school within walking distance. We all want the same thing. Our schools have never been adequately funded. Never. I'm going to say it again: They have never been adequately funded. That's why you have the low-performing neighborhood schools in our cities.

### **Perceived Benefits of Charter Schools**

As part of the hearings, charter school operators, advocates, students, and parents were invited to testify. The proponents were generally positive about charter schools. The theme that charter schools are performing an important mission was common across all the hearing sites. According to a number of charter school advocates, students who graduate from their schools are very likely to attend college. Donyale McGhee, Principal of the Somerset Academy Prep North Florida in Broward County, made this statement:

I'm proud this afternoon to state that I do work for a charter school that graduated 96.5% of my students last year. Not only did we graduate them, 86% of our African American and minority and Hispanic students went on to go to universities throughout the State of Florida and one of our students actually went to Stanford University.

As McGhee's comment implies, some studies have found that students who attend charter high schools are more likely to attend college.<sup>xxii</sup> Other research suggests that charter schools may attract more motivated students who are more likely to attend college, regardless of the type of high school they attend.<sup>xxiii</sup> Still other research finds that high graduation and college-going rates are sometimes a function of proactively transferring out a large number of students who struggle with attendance, behavior, or learning before calculating these statistics.<sup>xxiv</sup>

At the same time, there are charter schools that work to take and keep all students, as other public schools do. Katie Duffy, CEO of Democracy Prep Public School stated:

In a few weeks, our first college graduate is going to be walking across that stage at the top colleges and universities in the country, including Boston College, the Naval Academy, and Howard University. And there are hundreds following behind in those same colleges and universities...Democracy Prep is open to all students, regardless of race, religion, income, immigration status, be they special needs learners, or English language learners. Our school average in free and reduced price lunch is above [the average] for

our district in New York and hovers around the same in special education percent in New York: 18%. About 5% of our scholars are in transitory housing. Democracy Prep has proudly never expelled a student. We are proud that regardless of the backgrounds from which our students may come, we believe in the potential of every student. –

Some charter school operators pointed to their successes in the face of the steep social and economic challenges many of their students face. Kate Mehok, Cofounder of Crescent City Schools in New Orleans, put it this way:

Its challenging to do the work in our schools, where poverty brings a lot of challenges to our families. But our families really want to be in our schools. And every single time we do surveys in the state, or in this city, or on our own, the results come back 80, 90, 100% of families are satisfied with our school. And I trust my parents, I trust my parents to make decisions about their students. We are over-enrolled in all three of our schools. If we weren't serving our families, I feel like they would move somewhere else. That's one way I know we're doing what we need to do in addition to the academic success.

Quality was an argument that ran through nearly all the pro-charter testimony. Jamar McKneely of Inspire Schools in New Orleans was emphatic:

I urge you, yes, this is a conversation we need to have, but we need to focus on the quality because we are losing too much in the streets not only in New Orleans but in our nation. And what I'm seeing in our schools, regardless of how you want to define it because we are a public school, I'm seeing Black and Brown kids learn.... Our high school is the number one academic school when it comes to kids of poverty. I see our kids are competing and getting into the top colleges in our nation. I'm seeing Black kids defy odds like never before. I'm seeing at our K-8 school that kids are actually doing some of the best work. Were these students are actually going to high school ready to compete?

Claims that charter schools “cream” the better students, were rejected by some charter school operators. At the Memphis hearing Maya Bugg, CEO of the Tennessee Charter School Center, stated:

People talk a lot about charter schools kicking kids out. The retention rates are about the same as they are in traditional schools. So what that means is that our students are staying in charter schools at about the same rate, as they are traditional schools. We have about a 97% attendance rate for high schools in our public charter schools, and we have an 89% graduation rate, which is very high.

Nearly all charter school advocates described themselves as be strong supporters of public education. Natasha Sherry-Perez, a public charter school parent in New York, made a passionate plea for unity:

Our children immediately deserve the best education we can provide in Brooklyn. And the kinds of schools that are providing that for my child, they are nonprofit, highly publicly accountable charter schools that sent 100% of the high school graduating scholars to college. We operate on the public dollar, which is all about students who are fully enrolled and they're closing the achievement gap. We're also cheering for our district schools. We're working with them and we have forged a partnership with the New York City Department of Education so that we can share those practices with our district schools. We practice what we preach and teach and we want the best for all children, no matter what school they go to. USA Today illustrates our stance on high quality education and I just ask that you take all that you've learned and really look at, region by region, what's best for everyone. Please don't divide us, unite us.

As would be expected, charter school advocates and operators believe that their schools offer a strong education, and many argue that it is a better education than many neighborhood public schools.

Some community members, students, and family members also spoke during the public comment portions of the hearings. The comments were evenly split between support for and comments voicing concerns about charter schools. Some spoke about how they love their charter school because it provides “the best education.” Other parents and teachers described students being inappropriately classified as having special needs and/or consistently suspended and removed from their charter school, as described in the next section.

### **Perceived Problems with Charter Schools**

A number of perceived problems with charter schools also surfaced in the hearings. These include:

- Issues of access and retention
- Concerns about quality
- Issues of accountability and transparency
- Transportation challenges
- Concerns about for-profit charters

#### ***Issues of access and retention***

The claim that charter schools provide greater options for families was often countered by accounts of exclusionary enrollment and pushout practices that are viewed as common to many charter schools. Many participants testified about students with special needs, those perceived as poor test takers, or those who pose as a behavioral challenge are either not accepted, or once enrolled, disciplined or counseled out of many charter schools.

In New Orleans, the Southern Poverty Law Center had to bring a lawsuit against the Recovery School District because so many special education students were rejected from all the charter schools they applied to. Hilary Shelton, Director of the NAACP Washington Bureau noted that:

It is our unfortunate experience that in some cases charter schools are being used to perpetuate discrimination. While public schools are required to take every student, it is the option of charter schools to admit Johnny, but not Jamal or Jose.

Witnesses explained that while a charter school may claim to be open to all students, between reserving seats prior to any lottery process, selective enrollment, the use of exclusionary discipline processes, and counseling out of students, it may actually be exclusive. According to testimony by civil rights lawyer Dr. Bill Quigley, Professor at Loyola Law School:

What we have is a very small group of selective schools that are not approachable by most of the people in New Orleans. They are charter schools that are reserved for the wealthy. They are reserved overwhelmingly for White children of the city of New Orleans. They have their own special, non-transparent process. They do not participate in the application process that the rest of the city of New Orleans talks about and uses. For example, one of the high scoring schools is 53% White, 21% economically disadvantaged and 4% Special Ed, compared to the overall system which has 7% White, so it is 7 times as White as the system as a whole. It is only one-fourth as economically integrated as the system as a whole and has less than half the special education students the system as a whole has.

Most studies have found that charters are more racially and economically segregated than public schools generally, including underserving English learners and special-education students relative to the public schools in their districts.<sup>xxv</sup>In some states, like Louisiana, charters are allowed to set admissions policies similar to private schools. In others, like California, this practice is illegal. However, a recent ACLU study found that one



in five California charters violate state law by publicly posting policies that would restrict access for high-need students.<sup>xxvi</sup>

Student pushout was a widely described problem. Bob Wilson, a member of Journey for Justice from Chicago, Illinois, testified about a local study found that Chicago charter school expulsion rates were more than 1,000% higher than those of Chicago Public Schools on a per-pupil basis.<sup>xxvii</sup> Wilson noted that one charter school in Chicago claims a 100% graduation rate, “yet only 40% of their incoming freshmen graduate. So between freshman year and senior year, 60% are pushed out due to suspensions, expulsions...[and] counseling-out students.”<sup>xxviii</sup>

Other studies mentioned by witnesses described similar patterns. For example, a review of three years of expulsion data found that Washington, D.C. charter schools expelled 676 students, while the neighborhood public schools expelled only 24.<sup>xxix</sup> During the Los Angeles hearing, a panelist mentioned a recent study that found “charter schools suspended higher percentages of Black students and students with disabilities than traditional public schools.” The study the panelist referenced, conducted by the UCLA Civil Rights Project in 2016, found that Black males are over three times more likely to be suspended or expelled from charter schools than their White peers and that nearly 50% of black secondary students attending a charter school were enrolled in schools where the suspension rate for Black students was about 25% annually.<sup>xxx</sup>

Parents described in detail what this practice is in action. Clarence Sprowler, a former charter school parent in New York City, shared the following:

My son, with great fanfare, got accepted into Harlem Success Academy. Within his first day of school, I was told that he was unfocused and he needed to be disciplined. I was like, “Okay. They have high standards. This is good.” I didn’t see anything wrong with it...within days, people were coming into the classroom. They didn’t identify themselves. They were sitting in the back and they had papers and pads and they immediately, systematically, with these systems in place, identified children that they knew were going to be problematic and my son was among them, along with four other kids. Within three days, they had placed him in the back of the class in a table together and one by one, as every day went by, one of those kids were missing and they were gone. I was the hold out and I only lasted twelve days... I could not understand how a school that claimed to be public could come to me and say, “Listen. Something is wrong with your son. You got to go.”

Sprowler’s experience is reflected in research that found some New York City charter schools have routinely adopted suspension and expulsion policies that the authors claim violates students’ civil rights.<sup>xxxi</sup>

Exclusionary practices in charter schools are not limited to those viewed as having “behavioral” challenges; they can extend to students who struggle academically. Alesia Joseph, a New York City public school special educator describes how in her school “we receive children from charter schools two weeks before an exam. Children that they know won’t make it on the test so they send them back to the public school. After October 31<sup>st</sup>, we received an abundance of kids because the money didn’t follow those kids.”

A similar point was made by Ruby Newbold, Vice President of the American Federation of Teachers:

At charter schools, not every child who applies gets accepted or can stay. And the only choice parents have is choosing what application to fill out. The application process also requires parental involvement, and there are far too many obstacles for some parents to be involved in the day-to-day lives of our children. And truth be told, most high-performing charters only accept the students likely to succeed. Oftentimes, we see evidence of charter schools counseling students out or utilizing harsh discipline policies to suspend and later expel some of our most vulnerable students. And these students end up back in traditional public schools; yet the money stays at the charter school.

During the Los Angeles hearing, a student described the psychological toll youth experience when they are pushed out of charter schools:

My friend was kicked out of the charter school and she came back to Coliseum and she had to readjust to everything going on. And it was very humiliating for her to explain to other people that she got out because, “Oh, I wasn’t enough for a charter school, I wasn’t good enough or I didn’t perform enough for a charter school.” This is where the emotional aspect of leaving a charter school comes in regarding the expulsion of kids from charter schools for grades, which I feel is unfair and strenuous for the parents and students.

### ***Concerns about Quality***

Concerns about charter school quality also surfaced. For example, in Mississippi, Dr. Earl Watkins, Chair of Mississippi State NAACP Education Committee, testified that under Mississippi Code 372847:

No more than 25% of teachers in a charter school in Mississippi may be exempt from state teacher licensure requirements. Administrators in charter schools in Mississippi do not have to be certified, and they can hold only a bachelor’s degree to be a principal in that school... [Compare this to] traditional public schools where the threshold is 5% of the staff can teach out of field or not be certified, and principals in public schools in Mississippi must be certified as administrators, which means they must at least hold a master’s degree for AA certification in that particular area. So we are not playing by the same rules in order to ensure that we are doing what is right by children.

One of the central tenants of charter schools is that they are closed if they do not deliver on the educational commitments outlined in their charters (e.g., if the school has low academic performance, financial issues, etc.). In 2016-17, approximately 211 charter schools closed across the United States.<sup>xxxii</sup> Since 2001, at least 2500 charter schools have closed, affecting nearly 300,000 American children enrolled in primary and secondary schools.<sup>xxxiii</sup> School closures disproportionately affect Black students. In 2013, one analysis in Chicago found that black students composed 40% of the student enrollment in the district, but accounted for 88% of the students affected by closures. Similarly, in Philadelphia, Black students composed 58% of the district’s enrollment, but made up 81% of the students affected by the closures.<sup>xxxiv</sup> During the Memphis hearing, Merwyn L. Scott, a Director at the National Education Association, described how school closures especially hurt Black students:

Black students are particularly susceptible to being impacted by school closures. From the year 2000 to 2012, Black students were 29% of all students enrolled in U.S. charter schools, yet 45% of all students in charter schools that closed during those years were Black.

While school closures are sometimes seen as evidence that charter schools are in fact more accountable than public schools, charter school closures can seriously disrupt students’ learning, especially when closures occur during the school year. Scott further described the effects of school closures on students and families:

Charter schools are far less stable schooling options for communities than traditional or magnet schools. Forty percent of all charter schools opened in 2000 no longer were operating in 2013.<sup>xxxv</sup> School closures are touted by charters as evidence of high accountability, but beyond the disruption they create for students, families, and communities, a study of three cities found that students in closed charter schools do not typically move on to higher performing schools.<sup>xxxvi</sup>

Robert Runci, the Superintendent of Broward County Schools, described a similar situation during the Orlando hearing:



I can tell you since I've been at the district we've closed approximately 30 charters due to a variety of issues; academic, financial and other issues that have arisen. We believe that the market has reached its saturation point. Over the last three years we've seen the number of charter applications go from 32 to 19 to 5.

Broward County School District enrolls over 271,000 students and has over 300 schools. Closing 30 schools, 10% of the schools, represents a significant disruption to students' education and districts' operations. Alycia Merriweather, the Interim General Superintendent of Detroit Public Schools Community District, described firsthand how charter school closings can strain districts:

I can tell you that even just this fall; [Detroit Public Schools Community District] had to assist with a school that basically notified parents on a Tuesday that they will be closing on a Friday. We stepped in to help because we care about children. And it's unbelievable that someone would choose to do that. But there's no regulation around that.

### *Issues of accountability and transparency*

In many hearings, concerns were raised about financial transparency and appropriateness in charter schools. Gary Heisman, Human Resources Director at the Hamden Public Schools raised the issue of financial transparency:

No organization should get public money if they can't show how every penny is spent. Charter school leaders have fought tooth and nail against such public accountability and have gone to court and have litigated it in order to protect their right not to disclose certain information, particularly fiscal information. –

Similar concerns were raised in New Orleans by Kina Collins, a teacher at El Camino Real Charter School High School:

As an educator at a public high school, I witnessed first-hand some of the serious issues with transparency and accountability. The former leadership at my former school site abused the lack of oversight by the charter school division, and proceeded to spend thousands on delicious wine, scrumptious steaks, and luxurious hotel rooms. Meanwhile I still have close to 40 students in a class. This was money meant for our students. Unfortunately for students, teachers, and parents, it was a relentless fight to expose the gross injustices happening at our community school.

Robert Cotto Jr. from the Hartford Board of Education endorsed the NAACP Board Resolution calling for a moratorium on new charters. Cotto said, "a moratorium on new charters is necessary. In Connecticut, privately managed, publicly funded charter schools continue to have problems with accountability and transparency, diversion of funds away from public schools, outrageously high rates of suspension, expulsion, and racial segregation."

The extent to which charter schools are financially accountable and transparent often varies depending upon the strength of individual state charter laws. For example, according to testimony on Tennessee State charter laws, "The schools are required to have audits, they're required to report on academic achievement, financial management, and organizational facilities every year and report this information to districts and to the state."<sup>xxxvii</sup> Compare this to Michigan, where according to the Detroit Free Press,

Michigan taxpayers pour nearly \$1 billion a year into charter schools. But state laws regulating charters are among the nation's weakest, and the state demands little accountability in how taxpayer dollars are spent and how well children are educated.

Gary Heisman, Human Resources Director at Hamden Public Schools in Connecticut, stated during his testimony that:

Public schools have a legal obligation to show how they use public money and the majority of charters lack such financial transparency. In many cases we don't know how charter schools are spending money both coming from the state of Connecticut and other money that does not come from the state of Connecticut. A recent study of the KIPP charter school chain found that KIPP receives an estimated \$6500 more per pupil in revenues from public or private sources compared to local districts.

Different licensing requirements for charter schools, particularly weakened requirements, allow charters to pay lower wages for less qualified educators. The type of budgetary decisions can be masked in states where there is less financial transparency required, especially when combined with other weakened standards and requirements for charter schools compared to traditional public schools.

There are also significant variations in charter school staff salaries, raising a question as to whether that is a responsible use of taxpayer dollars. For example, according to testimony provided, "Success Academy Charter Schools has 41 schools at 14,000 students and its operator Eva Moskowitz earns half a million dollars a year for 14,000 students. And by comparison, New York City schools at 1.1 million students, a \$25 billion budget and that Chancellor makes \$212,614 a year."<sup>xxxviii</sup> In New Orleans, the principal of a highly selective charter school makes more than a quarter of a million dollars every year, compared to the superintendent of schools in Baton Rouge, the biggest community in the state, who makes a hundred and forty thousand dollars a year.<sup>xxxix</sup>

Furthermore, the idea that there is money to be made within the charter school community is perhaps best demonstrated by the amount of money spent trying to preserve weak charter laws, particularly as they relate to financial oversight, transparency and accountability. According to testimony by Jessica Tang from the Boston Teachers Union and Matthew Cregor from the Lawyers Committee for Civil Rights and Economic Justice, in Massachusetts, charter advocates spent \$25 million, which was the largest ballot expenditure in the history of Massachusetts. Most noteworthy is where that money came from. According to Tang's testimony: "80% [was] from out of state, Wall Street, hedge fund managers, and people who don't disclose, and Walton. Where have they been when fighting mass incarceration, gentrification, and funding? How can this not be about privatization?"

### ***Transportation challenges and school closures***

One of the side-effects of extensive chartering is that children do not have a right to attend school in their neighborhood. In many communities, all of the neighborhood public schools have closed. Children may be rejected for admission from nearby charter schools or be unable to attend because nearby charters are full – or there may be no nearby schools at all. As a result, many children have to travel long distances to attend school.

In some communities, like Detroit and Memphis, enrollments in neighborhood public schools are decreasing due to smaller populations in these cities and to charter schools enrolling more students. This combination has contributed to public schools closing in many neighborhoods. James Hare, a researcher at Two Sigma Research Group, described this situation in Detroit:

We have actual education deserts in Detroit, where in certain parts of our town there are no schools because of this dual policy of managing the public school to make it extinct and then promoting charters. Well, the charters want to operate in certain better neighborhoods in the city and that's what happens.

Dr. Joe Bouie, a Louisiana State Representative, described a similar situation in New Orleans. Specifically, he shared how the lack of neighborhood public schools in each community has influenced the city:

We have no more neighborhood schools in our community. And you see, in the Black community, school is more than brick and mortar, as you well know. It is a support system. Parents now can't walk to the school to talk to the teacher. We have buses pick kids up, pass three neighborhood schools to get across town.

As Reverend Joseph McCaster, Assistant Principal at Dr. Martin Luther King Jr. Charter school in New Orleans, noted:

Our children are hurting. They are suffering... Come take a ride with me at 6 o'clock in the morning when I am on my way to the North County. Come see the first group of children I see huddled under the tree in lightning, in storm, with no shelter waiting for a bus that may or may not come. –

When the school students attend is not determined by the location of their home, many children and families must travel significant distances for their education. Rather than spending the early morning or after-school hours with their family or engaged in extra-curricular activities or resting, these students instead spend this precious time traveling to and from their schools. As Dr. Joe Bouie, a Louisiana State Representative, described, “What we know is that our kids, because of some transportation scam, are getting up at 4:30 in the morning, boarding buses at 5, and get home at 6 at night.” The experience of students in New Orleans is reflected in research finding increased commute times for students attending charter schools.<sup>xl</sup>

As Detroit has closed schools, State Representative Sherry Gay-Dagnogo shared how the cities' limited transportation system has affected students:

We've created school deserts, we don't have an operable transportation system that is throughout our city. And so you have children that are displaced.

The increased transportation costs can add-up for districts. Walter Umrani, Director of New Orleans Peace Keepers, described:

The neighborhood school is essential in dealing with urban students. We spend \$33 million on bussing when I think it used to be \$17 million, years ago. You take that twenty something million and you invest it in the neighborhood schools. Most of our parents are single mothers. They can't go on the other side of town for a report card conference. And then we got people coming up here bashing them for not coming in. That's not right.

As Umrani described, school choice can increase transportation costs, including environmental emissions costs, because of the increased number of students who travel outside of their neighborhood for school.<sup>xli</sup>

### ***Issues with For-Profit Charters***

Approximately 13% of U.S. charter schools are run by for-profit companies<sup>xlii</sup> and approximately 15 states allow virtual schools, many of which are operated by for-profit organizations.<sup>xliii</sup> In some cases, the nonprofit charter is run by a for-profit management company, to whom the nonprofit pays substantial fees. State charter laws vary in terms of whether for-profit and virtual charters are permissible. Dr. Pamela Pugh, Educational Chair for the Michigan State conference of the NAACP and member of the State Board of Education, noted during the Detroit, Michigan testimony, “for-profit charters are not allowed in Tennessee and other states, and are closely monitored in many states. In Michigan, for-profit charters are expanding with little oversight.” This raises several concerns, as outlined in the testimony provided by Becky Pringle, Vice President of the National Education Association:

We're concerned that many of our charter schools are run by for-profit corporations. The two main

incidents, even they're considered nonprofit charter schools, they're run by EMO's that are managed by folks that aren't even in the community, or in the state even. They come to areas in Pennsylvania, like New York City, and they already have a long record of mismanagement, from financial mismanagement to not dealing with issues of equity and access.

Supporters of for-profit charter schools assert that they can reduce inefficiencies in the public school system. And supporters of virtual charter schools (who provide most classes through the internet) claim that they are a flexible education option for students who might have other commitments, such as actors or athletes. Despite these alleged benefits, a number of studies have found that students in for-profit charters and virtual charters achieve at lower rates than their peers.<sup>xliv</sup>

Testimony across sites, from both charter proponents and opponents, consistently raised concerns with for-profit charters, including those run by for-profit education management organizations (EMOs). For-profit virtual charter schools came in for special concerns.

Katie Duffy, CEO of Democracy Prep Public School, voiced a common view:

For-profit operators have no business in education. I don't understand it. There's no good reason for our states to allow this to happen to our kids. They are not assets and liabilities and they shouldn't be treated as such. -

This concern was also captured by Rafiq Kalam Id-Din, Managing Partner of Teaching Firms of American Charter Schools and Co-Founder and Managing Partner of Ember Charter Schools for Mindful Education Innovation and Transformation, who testified that:

For-profit, under definition, undermines the idea that at the core, that it is a service-driven, knowledge-worker driven endeavor. And as a for-profit with shareholders that ultimately, it's their values. What's important to them would override what you're providing to your client, so to speak.

In Florida, Jodi Diegel, an attorney at Southern Legal Counsel, described how "We have seen the fraud in the for-profit schools in Florida and that is a big concern." Similar concerns were raised in Los Angeles. For example, Jose Alcala, a teacher and member of the California Teachers Association, described:

What we are starting to get is the for-profits that are taking funds.... We are losing our students to them because they promise our young people that they will graduate them quicker, because they promise technology and all of these resources. And these young people leave us, take the ADA with them. And then actually come back further behind in their graduation requirements.

In the Orlando and New Haven hearing, participants raised concerns about virtual charter schools, many of which are for-profit and can achieve greater profits, because they do not make investments in brick-and-mortar schools and often have few teachers available to help students on-line. Robert Runci, Superintendent of Broward County Schools, described the problem during the Orlando hearing:

One of the trends that we've also seen is that virtual charter schools are having a lot of issues. We see it not just in Broward, but I think across the country. I think that model is really coming into question.

### **Accountability Concerns**

*You have to be accountable to the people in this city, the community, and people like me...trying to bring this city back.*

*– Walter Umrani, Director of New Orleans Peace Keepers*

Like Umrani, students, parents, school leaders, and community emphasized the need for accountability throughout the public school system, especially in charter schools. In every hearing, participants made statements about three aspects of accountability: (1) a lack of accountability throughout the education system; (2) the benefits of charter school accountability; and (3) the failings of charter school accountability.

Many hearing participants argued that the traditional public school system has consistently failed many children with no consequences. In each hearing, charter school supporters shared a similar explanation for how charter schools are more accountable than traditional public schools. For example, in the New Haven hearing, Dr. Steve Perry, a former charter school operator, noted:

Rare is it the occasion that you will find a traditional public school or neighborhood school that actually gets shut down. But a charter school that does not meet its expectations can and will be shut down. So when the conversation is one around transparency and accountability then the only ones that we should be having a conversation towards are the traditional neighborhood schools that don't seem to ever get shut down no matter how many of our children that they fail generation after generation.

As these comments illustrate, the primary rationale for charter schools is that they can be better held to account. As Katie Duffy, CEO of a charter school in New York City, explained, “There was a fundamental bargain and we said, ‘In exchange for more autonomy, we would have higher levels of accountability and transparency.’” As Duffy described, charter schools are given flexibility in exchange for increased accountability through their authorizing bodies and by students’ families who, at least in theory, can leave schools if they fail to educate their children. However, as noted in much of the testimony, where charters have had less accountability, a variety of documented abuses have occurred.

### *Transparency and Voice*

Comments raised in each of the hearings provided a counter-narrative to the alleged benefits of charter school accountability regimes. For example, families of students in charter schools do not always know how to hold their schools to account. Teresa Jones, former chair of the Shelby County School Board, explained during the Memphis hearing:

Parents do not feel they have a public place to go, and they come to the elected officials, such that I represent because they're living in the boundaries of my district. So I've had the conversation with charter operators, and they assure me there are public meetings, but when I ask the question how many parents attend, I'm told maybe one. I get complaints from citizens who feel that they're not part of that process and that their input or wishes or—in terms of how the school is run, is not being considered.

In addition to families holding charter schools accountable, the extent to which charter schools are held accountable by their governing organizations varies. As Katie Duffy described, “This does though, depend, state by state, on how authorizers really monitor charter schools... We file reports and audit is routine, we embrace the accountability we have coming from our families who have entrusted us with the education of their students.”

Suggestions arose throughout the hearings for how to better ensure that schools are held accountable for providing students a quality education. One suggestion was to provide clearer information about educational options to families. During the Memphis hearing, Mr. Cardell Orrin, the Director of Stand for Children, described how:

We need to be sure...that we have the transparency about how schools are doing so that people can make the right choices for their kids; the transparency of how schools are doing and of the opportunities that kids get at those schools.

## *Access and Standards*

In addition, the accountability laws and regulations vary by state. Becky Pringle, Vice President of the National Education Association, described during the New York hearing:

The [charter school] laws are different from state to state. Not all of them...require that accountability. But most especially, they don't require the kind of safe guards that we want all of our children to have when they go to those schools. We want to make sure that those schools are going to accept students that have those special needs. We want to make sure that we do not create separate systems that are unequal.

For example, Dr. Maya Bugg, CEO of a charter school network in Memphis, posited that Tennessee charter schools have the same expectations as traditional public schools, at least as it pertains to state testing. She said that charter schools in the state:

...are funded by public dollars, but they are accountable for the same academic standards. They take the same state tests and assessments. They are required to report this information to state and districts. They are held accountable to those same standards.

A Board Member of New Haven Public Schools, Dr. Edward Joyner, noted that accountability standards should go far beyond giving the same tests:

There should be quality indicators.... I subscribe entirely to the NAACP's position on charter schools. One, the National School Boards Association says that charters should be governed by the same quality indicators as public schools, environment, labor practices, due process, fiscal accountability, civil rights, and standards and assessment. In public schools we can't send kids out in the middle of the year. We can't refuse to take kids that come in in the middle of the year. We have to take everybody.

In New Orleans, participants emphasized the lack of accountability in the all-charter education system, ranging from how students are assigned to charter schools to the consequences for charter schools where students chronically underperform. Dr. Adrienne Dixon, Associate Professor at the University of Illinois-Urbana Champaign, explained:

The school assignment process, from my research—having talked with a number of parents and people who work in the district—is a mystery.... Though [parents] apply to schools and rank eight schools, they are not guaranteed their number one school... Once their child is assigned to a school, if at any point during the year a parent is dissatisfied with the school they are unable to exercise that choice and move their child to another school. They will have to wait until the next school year, and again they will not get their choice. They will be assigned a school... The word “choice” is kind of like “alternative facts.”

The comments throughout the hearings highlight the need for improved transparency, accountability, and support for all schools, especially struggling neighborhood and charter schools.

## *Authorizing and Funding*

The 43 states and the District of Columbia each have different approaches for overseeing charter schools, varying in who they allow to serve as authorizers of charter schools, how they fund charter schools, and how they govern charter schools.

One of the major ways in which states influence charter school policy is by who they allow to serve as an “authorizer” of a charter school. The authorizer is the entity that is responsible for approving and holding



charter schools accountable for delivering a quality education to students. Katie Duffy, CEO of a charter school in New York City, explained:

I mentioned New York. I think they are some of the best authorizer climates in the country. But, I think that we need, as a community of educators, to demand that authorizers for charter schools have a higher bar than what we see across the country. It's not acceptable...Charter schools are not one thing. There are great charter school and then, there are not great charter schools and we need authorizers that know the difference.

States also play an important role in how they fund charter schools. As Teresa Jones, former Chair of the Shelby County School Board, described during the Memphis hearing:

So the elephant in the room and the crux of this whole process of choice is that the funding model is still antiquated, not adequate, and it actually pits charters against the traditional public school system.

One reason for this is due to the challenges public school districts and their neighborhood schools face in planning for their budgets given the uncertainty of charter school enrollments. Jones explained:

What happens with the funding? So yes, the money follows the child. And, initially, the charter gets the funding, and if that child is expelled and is coming back to our district, we get that funding back. Eventually. And that is a problem because we're having a problem structuring a budget on eventual funds from an unknown number of children that may come back to our district. Actually, they are here today, but the funding will flow in several months later.

This year we're able to, as a district, look at our budgeting in a whole different light because this is the first year in a long time that the charters decided, voluntarily, that they would not take over any schools. So we now can plan, at least for the next year. And that's what I've advocated for. Not that you don't need charters, not that you don't need choice, but that it be done in a more systematic, thoughtful way to provide for the financial stability of all the districts.

### ***The Need for a System***

Multiple parents and community members described the need for the state or district to govern all schools—traditional and charter—so that there's one system of democratically-accountable, high-quality schools. This system would help students and families make sense of the variety of education options and ensure that all schools support student learning. In Detroit, Tonya Allen, the President of the Skillman Foundation, shared the consequences of the city's fragmented education system:

Not only is that a disaggregated system, there are 14 different entities that make decisions today about whether you open or close schools, and not one of them are necessarily coordinated. There's no mandate on that. So, what we've gone from is basically a school system to what many would say 'a system of schools,' except we have no system. Okay. So, there's no planning, there's no support.... So basically, if you're a parent and you're trying to figure out how you're going to choose a school, it's basic hunger games for you...Families are desperately looking for places, and we have nothing in our community.

The Detroit Public Schools Community District (DPSCD) can charter their own schools, but they do not have control over other charters in the way that many cities do have that. So like there's no singular charter board like Washington, D.C. And so we have a hyper—I mean a hyper-competitive environment where you can have all of these various entities working in one geographic domain...There's nobody, literally nobody in charge of the children in city of Detroit. You don't know where they are. You must work extraordinarily hard to figure out where children are, what schools they go to, if they're in school

or not in school. We have no idea until it's after the fact. We're looking at autopsy data. We have no ability to look at projections going forward.

Irene Robinson, a parent at the Memphis hearing, offered this poignant statement:

We are here to say that we have been impacted by school closings and the birth of charter schools and school privatization... We have been arrested because our choices have been taken from us. And, as parents, we don't have any choices. The public officials and the board took it from us. In fact, doing that, who will be hurt the worst? Our children. Every child deserves a world-class education. As you closed 50 schools, you opened up 50 charter schools, meaning where is the money coming from? It's coming from our neighborhood schools. [Charters] have pushed children out, which have destroyed our community, destroyed the history of our schools. Our schools are the heart of our community and the root of our history.

The other end of the spectrum is that in some communities, such as Detroit and New York City, families are overwhelmed by having too many choices of schools and not enough time or information to know which school is the best fit for their children. Caroline Watkins, a parent in New York City, described the situation:

We have 13 elementary schools in less than a quarter mile radius from where I sit in my apartment. That is a tiny little section of Harlem, if you compare it to the Upper West Side, where there might be one or two schools, there are 13 schools accepting kids in kindergarten. That is not choice. That's consumer vertigo. We do not have choice when parents don't have the opportunity, the resources, the time, and the support to analyze test scores and marketing materials and go on tours and talk to principals and talk to other parents. Parents that live in Harlem are faced with complete lack of opportunity to explore those choices.

Hearing participants warned that having too many schools in some communities, while having neighborhood schools shut down, contributes to a chaotic education system for many families of color living in low-income areas.

Some envisioned states having a critical role in overseeing charters and ensuring that only high quality charters stayed open. Dr. Karega Rausch, Vice President of Research and Evaluation at the National Association of Charter School Authorizers, described:

We believe charters should meet a higher standard than district-run schools, and in my home state of Indiana that is, in fact, the case. Under Indiana's grading system, a district-run school has an F for six consecutive years is closed down or otherwise intervened in. For public charters schools, it's four.

In each hearing location, participants stressed the importance of the state playing a strong role in authorizing, funding, and governing charter schools so that all students, families, and schools receive the necessary resources to educate the community's children.

## **RECOMMENDATIONS**

Having heard all of the testimony from the hearings, we conclude that while there are certainly some charter schools serving students well, there are also a wide range of problems with the operation of charters across the country that require attention. Furthermore, while high-quality, accountable, and accessible charters can contribute to educational opportunity, by themselves, even the best charters are not a substitute for more stable, adequate and equitable investments in public education in communities that serve all children. Our recommendations address these needs.



## **1. Provide more equitable and adequate funding for schools serving students of color.**

Education funding has been inadequate and unequal for students of color for hundreds of years. And the United States has one of the most unequal school funding systems of any country in the industrialized world. Resources are highly unequal across states, across districts, and across schools, and they have declined in many communities over the last decade. In 36 states, public school funding has not yet returned to pre-2008 levels, before the great recession, and in many states, central city schools have experienced the deepest cuts. Federal funds have also declined in real dollar terms for both Title I and for special education expenditures over the last decade.

To solve the quality education problems that are at the root of many of the issues we heard about, school finance reform is essential to ensure that resources are allocated according to student needs. States should undertake the kinds of weighted student formula reforms that Massachusetts and California have pursued, and the federal government should fully enforce the funding-equity provisions in the Every Student Succeeds Act (ESSA). For example, ESSA requires that states spend at least relatively equal amounts of state and local funding in Title I schools (which are high-poverty schools) and non-Title I schools prior to the addition of any federal funds. In addition, ESSA requires districts, as part of the comprehensive support and improvement plan they develop for each of their lowest-performing schools, to identify and establish a plan for addressing resource inequities that states are then responsible for monitoring. These resource inequities can include teacher salaries, and working conditions such as class sizes, pupil loads, and the availability of supplies and materials. The law also requires states and districts to report schools' per-pupil spending on annual report cards, including actual per-pupil personnel and non-personnel expenditures, thereby shining a light on resource gaps that can inform a more equitable distribution of state and local funds.

## **2. Invest productively in low-performing schools and schools with significant opportunity and achievement gaps**

Students learn in safe, supportive, and challenging learning environments under the tutelage of well-prepared and caring adults. Participants in every hearing stressed the importance of the type of classroom investments that have consistently been shown to raise student achievement. To ensure that all students receive a high-quality education, federal, state, and local policies need to sufficiently invest in: (1) incentives that attract and retain fully qualified educators, (2) improvements in instructional quality that include creating challenging and inclusive learning environments; and (3) wraparound services for young people, including early childhood education, health and mental health services, extended learning time, and social supports.

Investments at the federal, state, and district level must be targeted to ensuring that all students have well-prepared educators. The federal law requires states to develop plans for describing how low-income students and students of color “are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers,” and to evaluate and publicly report on their progress in this area. Districts should also use funding flexibility under ESSA on initiatives to attract and retain high-quality educators in low-income schools, such as by providing increased compensation to teachers and leaders in struggling schools. This also includes ensuring that early career educators receive additional support through residencies and mentorship and that teachers and leaders receive ongoing professional development that is evidence-based and addresses both issues of instruction and inclusiveness, such as implicit bias and a culture of low expectations.

Communities should consider whether proven reform models, such as early childhood education and community schools, might better meet students' needs. High-quality early childhood education can foster meaningful gains in school readiness, as well as long-term benefits, such as lower rates of special education placement, reduced retention, and higher graduation rates.<sup>xlv</sup> Early childhood education has also been shown to narrow achievement gaps, because children from low-income families and children of color gain the most from the experience.<sup>xlvi</sup> Community schools are “both a place and a set of partnerships between the school and other

community resources, [with an] integrated focus on academics, health and social services, youth and community development and community engagement.”<sup>xlvi</sup> This evidence-based strategy qualifies as a school turnaround strategy under ESSA and also qualifies for numerous federal grants, such as the Full Service Community Schools Program and the Promise Neighborhoods grants.

### 3. Develop and enforce robust charter school accountability measures

**a. Create and enforce a rigorous charter authorizing and renewal process.** One way that states and districts can maintain accountability for charter schools is through their regulation of the organizations that authorize charter schools. States with the fewest authorizers have been found to have the strongest charter school outcomes.<sup>xlviii</sup> To do this, states should allow only districts to serve as authorizers and should empower them to reject applications that do not meet standards, as well as to provide serious and consistent oversight. Charter authorization and renewal should be based on evidence of strong curriculum, staffing, supports, community need, and student outcomes. The system should also hold charter schools to the same **standards when it comes to access and retention of students as traditional public schools**. Districts should use their charter authorizing and renewal role to monitor the supply of schools across the district—particularly in cities where many communities lack neighborhood schools—and ensure that high-quality schools open in neighborhoods that most need them.

**b. Create and enforce a common accountability system.** All state and district educational systems should develop high quality and highly transparent accountability systems that track a range of student learning opportunities and outcomes – including, but not limited to, test scores. This consistency would allow families, as well as district and charter educators, to track school performance regardless of who governs the school. Common accountability systems can also be a tool to inform district decision-making and support continuous improvement. For example, the information in the system can help districts identify high-quality schools and strategically replicate them, while also identifying schools in need of intervention, support, or closure. Data used in accountability systems should be made available to researchers and members of the public.

**c. Monitor and require charter schools to admit and retain all students.** Charter schools should be required to implement open enrollment procedures, and should not be allowed to select and reject students based on their educational or behavioral histories or needs. Essays, complicated enrollment forms and “suggested” parent donations should be forbidden. Charters should be required to report on student retention rates, and should be prohibited from counseling out, pushing out, or expelling out students whom they perceive as academically or behaviorally struggling, or whose parents cannot maintain participation requirements or monetary fees.

Further, states and district should require “backfilling” for students who do leave. If certain families choose to leave a school, that school’s student body can change appreciably, particularly in schools that do not replace exiting students.<sup>xlix</sup> To do this, charters, like neighborhood public schools, should be required to randomly replace students who leave with other students from their waitlists (or students just entering the neighborhood or district). While this strategy does not ensure the maintenance of diversity, it is a step toward fairer enrollment practice.

**d. Create and monitor transparent disciplinary guidelines that meet students’ ongoing learning needs and prevent push out.** To address the higher rates of suspensions and expulsions in many charter schools, they must develop restorative disciplinary practices that support student success. To do this, districts should create a transparent reporting system that shows suspension, expulsion, and mobility rates. For example, Washington, D.C. has created such a system. When data reveal that a school has especially high rates of suspensions and/or expulsions, the DC Public Charter School Board holds a “board-to-board” meeting with the school’s board chair, members of the school’s board, and the school principal to discuss steps the school might take to address the problem. Schools that do not make progress are at risk of non-renewal of their charter. Charter schools should be required to follow the same state regulations regarding discipline as public schools.

**e. Require charter schools to hire certified teachers.** All public schools, traditional and charter must be required to hire only teachers who are certified. Charter schools should not be permitted to waive any licensing requirements for teacher and leaders working in their schools. Data shows that students from low-income families, students of color, English language learners, and those with low prior academic performance are less likely to have access to highly qualified or effective teachers, whether measured by experience, training, certification for the field taught, or evaluation ratings, and are much more likely to be taught by novices and those who have not completed training. These inequalities influence student achievement. Schools with large numbers of inexperienced, uncertified, or out-of-field teachers place students at an acute disadvantage in their learning. The same is true with respect to school principals, who are also inequitably distributed, although less data are typically available on this point. State and district efforts must be focused on improving teacher preparation, development, support, and retention and include evidence-based practices such as residencies, effective professional development, supportive working conditions, and equitable salaries.

**4. Require fiscal transparency and equity** regarding the sources of revenues and how those resources are allocated. Charters should be held to the same level of fiscal transparency and scrutiny as other public schools. Budgets should be open and the uses of funds made public. When students move from neighborhood public schools to charter schools, dollars follow them. If students leave or are counseled out of a charter at mid-year, the prorated funds should return to the district. Furthermore, state funding systems should recognize that the actual costs of running a district do not decrease in direct proportion to enrollments due to fixed costs,<sup>1</sup> including the salaries of central administrators, transportation, safety, maintenance, and building costs. State funding plans should be designed to eliminate the potential negative fiscal impacts on neighborhood schools of additional costs associated with charters.

## **5. Eliminate for-profit charter schools**

No federal, state, or local taxpayer dollars should be used to fund for-profit charter schools, nor should public funding be sent from nonprofit charters to for-profit charter management companies. The widespread findings of misconduct and poor student performance in for-profit charter schools, demands the elimination of these schools. Moreover, allowing for-profit entities to operate schools creates an inherent conflict of interest.

The poor performance of for-profit charter schools is well-documented. A 2017 study of schools across 24 states, New York City, and Washington, D.C. found that “students attending a for-profit charter school have weaker growth in math than they would have in a [traditional public school] setting.”<sup>ii</sup> Another large-scale 2015 study found that students who attended online charter schools, many of which are for-profit, lost a significant amount of academic ground than compared to their peers in brick-and-mortar schools.<sup>iii</sup> Tennessee is a model for states and districts in eliminating for-profit and virtual charter schools by banning these schools and not allowing them to receive public funds.

## **Conclusion**

The motivating force for this set of hearings was well-stated by Board member Johnson in Detroit:

Here's the moral walk: That the same quality and equity that a child would receive in Bloomfield Hills is guaranteed for every child in the city of Detroit... that we insist a system, not hodgepodes of opportunity, but a comprehensive system for all children. We started to ensure that all children are provided a quality education... That was the promise of Brown versus the Board of Education.... Now, the moral voice, Proverbs 31:8, asks: "Who will speak for those who cannot speak for themselves?"

The answer to this question has to be our charge, and is clear that speaking for those who cannot speak for themselves begins with pointing out the devastating inequality and inadequacy of resources devoted to the

education of children of color in many of our major cities, a condition that has worsened over the last decade in far too many places.

Speaking for those who cannot speak for themselves continues with recognition that changing school governance by creating ever more charter schools is not a panacea for this set of conditions. There are indeed some excellent charter schools – and where they provide high-quality education to all students without exclusions, they make a positive contribution. However, we also heard about the many poor charter schools that fail to serve children with the greatest needs, offer suboptimal education, and engage in financial mismanagement, sometimes pocketing public money to make a profit for private citizens.

Further, we heard about the results of a loss of neighborhood schools when they are closed in order to create charters – the long bus rides for young children, the inability of parents to be engaged in schools far from their communities, and the loss of civil rights protections for children who cannot get into a school near their home and, in effect, have no real choice.

The conclusion of this set of hearings may have been best summed up by Chris Ungar, Past President, of the California School Boards Association and Former Special Education Director in the San Luis Obispo County Office of Education:

Can charter schools be part of the solution? Absolutely. But that solution must be intentional, well-planned growth that takes into account the health and sustainability of the entire public education system, including the so-called traditional public schools that educate 90% of our country's students.

Ungar went on to argue that traditional schools should be offered some of the flexibility charter schools are afforded, while charter schools should receive stronger oversight around enrollment practices, particularly with respect to serving students with special needs, and around discipline and expulsion practices, to end the practice of students being pushed out. He concluded:

Charters have a place as a supplement to local school districts to fill a void when a local district is underperforming or has failed to provide offerings that are absent in traditional schools. What is not viable, however, is the vision of charter schools as a replacement to local school districts or as a parallel shadow school system. It doesn't scale.

Our recommendations aim to address the fundamental challenges of the education system as it operates for children of color in America: ensure equitable and adequate funding; make productive investments in low-performing schools that attract qualified educators, strengthen instruction, and provide the wraparound supports children need to thrive; create stronger charter school accountability measures to ensure access and quality; establish greater fiscal transparency; and eliminate for-profit charter schools.

All children deserve the choice of a good neighborhood public school. Public schools must be public. They



## *Executive Summary*

**I**n 1992, the California Charter Schools Act gave teachers, parents and school administrators unprecedented freedom from red tape to use innovative strategies to improve learning opportunities for California students. Former California State Senator Gary Hart, author of the legislation, pronounced it a “license to dream” for teachers, parents and the community to “create educational programs from scratch, unfettered by bureaucratic constraints.”<sup>1</sup>

The goal of the legislation was to improve education for all California students at all public schools, with charter schools serving as incubators for innovation. Knowledge gained and successful teaching models honed could be shared with all classrooms across California. Seventeen years later, 912 charter schools in California educate hundreds of thousands of students, or approximately 5 percent of all public school students in the state.<sup>2</sup>

The Little Hoover Commission first assessed the progress of charter schools in 1996, in the infancy of the implementation of the charter school law. Many of the problems identified in the Commission’s 1996 study – including the 100-schools per year cap on charter schools, funding inequities and limited appellate opportunities for denied charter petitioners – later were resolved through legislation.

This follow-up provides an assessment of the progress of the charter school movement and identifies further opportunities for refining the charter school experiment. California is nationally recognized as a leader in its charter school laws, in part, because of its willingness to continue to refine its laws.<sup>3</sup>

Many charter schools in California have flourished; some now rank among the top performing schools in the nation. The Commission had the opportunity during the course of this study to visit inner-city schools and meet students who were outperforming their peers in neighboring traditional public schools as measured by success on the state’s mandated achievement tests. More important, these students were graduating with skills ready for a career and getting accepted to and succeeding in college. At the same time, however, California has numerous poor-performing charter schools that continue to stumble

along, short-changing their students of the quality education promised in charter petitions and required by state standards.

This report is divided into two sections: The first focuses on improving accessibility by eliminating artificial barriers and improving the charter school authorization process. The second focuses on improving accountability by promoting the use of performance contracts and eliminating statutory ambiguities.

## ***Improving Accessibility***

The California charter school movement has grown considerably in the past eight years, doubling from 454 schools in 2003 to 912 in 2010. Each year, approximately 80 new or converted charter schools have opened across the state, although 115 new or converted charter schools opened for the 2010-2011 school year.<sup>4</sup> Some suggest this consistent expansion of charter schools reveals the extent to which the current system is working.

The Commission, however, was told that many local districts and school boards, the primary gatekeepers in the state's charter school system, thwart attempts to open additional charter schools, even when charter school operators are expanding or replicating successful schools.

Charter school operators have singled out the state's dysfunctional charter authorization process, which forces districts into a charter school partnership whether they want one or not, as one of the most significant challenges in California's charter school system. Some districts simply lack the capacity to authorize and oversee charter schools.

Other districts are openly hostile to charter schools and view them as enemies that siphon away students and the Average Daily Attendance (ADA) money they take with them. Charter school operators repeatedly described charter authorization and renewal challenges at the local school board level and what they see as an inescapable conflict of interest.

## ***Charter School Authorization Process***

Anyone can petition to establish a new charter school. A majority of parents of affected students or teachers must support the petition. To convert an existing school into a charter school, at least half of the school's teachers must support the petition.<sup>5</sup> Additionally, legislation enacted in 2010 as part of the state's attempt to qualify for federal Race to the Top grants, expanded the opportunity for parents, in certain

limited circumstances and as one of several possible remedies, to petition to convert an existing school to a charter school. The legislation limits this opportunity to 75 schools.<sup>6</sup>

This latest development expanding opportunities for parents to petition to convert existing schools into charter schools is another step in the right direction, although it will be important to assess whether the criteria or the cap of 75 schools proves to be too limiting or if further adjustments are necessary. The Commission believes that parents should have the opportunity to petition to convert poor-performing schools into charter schools.

In all but a few specific situations, charter school petitions are submitted to the school board of the district where the school will be located. If the local school board approves the charter petition, the school board and district become the charter authorizer and provide the required oversight of the school.

If a petition is denied by the local school board, petitioners can appeal to the local county office of education. If the charter is approved, the county office of education then serves as the authorizer. If a petition is denied by the local board and the county office of education, petitioners can appeal to the State Board of Education. The majority of California's charter schools have been authorized through this process, primarily by local authorizers, however, there are alternative routes, including all-district charters, countywide charters and statewide benefit charters.

California has more than 1,000 school districts, and each potentially could become a charter school authorizer. In practice, however, only a quarter of California's school districts have authorized one or more charter schools.<sup>7</sup> Of California's 58 county offices of education, 31 have authorized at least one charter school.<sup>8</sup>

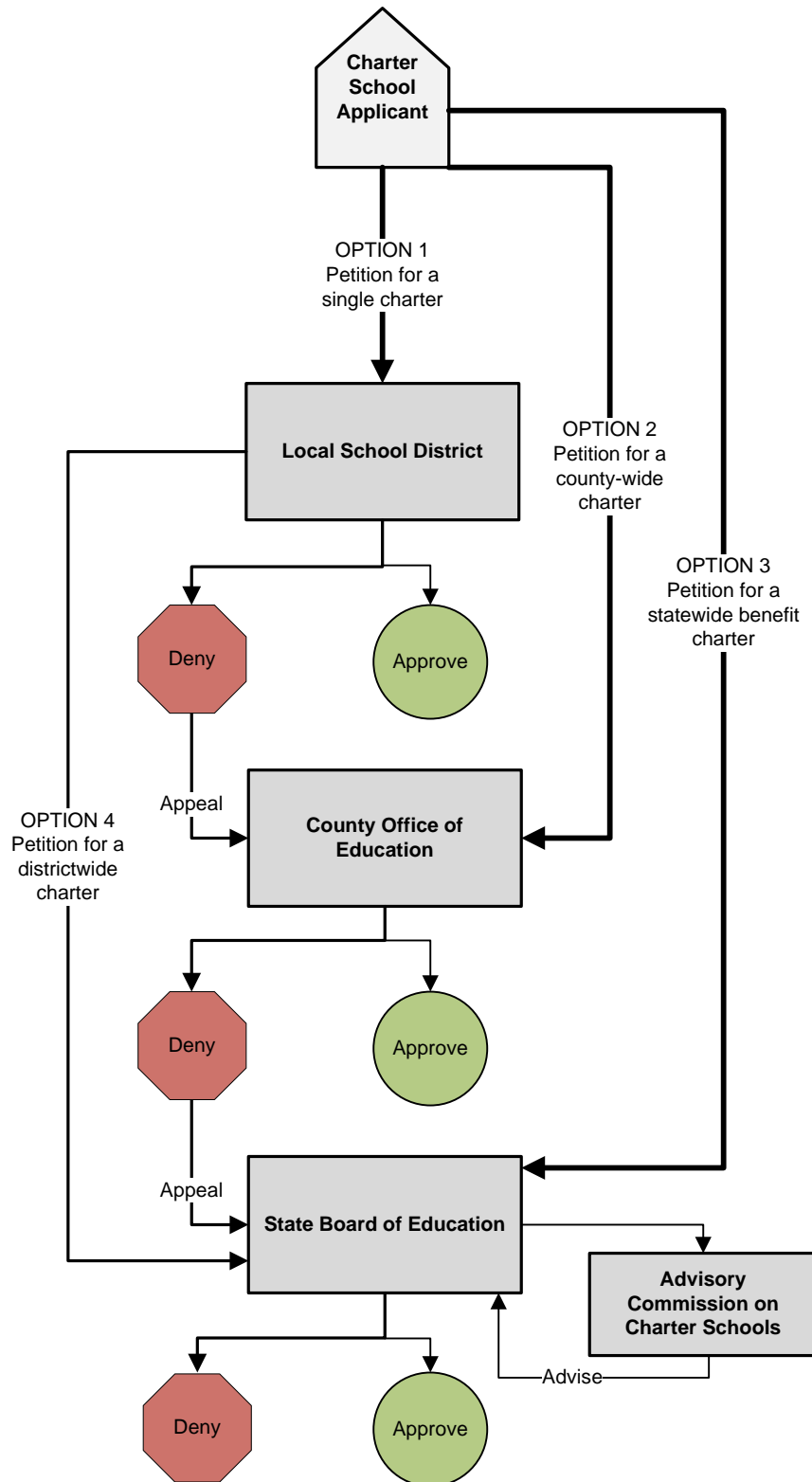
Oversight for roughly half of the state's 912 charter schools is provided by just 32 authorizers including the State Board of Education. The largest, the Los Angeles Unified School District, has authorized 183 operating charter schools.<sup>9</sup> Other school districts with a significant number of charter schools operating include the San Diego Unified School District with 41 and the Oakland Unified School District with 31 authorized charter schools.<sup>10</sup>

Districts with many charter schools have the opportunity to gain experience and can dedicate more resources to charter school authorization and oversight. Districts receive a portion of charter school ADA money to pay for oversight, ranging from 1 percent to 3 percent, so



districts with many charter school students have a greater ability to dedicate staff to charter school oversight and authorization.

**Current California Charter School Authorization and Appeals Process**



Small, rural districts or districts with few charter schools cannot benefit from these economies of scale and often lack the resources to be effective authorizers, or later, to provide adequate oversight. These authorizers have less experience in charter school oversight and local costs likely are comparatively higher because all of these authorizers essentially must construct an oversight system from scratch. Charter authorization and oversight is complicated and, for most districts, not central to their mission. Districts structured for compliance-based accountability may lack the competencies required for performance-based accountability.

By design, charter schools are all about choice – for the founders and the teachers, parents and students that choose to be part of the school. In contrast, under the current system, districts do not have the opportunity to choose to be a charter authorizer, but denying a viable charter petition violates the intent of California charter school law. This forced partnership is part of the dysfunction of the current charter school system.

### ***Role of the State Board of Education***

As a result of the difficulty in getting charter petitions approved or renewed locally, more petitioners are relying on the appellate process. The number of appeals reaching the State Board of Education has increased steadily – both for initially establishing charter schools and for schools that have been denied renewal at the local level. As of November 2010, 83 charter petition appeals had been submitted to the California Department of Education for consideration since the appellate process was established in 1998. The State Board currently has authorized and oversees 31 charter schools. Additionally, the board oversees eight all-charter districts operating 18 schools under the joint authorization of the board and the State Superintendent of Public Instruction.<sup>11</sup>

A recent ruling by a California appellate court found that the State Board had incorrectly interpreted and implemented the legislation establishing the provision for statewide benefit charters. The State Board has filed a petition for a California Supreme Court review of this ruling and expects to have an answer on whether the Supreme Court will accept the petition in December 2010.<sup>12</sup> The ruling, however, may slow the expansion of charter schools authorized by the board under this provision. Until more local boards follow the intent of the state’s charter school law, however, the steady stream of appeals by petitioners with valid charter petitions or charter school operators denied renewal at the local level will likely continue.

One product of the appeals and the special charter authorizing provisions is that the State Board of Education has become the second

largest authorizing entity in the state. This is a problem as the State Board, given its broader and more significant role in setting statewide education policy, lacks the capacity and focus to provide effective oversight for its growing stable of charter schools.

According to board members and the former executive director of the board, nearly a third of the board's time is consumed by charter school issues, yet charter school students represent only 5 percent of the total public school student body in California. Nearly every State Board meeting has at least one charter petition appeal and often several petition appeals for new petitions denied or existing charters that were not renewed at the local level. Each charter petition is hundreds of pages long. Board members review the petitions prior to the hearings. At the hearings, held during the bi-monthly board meeting, charter petitioners have an opportunity to present their appeal. The local district and county office of education that denied the charter or denied renewal of a charter present their reasons for denying or not renewing a charter school. Both types of appeals, but particularly those where an existing charter has been denied renewal, can draw dozens of affected faculty, parents and students who want to provide public testimony.

The board has established a nine-member Advisory Commission on Charter Schools in part to comply with a law requiring the board to establish a committee to advise it on non-classroom-based charter schools. Non-classroom-based charter schools include schools made up of home-schooled students and independent study schools, including Internet or software-based instruction and distance learning programs where students meet occasionally with a teacher. The board also has charged the commission with providing broader advice on charter school issues. The commission meets bi-monthly and provides a dress rehearsal opportunity for charter petitioners that are making appeals. The California Department of Education has a Charter Schools Division which provides support to both the State Board and the Charter School Advisory Commission as well as provides oversight for charter schools authorized by the board.

The reality that the State Board of Education has become California's second largest charter school authorizer underscores the need for further refining the state's charter school laws. The state needs to establish an alternative option for charter authorization, a recommendation previously made by this Commission and repeated by the Legislative Analyst's Office in 2004.<sup>13</sup>

Many other states have various combinations of authorizers, although local school boards are the predominant group of authorizers nationwide. Seven states have special-purpose statewide public charter school

boards. Other options include higher education institutions and not-for-profit authorizers. Two states allow the office of the mayor or a local city council to authorize charter schools. Due to the variances in state charter school laws, there is no one perfect authorizer model. There is agreement, however, that the best authorizers are those that actually have a clear desire to be an authorizer.<sup>14</sup>

Some have suggested and even proposed legislation to allow California's universities and community colleges to authorize charter schools. During the course of this study, representatives from public universities and community colleges made clear that they did not want the authority to approve charter school petitions and have opposed legislation that would have allowed them to become charter school authorizers in the past. Given the reluctance of colleges and universities to participate, an independent statewide charter school board provides the best alternative for California.

## **Summary**

Ideally, local school boards and county offices of education would embrace charter schools as one of several effective tools in their educational toolbox. They would approve viable charters, renew charter schools that meet state performance criteria and close schools that consistently do not. Unfortunately, this has not been the California experience.

By establishing an alternative authorizer at the state level, local districts that do not have the capacity or do not want the responsibility of authorizing or overseeing charter schools could opt out of the authorizing role, eliminating the forced relationship that currently exists. Charter school petitioners facing school boards hostile to charter schools would have another option for approval beyond the current appellate process. The existence of an alternative authorizer at the state level might coax local boards into improving charter school authorization and oversight or risk losing control as charter school petitioners would have a new option of going directly to a statewide charter board. A state level charter school board could develop best practices and provide technical assistance to local boards.

Additionally, an alternative authorizer at the state level potentially would relieve pressure on the State Board as fewer petitioners would need to use the appellate process, allowing the board to better focus on its broader education mission. As appeals to the State Board are reduced, the need for an advisory committee on charter schools would be diminished. Policy-makers could shift the role of recommending criteria to establish appropriate funding levels for non-classroom based charter

schools from an advisory committee established by the State Board, as current statute requires, to a state-level charter board.

As well as adding an alternative authorizer, policy-makers should implement a process to assess the viability of local districts and county offices of education to effectively authorize and provide oversight for charter schools. Those districts that have proven effective should have an option to continue to control charter authorization within their districts. The State Board should be given the authority to grant districts and county offices that meet clearly established criteria exclusive authority to approve and oversee charter schools, similar to a model used in Colorado. Criteria would include a local entity's effectiveness in approving valid charters and willingness to renew existing charter schools that meet established performance criteria, as well as the willingness to shut down charter schools that fail to meet goals set in the charter petitions as well as established state benchmarks. The State Board also should have the ability to revoke exclusive chartering authority

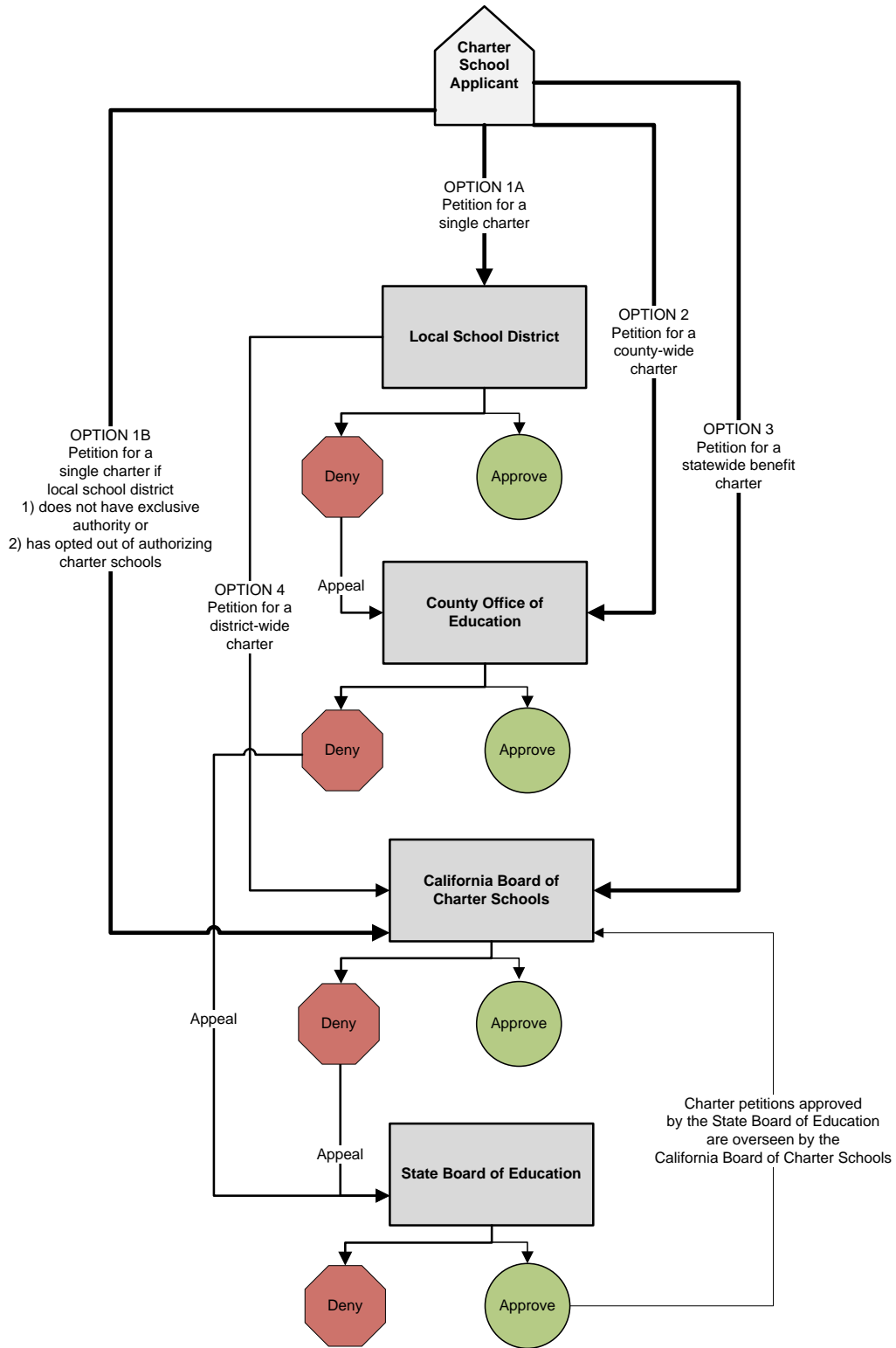
***Recommendation 1: California should establish the California Board of Charter Schools as an independent entity within the California Department of Education, to directly authorize charter petitions and to oversee charter schools.***

- ❑ The board should include an odd number of members with staggered appointments; members should be appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly; members should have knowledge and experience with effective charter school authorization and oversight and should include, but not be limited to, people with experience as school superintendents, charter school administrators, teachers, parents and school governing boards. The board shall be bipartisan with no more than half the appointed members plus one registered as members of the same political party. The Superintendent of Public Instruction or his or her designee should serve on the board. A member of the State Board of Education should serve as an ex-officio member.
- ❑ Charter school-specific functions currently performed by the State Board of Education should shift to the new California Board of Charter Schools. Existing staff positions in the California Department of Education's Charter Schools Division and the funding that supports charter school oversight activities and the Advisory Commission on Charter Schools gradually should be shifted to support the new California Board of Charter Schools.
- ❑ As the number of appeals to the State Board of Education is reduced, so will be the workload of the Advisory Commission on Charter Schools, potentially eliminating the need for this commission. The

Legislature and the Governor should enact legislation that would shift the role of recommending criteria to establish appropriate funding levels for non-classroom based charter schools from an advisory commission established by the State Board of Education to the new California Board of Charter Schools, further reducing the need for the advisory commission.

- ❑ As the primary goal of establishing an independent state-level board should be to encourage improvement in charter school authorization at the local level, the board should not automatically become a permanent state government entity. The California Board of Charter Schools should face a sunset review in 10 years.
- ❑ The California Board of Charter Schools should provide technical assistance on best practices on charter school authorization and oversight to districts and county offices of education.
- ❑ The State Board of Education should retain its current appellate authority for approving charter petitions and renewals denied at the district or county level and also have the authority to approve charter petitions and renewals that are denied by the California Board of Charter Schools. The State Board of Education should retain its current authority to revoke charters.

**Proposed California Charter School Authorization and Appeals Process**



***Recommendation 2: To improve accountability and oversight capacity of charter school authorizers, the State Board of Education should be given the authority to oversee charter school authorizers. Specifically, the State Board of Education should be given the authority to:***

- ❑ Allow school districts to opt out of the role of charter school authorization and oversight and turn over that responsibility to the California Board of Charter Schools.
- ❑ Grant exclusive chartering authority to certain qualified local school districts. To qualify, local school districts must approve charter petitions that meet state criteria, approve renewals for successful charter schools that have met the state’s renewal criteria and must not renew charter schools that have not met the state’s renewal criteria. The new California Board of Charter Schools should establish other performance criteria to qualify as exclusive charter authorizers based on national best practices.
- ❑ Revoke local district charter authorizing and oversight powers, when local districts fail to authorize charters that meet state criteria as required by current state law, fail to renew charter schools that meet state renewal criteria or fail to close charter schools that do not meet state renewal criteria.
  - ✓ Potential charter school operators or existing charter school operators in districts that have opted out or in districts that have had charter authorizing powers revoked would be authorized and overseen by the California Board of Charter Schools.
  - ✓ Potential charter school operators should have the option of petitioning either the California Board of Charter Schools or the local school district in which the charter school will be located for charter authorization and oversight, unless the district has been granted exclusive chartering authority by the State Board of Education.

## ***Improving Accountability***

Charter schools have the opportunity to operate free from the rules and regulations that often constrict public schools. In exchange for the freedom, charter schools commit to increased accountability for student outcomes.

Independent assessments of charter school outcomes have shown mixed results. A June 2009 Stanford University Center for Research on Education Outcomes (CREDO) study on charter school outcomes assessed data from 15 states and the District of Columbia, and covered



approximately 70 percent of all charter school students enrolled nationwide. The research found wide variations between states, but found, on average, test scores in reading and math of California charter school students, the measurement method used in the study, were similar to test scores of students in traditional public schools.<sup>15</sup>

The California Charter Schools Association has assessed charter schools by reviewing the number of schools that meet their predicted Academic Performance Index (API) score. When not viewed in the aggregate, more than 20 percent of charter schools fall in 90<sup>th</sup> percentile or above in the predicted API, while nearly 20 percent fall in the bottom 10<sup>th</sup> percentile of the predicted API.<sup>16</sup>

When initially submitting a charter petition, petitioners are required to provide reasonably comprehensive descriptions of 16 elements required by state law. Two of these required elements are the measurable student outcomes that the school plans to use and the method the school will use to measure the identified outcomes.<sup>17</sup> In California, the charter petition, once approved, becomes the document that the charter school and its authorizers use to measure progress.

### ***Performance Contracts***

California, unlike most other states, does not differentiate between charter petitions and performance contracts. More than 90 percent of the nation's largest authorizers enter into contracts with their charter schools. This is the norm across the nation.<sup>18</sup> A charter petition is a proposal written by one party in the relationship, the potential charter school operator, for review and approval by an authorizer. The petition describes the educational outcomes the school hopes to achieve in return for public funding and freedom from many rules. In most other states, once a petition is approved, the authorizer and the charter school negotiate and enter into a binding performance contract.

Performance contracts describe the rights and responsibilities of the charter school operator and the authorizer, such as when and how to evaluate academic progress, facility use, administrative services, costs and other contractual issues.<sup>19</sup>

A performance contract can be used to hold both the school operator and authorizer accountable and to define and enforce each party's rights. Many charter schools outside of California view their contract "as their best defense against unfair authorizer practices."<sup>20</sup>

Still, some advocates caution that in California, larger issues make performance contracts nearly impossible. Namely, many charter school

authorizers do not want the role of authorizer; the introduction of a contract does nothing to improve their interest in oversight. Additionally, under the current system, some are concerned that charter authorizers could force petitioners into contractual obligations that limit charter school autonomy.<sup>21</sup>

Some local charter school authorizers in California and the State Board of Education use a memorandum of understanding, a less formal, less rigorous approach than a performance contract that lays out minimum expectations for both the authorizer and the charter school. The State Board's memorandum of understanding sets minimum requirements and establishes a course of action if the charter school fails to meet the minimum requirements.

### ***Charter School Revocations and Renewals***

Charter schools authorizers, whether local, county or the State Board, are required to revoke charters if there are serious fiscal issues or if students are in physical danger. The State Board also has the authority, upon a recommendation from the Superintendent of Public Instruction, to revoke the charter of any academically poor-performing school, although it has never used this authority, in part because regulations for doing this had never been developed and in part because the Superintendent of Public Instruction has never recommended the board revoke a charter school. On one occasion, the State Board revoked a charter school that it had authorized through the appellate process.<sup>22</sup> Over the course of the past year, the State Board has painstakingly worked with stakeholders to establish revocation regulations that it adopted in November 2010.

Authorizers also are required to ensure that the schools meet criteria established in the charter petition and to assess whether a charter school petition should be renewed. During this study, the Commission was told repeatedly that the state's renewal criteria are too vague and the bar is set too low, making it difficult for authorizers to close down poor-performing schools. Many recommended that the Legislature change the renewal criteria. Some emphasized that the renewal criteria must remain flexible enough to account for charter schools that serve particularly difficult populations, such as dropouts who otherwise would not be attending school at all.

Currently, a consistently low-performing school can meet the renewal criteria if it meets just one of four criteria, for example, the school meets its Academic Performance Index (API) growth target in the year prior to renewal even if it had previously been a consistent under-achiever. Another of the four criteria allows authorizers to determine that the

school's performance is comparable to that of district schools its students otherwise would attend.

In some districts, all schools within a neighborhood may perform poorly, but the charter school may provide a safe haven for students. Parents and students will beg the local school board to keep a safe charter school open, even if it is not achieving its academic goals. One charter school operator told the Commission that it is unacceptable for poor performing charter schools to remain open simply because all schools in the district are performing poorly and the charter school provides a safe alternative. Several charter school operators told the Commission that a charter school should be required to outperform similar district schools.

Many agree that what is most important – student learning – is difficult to measure based solely on achievement test scores. Unfortunately, as noted in previous Little Hoover Commission studies, the state lacks the data to measure outcomes beyond test scores. As the California Longitudinal Pupil Achievement Data System (CALPADs), still in its infancy, matures and more data becomes available, the state should expand the renewal criteria to include other factors, such as graduation rates, employment readiness as well as college attendance and completion rates.

### ***Charter Renewal Time***

Most experts and charter school operators agree that it can take several years after a conversion of an existing school or the start-up of a new charter school to establish a successful track record. Yet local authorizers sometimes approve charter petitions for only two or three years, causing schools to be in perpetual renewal mode instead of focusing on teaching students. Many agree that all new charter schools, with limited exceptions, should be granted the current maximum five-year charter term.

Some have suggested that charter schools with a successful track record after their first five or more years in operation should be renewed for a longer time period. Recent legislation, AB 1991 (Arambula), would have allowed authorizers to renew charter schools that met and exceeded accountability standards for up to 10 years.<sup>23</sup>

### ***Summary***

California charter school operators have been wary about implementing performance contracts that are embraced by charter schools in other states. This, at least in part, is due to the dysfunctional authorization

process. In establishing an alternative independent statewide authorizer, as previously recommended, the Commission sees the potential for significant improvements in the authorization process and an opportunity to introduce performance contracts. In fulfilling its role as technical advisor on best practices, the new California Board of Charter Schools should develop a model performance contract that could become a required element between authorizers and charter school operators.

The state must raise the bar for charter school renewal while still maintaining options for certain charter schools serving the most difficult student populations. There is broad agreement that the current renewal criteria for charter schools must be improved, though stakeholders do not agree on how to most effectively improve renewal criteria. Two recent bills, AB 1950 (Brownley) and AB 1991 (Arambula) took significantly different approaches to changing charter school renewal criteria and both bills failed to pass. The two bills contained provisions to eliminate one of the four renewal criteria that allows a charter school to be renewed if its performance is comparable to that of the district schools its students otherwise would attend. To establish other areas of common ground to improve renewal criteria, the new California Board of Charter Schools should work with stakeholders to develop recommendations for policy-makers to strengthen the charter school renewal criteria.

Additionally, the state should take steps to ensure that charter operators be allowed a minimum of five years to establish schools, before facing renewal, except in extreme circumstances. To reward schools with consistently successful track records, the state should reduce bureaucracy by extending charter renewal time periods for established charter schools that consistently meet high benchmarks.

***Recommendation 3: The California Board of Charter Schools should develop a model performance contract for authorizers and charter schools by 2012.***

- ❑ The California Board of Charter Schools should use input from state and national experts, and build on the memorandum of understanding currently used between the State Board of Education and the charter schools it has authorized.
- ❑ Once a model contract is developed, the state should require performance contracts between charter school authorizers and charter schools.
- ❑ The model contract should provide a basic framework, but allow enough flexibility for authorizers and charter schools to address special circumstances and unique characteristics of innovative school models.

***Recommendation 4: To ensure that charter schools that have benefited from the flexibility from state education rules are best serving students, the state should improve its charter school renewal criteria. Specifically:***

- ❑ The California Board of Charter Schools should develop recommendations to improve the effectiveness of the charter school renewal criteria by 2012. The Legislature and the Governor should enact legislation based on these recommendations.

***Recommendation 5: To ensure new charter schools are granted enough time to incubate, and to reward high-performing charter schools for consistent achievement, the state should change the time limits granted for charter petitions. Specifically:***

- ❑ The Legislature and the Governor should enact legislation that requires new charter petitions that meet state established criteria to be authorized for five years. Any authorizer that chooses to authorize a charter school for a period of less than five years must obtain approval from the State Board of Education.
- ❑ The Legislature and the Governor should enact legislation that allows high-performing charter schools that meet specified criteria to be renewed for up to 10 years.

d. Values, Principles  
and Expectations

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Proposed Guidance for Effective  
Charter School Authorizing in California:

# VALUES, PRINCIPLES AND EXPECTATIONS

A Publication of Alameda County Office of Education's  
Charter Authorizers Regional Support Network (CARSNet)

**September 2017**

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# PREFACE

California's Charter Schools Act of 1992 created a new sector in K-12 education – publicly funded schools, open to all students, with the option to operate independently of school districts. Under the Act, charter schools are approved and monitored by school districts, county offices of education and the State Board of Education, referred to as “charter authorizers”. There are now over 1,200 charter schools in California overseen by more than 325 charter authorizers, but there has been little formal guidance for authorizers on how to do this new job well. The statute and implementing regulations are incomplete and often vague. So when the Alameda County Office of Education began its CARSNet program to support charter authorizers, it quickly became apparent that authorizers needed more specific advice on what practices would help them best meet their authorizing and oversight responsibilities. In response, CARSNet initiated a yearlong effort, in partnership with the National Association of Charter School Authorizers (NACSA) and California Charter Authorizing Professionals (CCAP), to develop a set of values, principles and expectations for effective charter school authorizing in California.

CARSNet began with the solid foundation provided by NACSA's Principles & Standards for Quality Charter School Authorizing, first published in 2004, then worked to adapt them to California's legal and institutional context.

We solicited ideas from scores of board members and staff of authorizing agencies, as well as representatives from numerous educational organizations. Charter school leaders and charter advocacy groups were also consulted.

There was strong, early consensus supporting the values and principles developed through this process. Authorizers are clearly committed to these as foundational guidance for their work and for future policy development.

The expectations presented a different challenge, because there was already such a wide range and long history of authorizing practice. The resulting list of expectations is by no means a description of what California's authorizers are doing now, or what they could do now, given the limited resources available to support this work. It is not a standard against which any authorizer should be measured. It is a statement of what thoughtful authorizers believe they should strive toward, if they are to effectively protect the interests of students and the public. It is also very much a work-in-progress that will grow, evolve and improve as authorizers and others engage with its ideas. We encourage anyone with comments or suggestions to send them to [carsnet@acoe.org](mailto:carsnet@acoe.org) and keep the conversation going.





## VALUES

The actions and decisions of effective charter school authorizers are guided by the values of:

1. Responsibility – the duty to serve California’s children and the public.
2. Integrity – adherence to moral and ethical principles in all aspects of the work.
3. Fairness – impartial and just treatment of all stakeholders.
4. Knowledge – understanding of charter school law and practice.



## PRINCIPLES

In implementing the California Charter School Act of 1992, authorizers look to the following foundational principles:

1. Through charter school approval and oversight, authorizers serve the interests of students and the public.
2. Authorizers hold charter schools accountable for results in exchange for which the law grants charter schools substantial autonomy and flexibility.
3. Accountability for results includes maintaining high standards for performance in academics, operations, governance and finance.
4. Standards for performance include ensuring access and pursuing achievement for all students.



## EXPECTATIONS

An effective charter authorizer meets expectations in the following areas:

1. Agency Commitment and Capacity
2. Charter Petition Process and Decision Making
3. Establishing Agreements for Accountability and Compliance
4. Ongoing Oversight and Evaluation
5. Renewal and Revocation Decision-Making

# 01 Agency Commitment and Capacity

- States a clear mission for effective charter authorizing that emphasizes the authorizer's role and is consistent with the intent of the law.
- Authorizer's governing board, leadership, and staff commit to building and sustaining effective authorizing.
- Adopts and follows board policies that reflect current California charter school law.
- Implements policies, processes, and practices that streamline its work but do not place unnecessary administrative burdens on charter schools.
- Engages enough knowledgeable personnel to carry out all authorizing responsibilities.
- Makes use of expertise for all areas essential to charter school oversight and accountability including: educational leadership; curriculum, instruction, and assessment; special education, English learners, and other diverse learning needs; performance-based management; law; finance; facilities; human resources; and nonprofit governance and management.
- Defines working relationships with other organizations that protect its authorizing functions from conflicts of interest and inappropriate political influence.
- Provides regular professional development for the agency's leadership and staff to achieve and maintain high standards of practice.
- Devotes sufficient financial resources to fulfill the responsibilities of effective authorizing.
- Deploys funds effectively and efficiently with the public's interests in mind, sharing resources with other authorizers as appropriate.
- Evaluates its authorizing work regularly against state and national standards and implements improvements as needed.
- Engages with other authorizers in California, through networking and events, to improve practice statewide.
- Provides information to educational leaders and elected officials about the challenges of charter authorizing.

# 02 Charter Petition Process and Decision Making

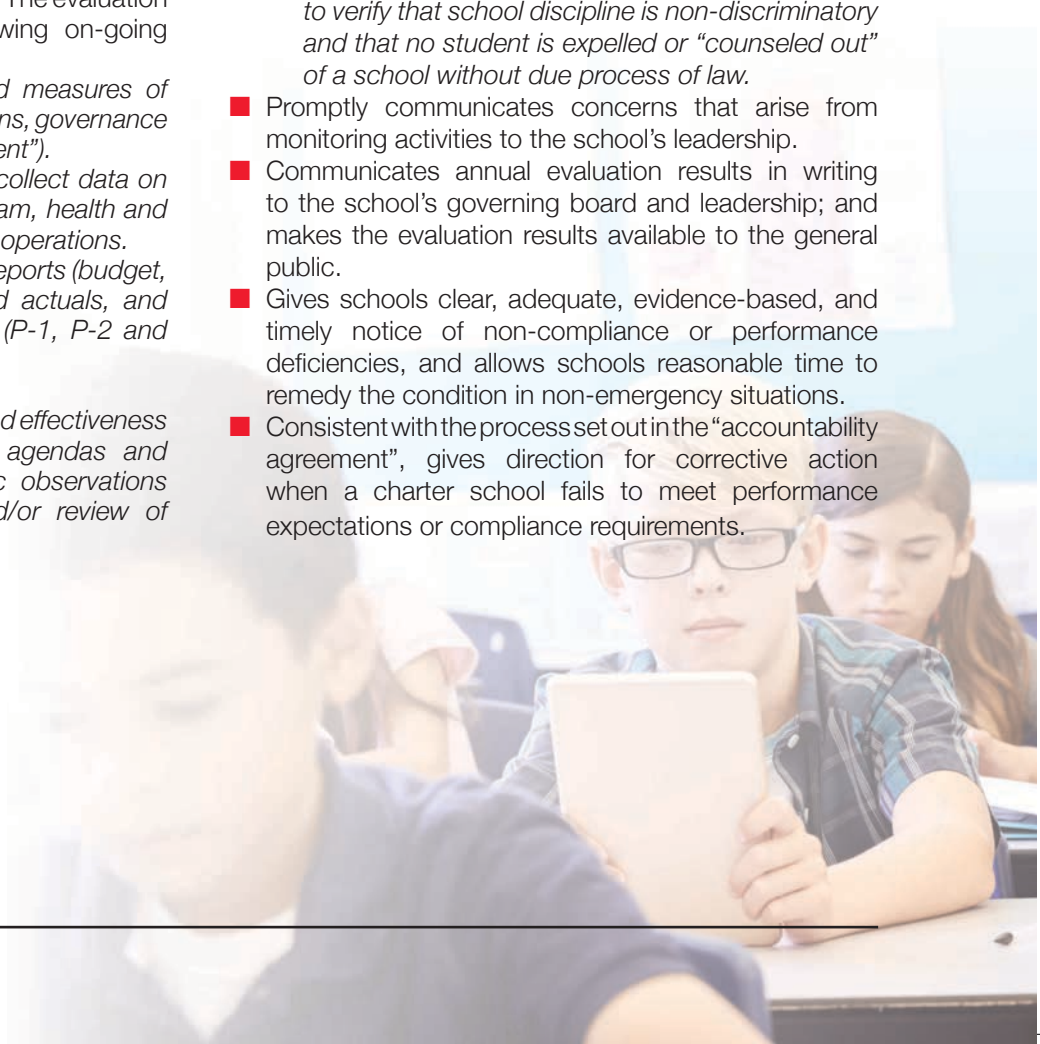
- Establishes a clear charter petition process that complies with state law and regulation, and includes timelines, procedures, approval criteria, petition content expectations, and other relevant information.
- Makes its charter petition process transparent to potential petitioners and the general public by publishing guidance on-line.
- Is open to first-time charter applicants as well as current school operators, and to diverse educational philosophies and approaches.
- Rigorously evaluates each application through review of the petition, a substantive in-person meeting ("capacity interview"), and other "due diligence" to assess the petitioners' ability.
- Employs a standard rubric or similar tool for evaluating petitions to ensure consistency in its application of the criteria for charter school denial.
- Engages a team of highly competent reviewers (internal and/or external) with relevant expertise and understanding of charter schools.
- Trains reviewers to ensure consistent evaluation standards and practices, observance of protocols, and fair treatment of applicants.
- Gives consideration in its review process to past performance indicators for petitions seeking to replicate or expand existing schools.
- Recognizes in its review process that some charter school proposals, such as alternative schools, dropout recovery programs and virtual schools, may call for non-standard measures of performance.
- Conducts public hearings and meetings on charter petitions in a fair and open manner, providing the public with information about the process and opportunities to comment.
- Consistent with state law, denies charter petitions when petitioners have failed to present a thorough, high quality plan or have demonstrated that they are unlikely to succeed in implementing that plan.
- Grants charters for an initial term of five years, unless the authorizer finds specific circumstances that justify the need for an earlier high-stakes review.

# 03 Establishing Agreements for Accountability and Compliance

- Ensures that the authorizer and the charter school governing board share a clear understanding of the measures and targets for student and school outcomes (academic, operational, governance and financial) that will form the evidence base for ongoing evaluation and renewal.
- Makes sure that the agreed accountability measures, and processes for monitoring them, are clearly documented in writing, through the language of the approved charter petition and any combination of supplemental language or contract/s (such as a Memorandum of Understanding) necessary for clarity and completeness. This documentation and its content are referred to in these expectations as the “accountability agreement”.
- With respect to student outcomes, the “accountability agreement” includes the measures and targets identified in the approved charter petition, and others required by the statewide accountability system or by charter renewal standards in law. These may include state-mandated and other standardized assessments, student academic growth measures, internal assessments, qualitative reviews, and performance comparisons with other public schools in the district and state.
- With respect to operations, governance and finance, the “accountability agreement” includes measures and targets addressing legal compliance, governance transparency, and generally recognized financial metrics.
- Adapts the “accountability agreement” to work with unique features of the charter school, including its status as a “dependent” or non-autonomous charter school of the authorizing agency or as part of a charter network.
- Establishes processes for reporting, oversight, and monitoring, including:
  - *Schedule and process for submitting reports, documents and certifications required for effective oversight, including all reports mandated by charter law.*
  - *Description of triggers and process for follow-up actions by the authorizer in the event that the school fails to make meaningful progress toward agreed targets.*
  - *Identification of charter school reports and documents required to be made available to the public (on website or otherwise).*
  - *Reasonable pre-opening requirements or conditions for new schools to ensure that they meet all health, safety, and other legal requirements.*
  - *Expectations for notifying the authorizer of changes in the material terms of the academic program, leadership, governance, facilities, enrollment and other aspects of school operation.*
- Includes language to clearly describe the legal rights and responsibilities of the authorizer and the charter school, including:
  - *Legal status of the charter school operator and relationship to the authorizing agency.*
  - *Assurances of charter school compliance with applicable state and federal law, including non-discrimination in admissions and program.*
  - *Provisions governing liability and insurance coverage.*
  - *Confirmation of charter school’s commitment to adhere to state open meeting, public records and conflict of interest laws.*
  - *Statement of the inspection rights of the authorizer.*
  - *Confirmation of the school’s responsibility to address complaints, with clarification of circumstances under which the authorizer may become involved, and the nature of such involvement.*
  - *Procedures for resolution of disputes between the charter school and the authorizer.*
  - *Additional legal provisions for any school that contracts with an external (third-party) provider for education design and operation or management, ensuring rigorous, independent contract oversight and providing for authorizer review as a condition of charter approval.*
- Defines or references the authorizer’s processes for modification, renewal or closure of the charter, including:
  - *Definitions, standards and process for authorizer approval of material changes to the plans reflected in the charter petition, consistent with charter law.*
  - *Explanation of process and standards for charter renewal, including any school performance information to be provided with the charter renewal petition.*
  - *Definitions, standards, and process for revocation of the charter, consistent with charter law.*
  - *Responsibilities of the school and the authorizer in the event of school closure.*
- Clarifies the status of the charter school for purposes of special education, consistent with state and federal law, and provides means to ensure that the rights of all students with disabilities are protected.
- Documents the terms of the charter school’s use of authorizing agency facilities in a binding agreement, including facilities use granted under the terms of Education Code §47614 (“Proposition 39”).
- Documents any agreement for the provision of services to the charter school by the authorizing agency, through a process that avoids conflicts of interest and assures fair compensation for services rendered.

# 04 Ongoing Oversight and Evaluation

- Implements a comprehensive and transparent process for performance accountability and compliance monitoring, that is consistent with the “accountability agreement” and builds a record of information for use in making renewal, intervention, and revocation decisions.
- Communicates with schools regularly about gathering and reporting school performance and compliance data.
- Collects information from the school in a manner that minimizes unnecessary administrative burdens, but is sufficiently detailed and timely to meet the authorizer’s needs.
- Provides clear technical guidance to schools to ensure timely reporting, including authorizer-specific formats for submissions when requested.
- Gives schools timely notice of non-compliance, complaints or performance deficiencies through communication with both school leaders and governing boards.
- Acknowledges the charter school governing board’s authority over its operations and educational program, consistent with its charter, by acting within the parameters of the “accountability agreement”.
- Evaluates each charter school annually. The evaluation combines information from the following on-going monitoring activities of the authorizer:
  - *Reviews submitted data on agreed measures of performance for academics, operations, governance and finance (“accountability agreement”).*
  - *Visits each school to observe and collect data on implementation of the school program, health and safety, and other aspects of school operations.*
  - *Reviews required periodic financial reports (budget, 1st interim, 2nd interim, unaudited actuals, and annual audit) and enrollment data (P-1, P-2 and P-Annual).*
  - *Reviews teacher credentials.*
  - *Monitors governance compliance and effectiveness through review of representative agendas and minutes and, as needed, periodic observations of governing board meetings and/or review of recordings.*
  - *Reviews recruitment, application and enrollment documents, and relevant data, to check that schools admit students through a random public lottery process and create no barriers based on special education status, disability, or parental involvement.*
  - *Reviews school policies, records and data to confirm that access and services are provided to students with disabilities as required by applicable federal and state law. Also consults with the school’s SELPA, for those that are LEAs, or with the district’s special education leadership, for charters that are “schools of the district”, regarding the school’s special education compliance and performance.*
  - *Reviews policies and relevant student data to determine if schools provide access to and appropriately serve other special populations of students, including students with disabilities (504), English learners, homeless students, foster children, and gifted students, as required by federal and state law.*
  - *Reviews school student discipline policies and data to verify that school discipline is non-discriminatory and that no student is expelled or “counseled out” of a school without due process of law.*
- Promptly communicates concerns that arise from monitoring activities to the school’s leadership.
- Communicates annual evaluation results in writing to the school’s governing board and leadership; and makes the evaluation results available to the general public.
- Gives schools clear, adequate, evidence-based, and timely notice of non-compliance or performance deficiencies, and allows schools reasonable time to remedy the condition in non-emergency situations.
- Consistent with the process set out in the “accountability agreement”, gives direction for corrective action when a charter school fails to meet performance expectations or compliance requirements.





# 05 Renewal and Revocation Decision-Making

- Establishes a clear charter renewal process that complies with state law and regulation, and includes timelines, procedures, approval criteria, and other relevant information.
- Makes its charter renewal process transparent to all charter schools and to the general public by publishing guidance on-line.
- Provides to each school, in advance of the renewal decision, a cumulative report that summarizes the annual evaluations and includes summative findings with respect to the measures in the “accountability agreement”.
- Bases renewal decisions on thorough analyses of a comprehensive body of objective evidence.
- Consistent with state law, denies charter renewal when petitioners have failed to present a thorough, high quality plan, or have demonstrated that they are unlikely to succeed because the record shows they have substantially failed to implement the major features of the program or achieve the levels of performance set out in the “accountability agreement”. The record addresses measures of legal compliance, organizational and fiscal viability, and academic performance across all student groups.
- Authorizing agency's board does not make renewal decisions solely on the basis of political or community pressure or promises of future improvement.
- Revokes a charter during the charter term if there is clear evidence of a material violation of important conditions, standards, or procedures in the charter and/or “accountability agreement”; a clear and significant failure to meet or pursue key pupil outcomes identified in the charter; a material violation of GAAP and significant fiscal mismanagement; or violation of any provision of law that constitutes a major threat to the rights and interests of students and the public.
- Complies with state law and regulations in conducting any revocation proceeding.
- Communicates renewal or revocation decisions to the school community and public within a time frame that allows parents and students to exercise choices for the coming school year.
- In the event of school closure, oversees the charter school governing board and leadership in carrying out the approved closure plan, allowing for timely notification to families, orderly transition of students and records to new schools, satisfaction of outstanding debts, and disposition of school assets.





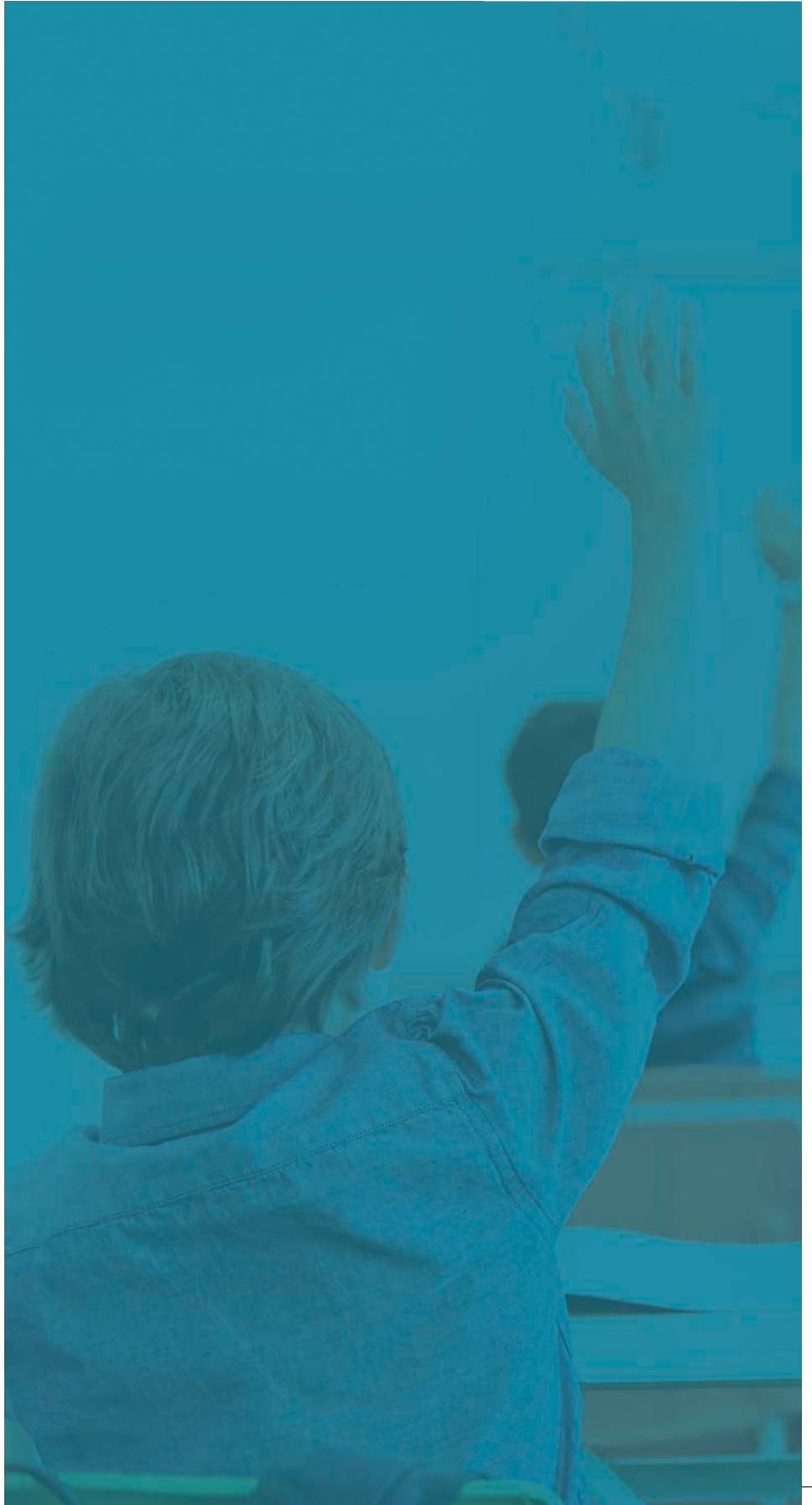
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APRIL 2017

# THREE SIGNS THAT A PROPOSED CHARTER SCHOOL IS AT RISK OF FAILING

*By Anna Nicotera and David Stuit,  
Basis Policy Research*

*Foreword and Summary  
by Amber M. Northern and Michael J. Petrilli*

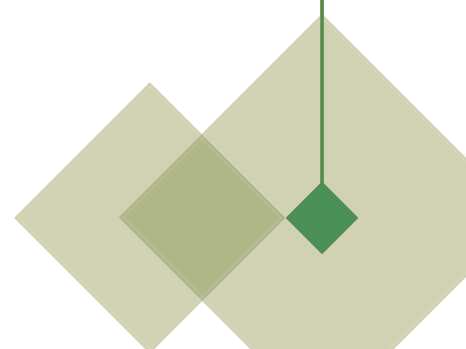




The Thomas B. Fordham Institute promotes educational excellence for every child in America via quality research, analysis, and commentary, as well as advocacy and exemplary charter school authorizing in Ohio. It is affiliated with the Thomas B. Fordham Foundation, and this publication is a joint project of the Foundation and the Institute. For further information, please visit our website at [www.edexcellence.net](http://www.edexcellence.net). The Institute is neither connected with nor sponsored by Fordham University.

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It's well established—by excellent work from the Center for Research on Education Outcomes (CREDO) and others—that some charter schools do far better than others at educating their students. This variability has profound implications for the children who attend those schools. Yet painful experience shows that rebooting or closing a low-performing school is a drawn-out and excruciating process that often backfires or simply doesn't happen. But what if we could predict which schools are likely *not* to succeed—before they even open their doors? If authorizers had that capability, they could select stronger schools to launch, thereby protecting children and ultimately leading to a higher-performing charter sector overall.

This study employs an empirical approach to do just that. Analysts coded charter applications for easy-to-spot indicators and used them to predict the schools' academic performance in their first years of operation.

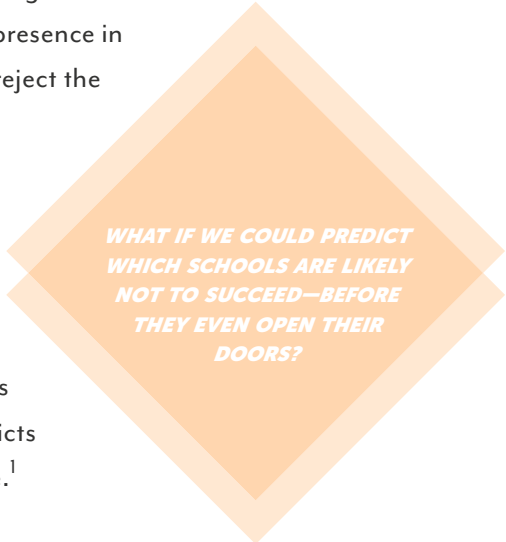
Authorizers rejected 77 percent of applications from a sample of over 600 applications from four states. They worked hard at screening those applications, seemingly homing in on a common set of indicators—"trigger warnings," if you will—whose presence in or absence from applications made it more likely that they would reject the application.

Yet despite the vigorous screening process that authorizers used to determine which applicants to turn down and which to entrust with new schools, 30 percent of the approved applications in this study led to charter schools that performed poorly during their first years of operation. Given that research has shown that a school's early-year performance almost always predicts its future performance, those weak schools are unlikely to improve.<sup>1</sup>

Could a different kind of screening process, informed by common risk factors, have prevented at least some of this school failure? It was surely worth investigating.

We turned to Dr. David Stuit, co-founder of Basis Policy Research and the author of two previous Fordham Institute reports on school choice. He was joined by lead author Dr. Anna Nicotera, senior associate at Basis who brings substantial charter school and school choice expertise. Before joining Basis, Anna was senior director of research at the National Alliance for Public Charter Schools, worked for the National Center on School Choice at Vanderbilt University, and served as an advisor to the U.S. Department of Education's evaluation of the federal Charter Schools Program.

Our Basis colleagues found three risk factors that were present in the approved applications that also turned out to be significant predictors of future school performance in the initial years:



1. **Lack of Identified Leadership:** Charter applications that propose a self-managed school without naming its initial school leader.
2. **High Risk, Low Dose:** Charter applications that propose to serve at-risk pupils but plan to employ “low dose” academic programs that do not include sufficient academic supports, such as intensive small-group instruction or individual tutoring.
3. **A Child-Centered Curriculum:** Charter applications that propose to deploy child-centered, inquiry-based pedagogies, such as Montessori, Waldorf, Paideia, or experiential programs.

The presence of these risk factors in charter applications significantly boosted the probability that the school would perform poorly during its first years of operation. When an application displayed two or more of these risk factors, the probability of low performance rose to 80 percent.

We also learned that the following indicators, among others, made it more likely that authorizers would reject the application entirely:

- A lack of evidence that the school will start with a sound financial foundation;
- No description of how the school will use data to evaluate educators or inform instruction;
- No discussion of how the school will create and sustain a culture of high expectations; and
- No plans to hire a management organization to run the school.

Here’s what we make of those findings.

First, authorizers already have multiple elements in mind—though not always consciously—that they use to screen out applications. The factors named above that are already linked to rejection may well predict low performance, had the schools displaying them been allowed to open. But since those schools *did not* open, we have no way of knowing for sure. Still, the authorizers we studied—and their peers throughout the country—would probably be wise to continue to view these factors as possible signs of likely school failure and to act accordingly.

Second, we were somewhat surprised to see that an applicant’s intention to use a child-centered, inquiry-based instructional model (such as Montessori, Waldorf, or Paideia) made it less likely that the school would succeed academically in its first years. It’s hard to tell what’s going on here. Some of these pedagogies, expertly implemented, can surely work well for many children. But they are not intended to

prepare students to shine on the kinds of assessments that are typically used by states and authorizers to judge school performance—in other words, the same tests that our research team used to judge quality for purposes of this analysis.

We do not mean to discourage innovation and experimentation with curriculum and pedagogy in the charter realm going forward. That sector’s mission includes providing families with access to education programs that might suit their children and that might not otherwise be available to them. Fordham is a charter authorizer itself (in its home state of Ohio) and we’re keenly aware of the need to balance the risk that a new school may struggle academically against a charter’s right to autonomy and innovation. Well-executed versions of inquiry-based education surely have their place in chartering. But the present study finds that they boost the probability of low performance as conventionally measured.

Third, let’s acknowledge that quality is in the eye of the beholder. Many of these child-centered schools aren’t “failing” in the eyes of their customers. The parents who choose them may not care if they have low “value added” on test scores. But authorizers must balance parental satisfaction with the public’s right to assure that students learn. Schools exist not only to benefit their immediate clients but also to contribute to the public good: a well-educated society.

Yes, it’s a tricky balance, especially in places where dismally performing district schools have been the only option for many youngsters. The best we can say to authorizers is to exercise your authority wisely. Consider the quality of existing options, plus a prospective charter school’s ability to enhance those options—not only academically, but in other ways fundamental to parents and the public. Pluralism is an important value for the charter sector, and is worth taking some risk to achieve.

Fourth, these findings aren’t a license for lazy authorizing. Yes, the trio of significant indicators that we found helps to identify applications that have a high probability of yielding struggling charter schools. But these aren’t causal relationships. Nor do they obviate an authorizer’s responsibility to carefully evaluate every element of a charter application. If our results are used to automatically reject or fast-track an application, they have been misused. Yet they ought, at minimum, to lead to considerably deeper inquiry, heightened due diligence, and perhaps a requirement for additional information. In short, their proper use is to enhance an authorizer’s review.

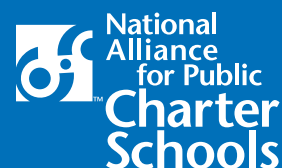
Deciding whether to give the green light to a new school is a weighty decision. Failing to authorize a potentially successful school for children desperately in need of one is just as bad as authorizing a school that ultimately fails to educate them. The information herein adds one more tool to authorizers’ toolkits. May they use it wisely.

f. Measuring up to the  
Model



# **MEASURING UP TO THE MODEL:** A Ranking of State Charter Public School Laws

Eighth Edition  
March 2017







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## Acknowledgments

This report was written by Todd Ziebarth, senior vice president for state advocacy and support at the National Alliance for Public Charter Schools; Louann Bierlein Palmer, educational leadership professor at Western Michigan University; and Emily Schultz, senior manager for state advocacy and support at the National Alliance for Public Charter Schools.

We shared draft analyses with individuals in the jurisdictions in this report, including individuals working at state departments of education, state charter public school associations and resource centers, and other organizations. We want to acknowledge and thank them for their invaluable feedback. Any remaining errors and omissions in the state analyses and rankings are the responsibility of the authors, not the reviewers from the states.

## INTRODUCTION

This edition of *Measuring Up to the Model: A Ranking of State Charter Public School Laws* is the eighth rankings report produced by the National Alliance for Public Charter Schools and the first to measure each state's charter public school law against *A Model Law for Supporting the Growth of High-Quality Charter Public Schools: Second Edition*, which was released in October 2016. The previous seven editions were benchmarked against the first edition of our model law, which was released in June 2009.

Although the vast majority of provisions in the first edition of the model law are contained in the second edition, there are several critical updates as well. Some updates focus on providing more equitable support to charter school students, such as by strengthening facilities provisions and requiring state departments of education to create an annual funding transparency report.

Other updates focus on flexibility for charter schools, such as by providing for the expedited charter contract renewal process for high-performing charter schools and requiring that authorizers not request duplicative data submission from their charter schools.

Still other updates focus on strengthening accountability for charter schools and their authorizers, such as by holding full-time virtual charter schools more accountable, better ensuring that chronically low-performing charter schools are closed, and strengthening accountability requirements for educational service providers that partner with charter schools.

This edition of *Measuring Up to the Model: A Ranking of State Charter Public School Laws* takes into account these key updates.

It also factors in important changes made to state law in 2016. Most significantly, Washington state passed legislation that re-established its charter school law after the Washington Supreme Court declared its previous law invalid, becoming the 44th jurisdiction (43 states and D.C.) with a charter school law. Mississippi also made major improvements to its law, now allowing students in school districts rated C, D, or F to cross district lines to attend a charter school and permitting charter school employees to participate in the state retirement system and other benefits programs.

We saw several states strengthen their authorizing environments as well. Most notably, Michigan required that authorizers be accredited in order to approve additional schools in Detroit, enacted automatic closure requirements for chronically low-performing charter schools across the state, and prohibited authorizer hopping (i.e., the practice of a low-performing charter school jumping from one authorizer to another in order to avoid closure).

We also saw several states improve their support for charter school funding and facilities. For example, Arizona created the Public School Credit Enhancement Fund, which will be leveraged to provide more than \$300 million of low-cost financing for quality schools, including charter schools. Florida increased funding for its facilities capital outlay program for charter schools from \$50 million to \$75 million and changed the eligibility criteria and allocation process for this program.

As charter school supporters engage in advocacy efforts during 2017 to strengthen charter school laws while defending these laws against efforts to weaken them, we hope this report will be a useful tool. Our collective efforts remain focused on how best to create more high-quality charter schools, particularly for those students who most need such options.



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# 2017 STATE CHARTER PUBLIC SCHOOL LAW RANKINGS<sup>1</sup>

2017 Ranking	State	2017 Score
1	Indiana	176
2	Alabama	174
3	Minnesota	171
4	Washington	164
5	Colorado	164
6	New York	162
7	Maine	161
8	Florida	161
9	Louisiana	161
10	Mississippi	160
11	Arizona	160
12	Massachusetts	159
13	Nevada	159
14	North Carolina	157
15	Oklahoma	156
16	California	154
17	South Carolina	153
18	Washington, D.C.	153
19	Delaware	151
20	Idaho	150
21	Ohio	147
22	New Mexico	146

2017 Ranking	State	2017 Score
23	Utah	146
24	Georgia	145
25	Texas	142
26	New Hampshire	139
27	Michigan	137
28	Hawaii	136
29	Tennessee	133
30	Arkansas	132
31	Pennsylvania	131
32	Missouri	130
33	Connecticut	126
34	Oregon	126
35	New Jersey	124
36	Illinois	123
37	Rhode Island	117
38	Wisconsin	104
39	Virginia	91
40	Wyoming	87
41	Iowa	82
42	Alaska	78
43	Kansas	65
44	Maryland	51

1 | In case of a tie, we first looked at each state's total weighted score for the four "quality control" components. Whichever state had the highest score was ranked higher. If the states had the same total weighted score for these components, we looked at each state's total weighted score for the two funding components. Whichever state had the highest score was ranked higher.

## KEY TAKEAWAYS FROM THIS YEAR'S MODEL LAW RANKINGS

Some key takeaways from this year's rankings include:

- **Indiana** has the nation's strongest charter school law in the country, ranking No. 1 (out of 44). Indiana's law does not cap charter school growth, includes multiple authorizers, and provides a fair amount of autonomy and accountability. Indiana also made notable strides in 2015 to provide more equitable funding to charter schools, although some work remains to be done.
  - The **Top 10** includes a mixture of states with more mature movements (**Indiana** at No. 1, **Minnesota** at No. 3, **Colorado** at No. 5, **New York** at No. 6, **Florida** at No. 8, and **Louisiana** at No. 9) and states with newer movements (**Alabama** at No. 2, **Washington** at No. 4, **Maine** at No. 7, and **Mississippi** at No. 10). The fact that these states are in the Top 10 speaks to the fact that many existing states continue to strengthen their laws based on what's working (and what's not working) and that new states rely heavily on those lessons learned so they don't repeat the mistakes of the states that came before them.
  - In the inaugural version of this report in 2010, **Washington, D.C.** was ranked No. 2, receiving 63 percent of the total possible points. In this version of the report, Washington, D.C. is ranked No. 18, receiving 64 percent of the total possible points. Its law is still as strong as it was then: Its cap still allows for ample growth, it has an independent charter board as the authorizer, it provides a fair amount of autonomy and accountability, and it includes some facilities support. In practice, the Washington, D.C. Public Charter School Board has proved to be one of the nation's strongest authorizers. However, there have been major improvements to charter school laws in many states since 2010, especially in the areas of facilities and accountability.<sup>2</sup> These improvements have boosted the scores and rankings of many states, leading them to pass Washington, D.C. in our rankings. That's good news for charter schools across the nation, as more and more states have stronger and stronger laws.
  - **Maryland** has the nation's weakest charter school law, ranking No. 44 (out of 44). While Maryland's law does not cap charter school growth, it allows only local school district authorizers and provides little autonomy, insufficient accountability, and inequitable funding to charter schools. Rounding out the bottom five states are **Wyoming** (No. 40), **Iowa** (No. 41), **Alaska** (No. 42), and **Kansas** (No. 43).
- It is important to note that our primary focus was to assess whether and how state laws and regulations addressed the National Alliance model law, not whether and how practices in the state addressed it. In a few areas—such as caps, multiple authorizers, and funding—we incorporated what was happening in practice because we felt it was necessary to do so to fairly capture the strength of the law. Notwithstanding these instances, the purpose of the analyses is to encourage state laws and regulations to require best practices and guarantee charter school rights and freedoms so that state charter movements will benefit from a supportive legal and policy environment.

2 | Todd Ziebarth, *Assessing the Increasing Strength of Charter School Laws: Third Edition*, Washington, D.C.: National Alliance for Public Charter Schools, September 2016.

# ESSENTIAL COMPONENTS OF A STRONG CHARTER PUBLIC SCHOOL LAW

In this report, we evaluate each state's charter public school law against the 21 essential components of a strong charter school law. These 21 components are drawn from the National Alliance's *A New Model Law for Supporting the Growth of High-Quality Public Charter Schools: Second Edition*. Table 2 lists the 21 essential components and a brief description of each.

- 1. No Caps** on the growth of charter schools in a state.
- 2. A Variety of Charter Schools Allowed**, including new startups and public school conversions.
- 3. Multiple Authorizers Available**, including non-school board authorizers, to which charter applicants may directly apply.
- 4. Authorizer and Overall Program Accountability System Required**, whereby all authorizers must affirm interest to become an authorizer (except for a legislatively created state charter school commission) and participate in an authorizer reporting program based on objective data, as overseen by some state-level entity with the power to sanction.
- 5. Adequate Authorizer Funding**, including provisions for guaranteed funding from the state or authorizer fees and public accountability for such expenditures.
- 6. Transparent Charter Application, Review, and Decisionmaking Processes**, including comprehensive academic, operational, and governance application requirements, with such applications reviewed and acted on following professional authorizer standards.
- 7. Performance-Based Charter Contracts Required**, with such contracts created as separate post-application documents between authorizers and charter schools detailing academic performance expectations, operational performance expectations, and school and authorizer rights and duties.
- 8. Comprehensive Charter School Monitoring and Data Collection Processes** so that all authorizers can verify charter school compliance with applicable law and their performance-based contracts.
- 9. Clear Processes for Renewal, Nonrenewal, and Revocation Decisions**, including school closure and dissolution procedures to be used by all authorizers.
- 10. Transparency Regarding Educational Service Providers**, provided there is a clear performance contract between an independent charter school board and the service provider and there are no conflicts of interest between the two entities.
- 11. Fiscally and Legally Autonomous Schools with Independent Charter School Boards**, whereby charter schools are created as autonomous entities with their boards having most of the powers granted to traditional school boards.

- 12. Clear Student Enrollment and Lottery Procedures**, which must be followed by all charter schools.
- 13. Automatic Exemptions from Many State and District Laws and Regulations**, except for those covering health, safety, civil rights, student accountability, employee criminal history checks, open meetings, freedom of information requirements, and generally accepted accounting principles.
- 14. Automatic Collective Bargaining Exemption**, whereby charter schools are exempt from any outside collective bargaining agreements, while not interfering with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.
- 15. Multischool Charter Contract and/or Multicharter Contract Boards Allowed**, whereby an independent charter school board may oversee multiple schools linked under a single charter contract or may hold multiple charter contracts.
- 16. Extracurricular and Interscholastic Activities Eligibility and Access**, whereby (a) charter school students and employees are eligible for state- and district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs to the same extent as district public school students and employees; and (b) students at charter schools that do not provide extracurricular and interscholastic activities have access to those activities at district public schools for a fee via a mutual agreement.
- 17. Clear Identification of Special Education Responsibilities**, including clarity on which entity is the local education agency responsible for such services and how such services are to be funded (especially for low-incident, high-cost cases).
- 18. Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding**, flowing to the school in a timely fashion and in the same amount as district schools following eligibility criteria similar to all other public schools.
- 19. Equitable Access to Capital Funding and Facilities**, including multiple provisions such as facilities funding, access to public space, access to financing tools, and other supports.
- 20. Access to Relevant Employee Retirement Systems**, with the option to participate in a similar manner as all other public schools.
- 21. Full-Time Virtual Charter School Provisions**, including specific provisions regarding authorizing structure, enrollment criteria, enrollment levels, accountability for performance, funding levels based on costs, and performance-based funding.

# LEADING STATES FOR THE 21 ESSENTIAL COMPONENTS OF THE NATIONAL ALLIANCE MODEL LAW

This year’s rankings report again details the leaders for each of the 21 essential components of the National Alliance model law—i.e., those states that received the highest rating for a particular component. For 16 of the 21 components, the leading states received a rating of 4 on a scale of 0 to 4. For Components 8, 9, 18, and 19, no states received a 4, so the leading states are those that received a rating of 3. For Component 21, no states received higher than a 2, so no states are listed.

Table 3 lists the leading states for each component.

1. **No Caps (20 States):** Alaska, Arizona, Colorado, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Maryland, Minnesota, Nevada, New Jersey, North Carolina, Oregon, South Carolina, Tennessee, Virginia, Wyoming
2. **A Variety of Charter Public Schools Allowed (41 states):** Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, Wyoming
3. **Multiple Authorizers Available (15 states):** Arizona, Georgia, Idaho, Indiana, Louisiana, Michigan, Minnesota, Nevada, New Mexico, New York, Ohio, Oklahoma, South Carolina, Texas, Utah
4. **Authorizer and Overall Program Accountability System Required (9 states):** Alabama, Arkansas, Connecticut, District of Columbia, Hawaii, Mississippi, North Carolina, Ohio, Washington
5. **Adequate Authorizer Funding (5 states):** Louisiana, Maine, Minnesota, Nevada, Washington
6. **Transparent Charter Application, Review, and Decisionmaking Processes (4 states):** Alabama, Louisiana, Mississippi, Washington
7. **Performance-Based Charter Contracts Required (4 states):** Alabama, Maine, Mississippi, Washington
8. **Comprehensive Charter Public School Monitoring and Data Collection Processes (33 states):** Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Utah, Washington
9. **Clear Processes for Renewal, Nonrenewal, and Revocation Decisions (20 states):** Alabama, Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Maine, Massachusetts, Minnesota, Mississippi, Nevada, New Mexico, New York, North Carolina, Oklahoma, Washington



- 10. Clear Processes for Renewal, Nonrenewal, and Revocation Decisions (20 states):** Alabama, Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Maine, Massachusetts, Minnesota, Mississippi, Nevada, New Mexico, New York, North Carolina, Oklahoma, Washington
- 11. Educational Service Providers Allowed (1 state):** Florida
- 12. Fiscally and Legally Autonomous Schools with Independent Charter Public School Boards (29 states):** Alabama, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Washington, Wisconsin
- 13. Clear Student Recruitment, Enrollment, and Lottery Procedures (7 states):** Alabama, District of Columbia, Maine, Massachusetts, Minnesota, New Hampshire, New York
- 14. Automatic Exemptions from Many State and District Laws and Regulations (5 states):** Alabama, Arizona, District of Columbia, Louisiana, Oklahoma
- 15. Automatic Collective Bargaining Exemption (24 states):** Alabama, Arizona, California, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, Tennessee, Utah, Washington, Wyoming
- 16. Multischool Charter Contracts and/or Multicharter Contract Boards Allowed (18 states):** Alabama, Arkansas, Colorado, Delaware, Hawaii, Idaho, Indiana, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Nevada, New York, Oklahoma, Texas, Washington, Wisconsin
- 17. Extracurricular and Interscholastic Activities Eligibility and Access (1 state):** South Carolina
- 18. Clear Identification of Special Education Responsibilities (3 states):** California, Ohio, Pennsylvania
- 19. Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding (1 state):** New Mexico
- 20. Equitable Access to Capital Funding and Facilities (5 states):** California, Colorado, District of Columbia, Indiana, Utah
- 21. Access to Relevant Employee Retirement Systems (14 states):** Arizona, California, Delaware, Florida, Indiana, Maine, Michigan, Mississippi, New Hampshire, New York, North Carolina, Oklahoma, Pennsylvania, Utah
- 22. Full-Time Virtual Charter School Provisions (0 states)**

# CALIFORNIA

**16**  
Rank (out of 44)

**154**  
Total Points (out of 240)

**1992**  
Year Charter Public School Law Was Enacted

**1,253**  
Number of Charter Public Schools in 2016–17

**604,700**  
Estimated Number of Charter Public School Students in 2016–17

California’s law has a cap that allows ample growth, provides a robust appellate process, and provides a fair amount of autonomy but lacks some aspects of the model law’s accountability provisions, and has made notable strides in recent years to provide more equitable funding to charter public schools—although some work remains to be done.

Potential areas for improvement in its charter school law include strengthening authorizer accountability, beefing up requirements for performance-based charter contracts, and ensuring transparency regarding educational service providers.

Essential Components of Strong Charter Public School Law		Current Component Description	Rating	Weight	Total Score
1	No Caps	The state has a cap with room for ample growth.	3	3	9
2	A Variety of Charter Public Schools Allowed	The state allows new start-ups and public school conversions.	4	2	8
3	Multiple Authorizers Available	The state allows two or more authorizing options in all situations but does not provide direct access to each option. There is considerable authorizing activity in at least two of those options.	3	3	9
4	Authorizer and Overall Program Accountability System Required	The state law includes a small number of the elements of the model law’s authorizer and overall program accountability system.	1	3	3
5	Adequate Authorizer Funding	The state law includes some of the model law’s provisions for adequate authorizer funding.	2	2	4
6	Transparent Charter Application, Review, and Decisionmaking Processes	The state law includes some of the model law’s provisions for transparent charter application, review, and decisionmaking processes.	2	4	8
7	Performance-Based Charter Contracts Required	The state law includes a small number of the model law’s provisions for performance-based charter contracts.	1	4	4

Essential Components of Strong Charter Public School Law		Current Component Description	Rating	Weight	Total Score
8	Comprehensive Charter Public School Monitoring and Data Collection Processes	The state law includes many of the model law's provisions for comprehensive charter school monitoring and data collection processes.	3	4	12
9	Clear Processes for Renewal, Nonrenewal, and Revocation Decisions	The state law includes some of the model law's clear processes for renewal, nonrenewal, and revocation decisions.	2	4	8
10	Transparency Regarding Educational Service Providers	The state law includes a small number of the model law's provisions for educational service providers.	1	2	2
11	Fiscally and Legally Autonomous Schools with Independent Charter Public School Boards	The state law includes many of the model law's provisions for fiscally and legally autonomous schools with independent charter school boards.	3	3	9
12	Clear Student Enrollment and Lottery Procedures	The state law includes many of the model law's requirements for student enrollment, and lottery procedures.	3	2	6
13	Automatic Exemptions from Many State and District Laws and Regulations	The state law provides automatic exemptions from many state and district laws and regulations and requires some of a school's teachers to be certified.	3	3	9
14	Automatic Collective Bargaining Exemption	The state law does not require any charter schools to be part of existing collective bargaining agreements.	4	3	12
15	Multischool Charter Contracts and/or Multicharter Contract Boards Allowed	The state law allows either of these arrangements but requires only schools authorized by some entities to be independently accountable for fiscal and academic performance.	3	2	6
16	Extracurricular and Interscholastic Activities Eligibility and Access	The state law does not explicitly address charter eligibility and access, but under the state's statutorily defined "permissive" education code, these practices are permitted because they are not expressly prohibited.	3	1	3
17	Clear Identification of Special Education Responsibilities	The state law includes all of the model law's requirements for special education responsibilities.	4	2	8
18	Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding	Evidence demonstrates an equity gap between district and charter students of between 20 percent and 29.9 percent, but recent policy changes have likely reduced this gap.	2	4	8
19	Equitable Access to Capital Funding and Facilities	The state law includes many of the model law's provisions for equitable access to capital funding and facilities.	3	4	12
20	Access to Relevant Employee Retirement Systems	The state law provides access to relevant employee retirement systems but does not require participation.	4	2	8
21	Full-Time Virtual Charter Public School Provisions	The state law includes some of the model law's requirements for full-time virtual charter schools.	2	3	6

**Total Score** **154**





**ASSEMBLY BILL**

**No. 950**

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**Introduced by Assembly Member Rubio**  
*(Coauthor: Assembly Member Weber)*

February 16, 2017

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An act to amend Sections 47605, 47605.6, and 47605.8 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as introduced, Rubio. Charter schools.

Existing law, the Charter Schools Act of 1992, authorizes a charter school petitioner, if the governing board of a school district denies a petition for the establishment of a charter school, to submit the petition to the county board of education, and, if the county board of education denies the petition, to then submit the petition to the State Board of Education. A charter school that is granted its charter through an appeal to the state board is required to submit a petition for renewal of the charter to the governing board of the school district that initially denied the charter.

This bill would instead authorize the petitioner to submit a petition for renewal to either the governing board of the school district that initially denied the charter or directly to the state board.

Existing law authorizes a county board of education to approve a petition for a countywide charter if the county board of education finds, among other things, that the pupil population cannot be served as well by a charter school that operates in only one school district and only if it is reasonably satisfied that the charter school has reasonable justification for why the charter school could not be established by petition to a school district.

This bill would delete those requirements. The bill would require a charter school petition to demonstrate that the charter school will provide a high-quality education program and that it will seek to share best and promising practices of the charter school with other traditional and charter public schools that have low academic performance. The bill would authorize a charter school petitioner, if a county board of education denies or revokes a petition, to submit the petition directly to the state board. To the extent the bill imposes additional duties on county boards of education, the bill would impose a state-mandated local program.

Existing law requires the state board, as a condition of approving a petition for the operation of a charter school, to find that the charter school will provide instructional services of statewide benefit that cannot be provided by the operation of the charter school in only one school district or county.

The bill would delete the requirement that the statewide benefit cannot be provided by a charter school operating in only one school district or county and would instead require, as part of the determination of the statewide benefit, to ensure that the charter school has described the manner in which the charter school will seek to share best and promising practices with other traditional and charter public schools with low academic performance, and would authorize the state board to establish other criteria or conditions to define a statewide benefit.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 47605 of the Education Code is amended
- 2 to read:
- 3 47605. (a) (1) Except as set forth in paragraph (2), a petition
- 4 for the establishment of a charter school within a school district
- 5 may be circulated by one or more persons seeking to establish the

1 charter school. A petition for the establishment of a charter school  
2 shall identify a single charter school that will operate within the  
3 geographic boundaries of that school district. A charter school  
4 may propose to operate at multiple sites within the school district  
5 if each location is identified in the charter school petition. The  
6 petition may be submitted to the governing board of the school  
7 district for review after either of the following conditions is met:

8 (A) The petition is signed by a number of parents or legal  
9 guardians of pupils that is equivalent to at least one-half of the  
10 number of pupils that the charter school estimates will enroll in  
11 the *charter* school for its first year of operation.

12 (B) The petition is signed by a number of teachers that is  
13 equivalent to at least one-half of the number of teachers that the  
14 charter school estimates will be employed at the *charter* school  
15 during its first year of operation.

16 (2) A petition that proposes to convert an existing public school  
17 to a charter school that would not be eligible for a loan pursuant  
18 to subdivision (c) of Section 41365 may be circulated by one or  
19 more persons seeking to establish the charter school. The petition  
20 may be submitted to the governing board of the school district for  
21 review after the petition is signed by not less than 50 percent of  
22 the permanent status teachers currently employed at the public  
23 school to be converted.

24 (3) A petition shall include a prominent statement that a  
25 signature on the petition means that the parent or legal guardian  
26 is meaningfully interested in having his or her child or ward attend  
27 the charter school, or in the case of a teacher's signature, means  
28 that the teacher is meaningfully interested in teaching at the charter  
29 school. The proposed charter shall be attached to the petition.

30 (4) After receiving approval of its petition, a charter school that  
31 proposes to establish operations at one or more additional sites  
32 shall request a material revision to its charter and shall notify the  
33 authority that granted its charter of those additional locations. The  
34 authority that granted its charter shall consider whether to approve  
35 those additional locations at an open, public meeting. If the  
36 additional locations are approved, ~~they~~ *there* shall be a material  
37 revision to the charter school's charter.

38 (5) A charter school that is unable to locate within the  
39 jurisdiction of the chartering school district may establish one site  
40 outside the boundaries of the school district, but within the county



1 in which that school district is located, if the school district within  
2 the jurisdiction of which the charter school proposes to operate is  
3 notified in advance of the charter petition approval, the county  
4 superintendent of schools and the Superintendent are notified of  
5 the location of the charter school before it commences operations,  
6 and either of the following circumstances exists:

7 (A) The school has attempted to locate a single site or facility  
8 to house the entire program, but a site or facility is unavailable in  
9 the area in which the school chooses to locate.

10 (B) The site is needed for temporary use during a construction  
11 or expansion project.

12 (6) Commencing January 1, 2003, a petition to establish a charter  
13 school ~~may~~ shall not be approved to serve pupils in a grade level  
14 that is not served by the school district of the governing board  
15 considering the petition, unless the petition proposes to serve pupils  
16 in all of the grade levels served by that school district.

17 (b) No later than 30 days after receiving a petition, in accordance  
18 with subdivision (a), the governing board of the school district  
19 shall hold a public hearing on the provisions of the charter, at  
20 which time the governing board of the school district shall consider  
21 the level of support for the petition by teachers employed by the  
22 school district, other employees of the school district, and parents.  
23 Following review of the petition and the public hearing, the  
24 governing board of the school district shall either grant or deny  
25 the charter within 60 days of receipt of the petition, provided,  
26 however, that the date may be extended by an additional 30 days  
27 if both parties agree to the extension. In reviewing petitions for  
28 the establishment of charter schools pursuant to this section, the  
29 chartering authority shall be guided by the intent of the Legislature  
30 that charter schools are and should become an integral part of the  
31 California educational system and that the establishment of charter  
32 schools should be encouraged. The governing board of the school  
33 district shall grant a charter for the operation of a school under this  
34 part if it is satisfied that granting the charter is consistent with  
35 sound educational practice. The governing board of the school  
36 district shall not deny a petition for the establishment of a charter  
37 school unless it makes written factual findings, specific to the  
38 particular petition, setting forth specific facts to support one or  
39 more of the following findings:

1 (1) The charter school presents an unsound educational program  
2 for the pupils to be enrolled in the charter school.

3 (2) The petitioners are demonstrably unlikely to successfully  
4 implement the program set forth in the petition.

5 (3) The petition does not contain the number of signatures  
6 required by subdivision (a).

7 (4) The petition does not contain an affirmation of each of the  
8 conditions described in subdivision (d).

9 (5) The petition does not contain reasonably comprehensive  
10 descriptions of all of the following:

11 (A) (i) The educational program of the charter school, designed,  
12 among other things, to identify those whom the charter school is  
13 attempting to educate, what it means to be an “educated person”  
14 in the 21st century, and how learning best occurs. The goals  
15 identified in that program shall include the objective of enabling  
16 pupils to become self-motivated, competent, and lifelong learners.

17 (ii) The annual goals for the charter school for all pupils and  
18 for each subgroup of pupils identified pursuant to Section 52052,  
19 to be achieved in the state priorities, as described in subdivision  
20 (d) of Section 52060, that apply for the grade levels served, or the  
21 nature of the program operated, by the charter school, and specific  
22 annual actions to achieve those goals. A charter petition may  
23 identify additional school priorities, the goals for the school  
24 priorities, and the specific annual actions to achieve those goals.

25 (iii) If the proposed charter school will serve high school pupils,  
26 the manner in which the charter school will inform parents about  
27 the transferability of courses to other public high schools and the  
28 eligibility of courses to meet college entrance requirements.  
29 Courses offered by the charter school that are accredited by the  
30 Western Association of Schools and Colleges may be considered  
31 transferable and courses approved by the University of California  
32 or the California State University as creditable under the “A” to  
33 “G” admissions criteria may be considered to meet college entrance  
34 requirements.

35 (B) The measurable pupil outcomes identified for use by the  
36 charter school. “Pupil outcomes,” for purposes of this part, means  
37 the extent to which all pupils of the *charter* school demonstrate  
38 that they have attained the skills, knowledge, and attitudes specified  
39 as goals in the *charter* school’s educational program. Pupil  
40 outcomes shall include outcomes that address increases in pupil

1 academic achievement both schoolwide and for all groups of pupils  
2 served by the charter school, as that term is defined in subparagraph  
3 (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil  
4 outcomes shall align with the state priorities, as described in  
5 subdivision (d) of Section 52060, that apply for the grade levels  
6 served, or the nature of the program operated, by the charter school.

7 (C) The method by which pupil progress in meeting those pupil  
8 outcomes is to be measured. To the extent practicable, the method  
9 for measuring pupil outcomes for state priorities shall be consistent  
10 with the way information is reported on a school accountability  
11 report card.

12 (D) The governance structure of the charter school, including,  
13 but not limited to, the process to be followed by the charter school  
14 to ensure parental involvement.

15 (E) The qualifications to be met by individuals to be employed  
16 by the charter school.

17 (F) The procedures that the charter school will follow to ensure  
18 the health and safety of pupils and staff. These procedures shall  
19 include the requirement that each employee of the charter school  
20 furnish ~~it~~ *the charter school* with a criminal record summary as  
21 described in Section 44237.

22 (G) The means by which the *charter* school will achieve a racial  
23 and ethnic balance among its pupils that is reflective of the general  
24 population residing within the territorial jurisdiction of the school  
25 district to which the charter petition is submitted.

26 (H) Admission requirements, if applicable.

27 (I) The manner in which annual, independent financial audits  
28 shall be conducted, which shall employ generally accepted  
29 accounting principles, and the manner in which audit exceptions  
30 and deficiencies shall be resolved to the satisfaction of the  
31 chartering authority.

32 (J) The procedures by which pupils can be suspended or  
33 expelled.

34 (K) The manner by which staff members of the charter schools  
35 will be covered by the State Teachers' Retirement System, the  
36 Public Employees' Retirement System, or federal social security.

37 (L) The public school attendance alternatives for pupils residing  
38 within the school district who choose not to attend charter schools.

39 (M) The rights of an employee of the school district upon  
40 leaving the employment of the school district to work in a charter

1 school, and of any rights of return to the school district after  
2 employment at a charter school.

3 (N) The procedures to be followed by the charter school and  
4 the entity granting the charter to resolve disputes relating to  
5 provisions of the charter.

6 (O) The procedures to be used if the charter school closes. The  
7 procedures shall ensure a final audit of the charter school to  
8 determine the disposition of all assets and liabilities of the charter  
9 school, including plans for disposing of any net assets and for the  
10 maintenance and transfer of pupil records.

11 (6) The petition does not contain a declaration of whether or  
12 not the charter school shall be deemed the exclusive public  
13 employer of the employees of the charter school for purposes of  
14 Chapter 10.7 (commencing with Section 3540) of Division 4 of  
15 Title 1 of the Government Code.

16 (c) (1) Charter schools shall meet all statewide standards and  
17 conduct the pupil assessments required pursuant to Sections 60605  
18 and 60851 and any other statewide standards authorized in statute  
19 or pupil assessments applicable to pupils in noncharter public  
20 schools.

21 (2) Charter schools shall, on a regular basis, consult with their  
22 parents, legal guardians, and teachers regarding the charter school's  
23 educational programs.

24 (d) (1) In addition to any other requirement imposed under this  
25 part, a charter school shall be nonsectarian in its programs,  
26 admission policies, employment practices, and all other operations,  
27 shall not charge tuition, and shall not discriminate against a pupil  
28 on the basis of the characteristics listed in Section 220. Except as  
29 provided in paragraph (2), admission to a charter school shall not  
30 be determined according to the place of residence of the pupil, or  
31 of his or her parent or legal guardian, within this state, except that  
32 an existing public school converting partially or entirely to a charter  
33 school under this part shall adopt and maintain a policy giving  
34 admission preference to pupils who reside within the former  
35 attendance area of that public school.

36 (2) (A) A charter school shall admit all pupils who wish to  
37 attend the *charter* school.

38 (B) If the number of pupils who wish to attend the charter school  
39 exceeds the *charter* school's capacity, attendance, except for  
40 existing pupils of the charter school, shall be determined by a

1 public random drawing. Preference shall be extended to pupils  
2 currently attending the charter school and pupils who reside in the  
3 *school* district except as provided for in Section 47614.5. Other  
4 preferences may be permitted by the chartering authority on an  
5 individual school basis and only if consistent with the law.

6 (C) In the event of a drawing, the chartering authority shall  
7 make reasonable efforts to accommodate the growth of the charter  
8 school and shall not take any action to impede the charter school  
9 from expanding enrollment to meet pupil demand.

10 (3) If a pupil is expelled or leaves the charter school without  
11 graduating or completing the school year for any reason, the charter  
12 school shall notify the superintendent of the school district of the  
13 pupil's last known address within 30 days, and shall, upon request,  
14 provide that school district with a copy of the cumulative record  
15 of the pupil, including a transcript of grades or report card, and  
16 health information. This paragraph applies only to pupils subject  
17 to compulsory full-time education pursuant to Section 48200.

18 (e) The governing board of a school district shall not require an  
19 employee of the school district to be employed in a charter school.

20 (f) The governing board of a school district shall not require a  
21 pupil enrolled in the school district to attend a charter school.

22 (g) The governing board of a school district shall require that  
23 the petitioner or petitioners provide information regarding the  
24 proposed operation and potential effects of the charter school,  
25 including, but not limited to, the facilities to be used by the *charter*  
26 school, the manner in which administrative services of the *charter*  
27 school are to be provided, and potential civil liability effects, if  
28 any, upon the *charter* school and upon the school district. The  
29 description of the facilities to be used by the charter school shall  
30 specify where the *charter* school intends to locate. The petitioner  
31 or petitioners ~~shall~~ also *shall* be required to provide financial  
32 statements that include a proposed first-year operational budget,  
33 including startup costs, and cashflow and financial projections for  
34 the first three years of operation.

35 (h) In reviewing petitions for the establishment of charter  
36 schools within the school district, the governing board of the school  
37 district shall give preference to petitions that demonstrate the  
38 capability to provide comprehensive learning experiences to pupils  
39 identified by the petitioner or petitioners as academically low

1 achieving pursuant to the standards established by the department  
2 under Section 54032, as that section read before July 19, 2006.

3 (i) Upon the approval of the petition by the governing board of  
4 the school district, the petitioner or petitioners shall provide written  
5 notice of that approval, including a copy of the petition, to the  
6 applicable county superintendent of schools, the department, and  
7 the state board.

8 (j) (1) If the governing board of a school district denies a  
9 petition, the petitioner may elect to submit the petition for the  
10 establishment of a charter school to the county board of education.  
11 The county board of education shall review the petition pursuant  
12 to subdivision (b). If the petitioner elects to submit a petition for  
13 establishment of a charter school to the county board of education  
14 and the county board of education denies the petition, the petitioner  
15 may file a petition for establishment of a charter school with the  
16 state board, and the state board may approve the petition, in  
17 accordance with subdivision (b). A charter school that receives  
18 approval of its petition from a county board of education or from  
19 the state board on appeal shall be subject to the same requirements  
20 concerning geographic location to which it would otherwise be  
21 subject if it received approval from the entity to which it originally  
22 submitted its petition. A charter petition that is submitted to either  
23 a county board of education or to the state board shall meet all  
24 otherwise applicable petition requirements, including the  
25 identification of the proposed site or sites where the charter school  
26 will operate.

27 (2) In assuming its role as a chartering agency, the state board  
28 shall develop criteria to be used for the review and approval of  
29 charter school petitions presented to the state board. The criteria  
30 shall address all elements required for charter approval, as  
31 identified in subdivision (b), and shall define “reasonably  
32 ~~comprehensive~~” *comprehensive*,” as used in paragraph (5) of  
33 subdivision ~~(b)~~ (b), in a way that is consistent with the intent of  
34 this part. Upon satisfactory completion of the criteria, the state  
35 board shall adopt the criteria on or before June 30, 2001.

36 (3) A charter school for which a charter is granted by either the  
37 county board of education or the state board based on an appeal  
38 pursuant to this subdivision shall qualify fully as a charter school  
39 for all funding and other purposes of this part.

1 (4) If either the county board of education or the state board  
2 fails to act on a petition within 120 days of receipt, the decision  
3 of the governing board of the school district to deny a petition shall  
4 be subject to judicial review.

5 (5) The state board shall adopt regulations implementing this  
6 subdivision.

7 (6) Upon the approval of the petition by the county board of  
8 education, the petitioner or petitioners shall provide written notice  
9 of that approval, including a copy of the petition to the department  
10 and the state board.

11 (k) (1) The state board may, by mutual agreement, designate  
12 its supervisory and oversight responsibilities for a charter school  
13 approved by the state board to any local educational agency in the  
14 county in which the charter school is located or to the governing  
15 board of the school district that first denied the petition.

16 (2) The designated local educational agency shall have all  
17 monitoring and supervising authority of a chartering agency,  
18 including, but not limited to, powers and duties set forth in Section  
19 47607, except the power of revocation, which shall remain with  
20 the state board.

21 (3) A charter school that is granted its charter through an appeal  
22 to the state board and elects to seek renewal of its charter shall,  
23 before expiration of the charter, submit its petition for renewal  
24 *either* to the governing board of the school district that initially  
25 denied the ~~charter~~ *charter or to the state board*. If the governing  
26 board of the school district denies the charter school's petition for  
27 renewal, the *charter* school may petition the state board for renewal  
28 of its charter.

29 (l) Teachers in charter schools shall hold a Commission on  
30 Teacher Credentialing certificate, permit, or other document  
31 equivalent to that which a teacher in other public schools would  
32 be required to hold. These documents shall be maintained on file  
33 at the charter school and are subject to periodic inspection by the  
34 chartering authority. It is the intent of the Legislature that charter  
35 schools be given flexibility with regard to noncore, noncollege  
36 preparatory courses.

37 (m) A charter school shall transmit a copy of its annual,  
38 independent financial audit report for the preceding fiscal year, as  
39 described in subparagraph (I) of paragraph (5) of subdivision (b),  
40 to its chartering entity, the Controller, the county superintendent

1 of schools of the county in which the charter school is sited, unless  
2 the county board of education of the county in which the charter  
3 school is sited is the chartering entity, and the department by  
4 December 15 of each year. This subdivision does not apply if the  
5 audit of the charter school is encompassed in the audit of the  
6 chartering entity pursuant to Section 41020.

7 SEC. 2. Section 47605.6 of the Education Code is amended to  
8 read:

9 47605.6. (a) (1) In addition to the authority provided by  
10 Section 47605.5, a county board of education may also approve a  
11 petition for the operation of a charter school that operates at one  
12 or more sites within the geographic boundaries of the county and  
13 that provides instructional services that are not generally provided  
14 by a county office of education. A county board of education may  
15 approve a countywide charter only if it finds, in addition to the  
16 other requirements of this section, that the educational services to  
17 be provided by the charter school will offer services to a pupil  
18 population that will benefit from those ~~services and that cannot be~~  
19 ~~served as well by a charter school that operates in only one school~~  
20 ~~district in the county.~~ *services.* A petition for the establishment of  
21 a countywide charter school pursuant to this subdivision may be  
22 circulated throughout the county by any one or more persons  
23 seeking to establish the charter school. The petition may be  
24 submitted to the county board of education for review after either  
25 of the following conditions is met:

26 (A) The petition is signed by a number of parents or guardians  
27 of pupils residing within the county that is equivalent to at least  
28 one-half of the number of pupils that the charter school estimates  
29 will enroll in the school for its first year of operation and each of  
30 the school districts where the charter school petitioner proposes  
31 to operate a facility has received at least 30 days' notice of the  
32 petitioner's intent to operate a charter school pursuant to this  
33 section.

34 (B) The petition is signed by a number of teachers that is  
35 equivalent to at least one-half of the number of teachers that the  
36 charter school estimates will be employed at the school during its  
37 first year of operation and each of the school districts where the  
38 charter school petitioner proposes to operate a facility has received  
39 at least 30 days' notice of the petitioner's intent to operate a charter  
40 school pursuant to this section.



1 (2) An existing public school shall not be converted to a charter  
 2 school in accordance with this section.

3 (3) After receiving approval of its petition, a charter school that  
 4 proposes to establish operations at additional sites within the  
 5 geographic boundaries of the county board of education shall notify  
 6 the school districts where those sites will be located. The charter  
 7 school shall also request a material revision of its charter by the  
 8 county board of education that approved its charter and the county  
 9 board of education shall consider whether to approve those  
 10 additional locations at an open, public meeting, held no sooner  
 11 than 30 days following notification of the school districts where  
 12 the sites will be located. If approved, the location of the approved  
 13 sites shall be a material revision of the school’s approved charter.

14 (4) A petition shall include a prominent statement indicating  
 15 that a signature on the petition means that the parent or guardian  
 16 is meaningfully interested in having his or her child or ward attend  
 17 the charter school, or in the case of a teacher’s signature, means  
 18 that the teacher is meaningfully interested in teaching at the charter  
 19 school. The proposed charter shall be attached to the petition.

20 (b) No later than 60 days after receiving a petition, in accordance  
 21 with subdivision (a), the county board of education shall hold a  
 22 public hearing on the provisions of the charter, at which time the  
 23 county board of education shall consider the level of support for  
 24 the petition by teachers, parents or guardians, and the school  
 25 districts where the charter school petitioner proposes to place  
 26 school facilities. Following review of the petition and the public  
 27 hearing, the county board of education shall either grant or deny  
 28 the charter within 90 days of receipt of the petition. However, this  
 29 date may be extended by an additional 30 days if both parties agree  
 30 to the extension. A county board of education may impose any  
 31 additional requirements beyond those required by this section that  
 32 it considers necessary for the sound operation of a countywide  
 33 charter school. A county board of education may grant a charter  
 34 for the operation of a school under this part only if it is satisfied  
 35 that granting the charter is consistent with sound educational  
 36 practice and that the charter school ~~has reasonable justification for~~  
 37 ~~why it could not be established by petition to a school district~~  
 38 ~~pursuant to Section 47605: petitioners have demonstrated that the~~  
 39 ~~charter school will provide a high-quality educational program.~~  
 40 *The county board of education shall also ensure that the charter*

1 *school has described the manner in which the charter school will*  
2 *seek to share best and promising practices of the charter school*  
3 *with other traditional and charter public schools that have low*  
4 *academic performance.* The county board of education shall deny  
5 a petition for the establishment of a charter school if it finds one  
6 or more of the following:

7 (1) The charter school presents an unsound educational program  
8 for the pupils to be enrolled in the charter school.

9 (2) The petitioners are demonstrably unlikely to successfully  
10 implement the program set forth in the petition.

11 (3) The petition does not contain the number of signatures  
12 required by subdivision (a).

13 (4) The petition does not contain an affirmation of each of the  
14 conditions described in subdivision (e).

15 (5) The petition does not contain reasonably comprehensive  
16 descriptions of all of the following:

17 (A) (i) The educational program of the charter school, designed,  
18 among other things, to identify those pupils whom the charter  
19 school is attempting to educate, what it means to be an “educated  
20 person” in the 21st century, and how learning best occurs. The  
21 goals identified in that program shall include the objective of  
22 enabling pupils to become self-motivated, competent, and lifelong  
23 learners.

24 (ii) The annual goals for the charter school for all pupils and  
25 for each subgroup of pupils identified pursuant to Section 52052,  
26 to be achieved in the state priorities, as described in subdivision  
27 (d) of Section 52060, that apply for the grade levels served, or the  
28 nature of the program operated, by the charter school, and specific  
29 annual actions to achieve those goals. A charter petition may  
30 identify additional school priorities, the goals for the school  
31 priorities, and the specific annual actions to achieve those goals.

32 (iii) If the proposed charter school will enroll high school pupils,  
33 the manner in which the charter school will inform parents  
34 regarding the transferability of courses to other public high schools.  
35 Courses offered by the charter school that are accredited by the  
36 Western Association of Schools and Colleges may be considered  
37 to be transferable to other public high schools.

38 (iv) If the proposed charter school will enroll high school pupils,  
39 information as to the manner in which the charter school will  
40 inform parents as to whether each individual course offered by the

1 charter school meets college entrance requirements. Courses  
2 approved by the University of California or the California State  
3 University as satisfying their prerequisites for admission may be  
4 considered as meeting college entrance requirements for purposes  
5 of this clause.

6 (B) The measurable pupil outcomes identified for use by the  
7 charter school. “Pupil outcomes,” for purposes of this part, means  
8 the extent to which all pupils of the school demonstrate that they  
9 have attained the skills, knowledge, and aptitudes specified as  
10 goals in the school’s educational program. Pupil outcomes shall  
11 include outcomes that address increases in pupil academic  
12 achievement both schoolwide and for all groups of pupils served  
13 by the charter school, as that term is defined in subparagraph (B)  
14 of paragraph (3) of subdivision (a) of Section 47607. The pupil  
15 outcomes shall align with the state priorities, as described in  
16 subdivision (d) of Section 52060, that apply for the grade levels  
17 served, or the nature of the program operated, by the charter school.

18 (C) The method by which pupil progress in meeting those pupil  
19 outcomes is to be measured. To the extent practicable, the method  
20 for measuring pupil outcomes for state priorities shall be consistent  
21 with the way information is reported on a school accountability  
22 report card.

23 (D) The location of each charter school facility that the petitioner  
24 proposes to operate.

25 (E) The governance structure of the charter school, including,  
26 but not limited to, the process to be followed by the charter school  
27 to ensure parental involvement.

28 (F) The qualifications to be met by individuals to be employed  
29 by the charter school.

30 (G) The procedures that the charter school will follow to ensure  
31 the health and safety of pupils and staff. These procedures shall  
32 include the requirement that each employee of the charter school  
33 furnish it with a criminal record summary as described in Section  
34 44237.

35 (H) The means by which the charter school will achieve a racial  
36 and ethnic balance among its pupils that is reflective of the general  
37 population residing within the territorial jurisdiction of the school  
38 district to which the charter petition is submitted.

39 (I) The manner in which annual, independent, financial audits  
40 shall be conducted, in accordance with regulations established by

1 the state board, and the manner in which audit exceptions and  
2 deficiencies shall be resolved.

3 (J) The procedures by which pupils can be suspended or  
4 expelled.

5 (K) The manner by which staff members of the charter school  
6 will be covered by the State Teachers' Retirement System, the  
7 Public Employees' Retirement System, or federal social security.

8 (L) The procedures to be followed by the charter school and the  
9 county board of education to resolve disputes relating to provisions  
10 of the charter.

11 (M) Admission requirements of the charter school, if applicable.

12 (N) The public school attendance alternatives for pupils residing  
13 within the county who choose not to attend the charter school.

14 (O) The rights of an employee of the county office of education,  
15 upon leaving the employment of the county office of education,  
16 to be employed by the charter school, and any rights of return to  
17 the county office of education that an employee may have upon  
18 leaving the employ of the charter school.

19 (P) The procedures to be used if the charter school closes. The  
20 procedures shall ensure a final audit of the school to determine the  
21 disposition of all assets and liabilities of the charter school,  
22 including plans for disposing of any net assets and for the  
23 maintenance and transfer of public records.

24 (6) A declaration of whether or not the charter school shall be  
25 deemed the exclusive public school employer of the employees of  
26 the charter school for purposes of the Educational Employment  
27 Relations Act (Chapter 10.7 (commencing with Section 3540) of  
28 Division 4 of Title 1 of the Government Code).

29 (7) Any other basis that the county board of education finds  
30 justifies the denial of the petition.

31 (c) A county board of education that approves a petition for the  
32 operation of a countywide charter may, as a condition of charter  
33 approval, enter into an agreement with a third party, at the expense  
34 of the charter school, to oversee, monitor, and report to the county  
35 board of education on the operations of the charter school. The  
36 county board of education may prescribe the aspects of the charter  
37 school's operations to be monitored by the third party and may  
38 prescribe appropriate requirements regarding the reporting of  
39 information concerning the operations of the charter school to the  
40 county board of education.

1 (d) (1) Charter schools shall meet all statewide standards and  
2 conduct the pupil assessments required pursuant to Section 60605  
3 and any other statewide standards authorized in statute or pupil  
4 assessments applicable to pupils in noncharter public schools.

5 (2) Charter schools shall on a regular basis consult with their  
6 parents and teachers regarding the charter school’s educational  
7 programs.

8 (e) (1) In addition to any other requirement imposed under this  
9 part, a charter school shall be nonsectarian in its programs,  
10 admission policies, employment practices, and all other operations,  
11 shall not charge tuition, and shall not discriminate against any  
12 pupil on the basis of ethnicity, national origin, gender, gender  
13 identity, gender expression, or disability. Except as provided in  
14 paragraph (2), admission to a charter school shall not be determined  
15 according to the place of residence of the pupil, or of his or her  
16 parent or guardian, within this state.

17 (2) (A) A charter school shall admit all pupils who wish to  
18 attend the charter school.

19 (B) If the number of pupils who wish to attend the charter school  
20 exceeds the school’s capacity, attendance, except for existing pupils  
21 of the charter school, shall be determined by a public random  
22 drawing. Preference shall be extended to pupils currently attending  
23 the charter school and pupils who reside in the county except as  
24 provided for in Section 47614.5. Other preferences may be  
25 permitted by the chartering authority on an individual charter  
26 school basis and only if consistent with the law.

27 (C) In the event of a drawing, the county board of education  
28 shall make reasonable efforts to accommodate the growth of the  
29 charter school and in no event shall take any action to impede the  
30 charter school from expanding enrollment to meet pupil demand.

31 (f) The county board of education shall not require an employee  
32 of the county or a school district to be employed in a charter school.

33 (g) The county board of education shall not require a pupil  
34 enrolled in a county program to attend a charter school.

35 (h) The county board of education shall require that the  
36 petitioner or petitioners provide information regarding the proposed  
37 operation and potential effects of the charter school, including, but  
38 not limited to, the facilities to be used by the charter school, the  
39 manner in which administrative services of the charter school are  
40 to be provided, and potential civil liability effects, if any, upon the

1 charter school, any school district where the charter school may  
2 operate, and upon the county board of education. The petitioner  
3 or petitioners shall also be required to provide financial statements  
4 that include a proposed first-year operational budget, including  
5 startup costs, and cashflow and financial projections for the first  
6 three years of operation.

7 (i) In reviewing petitions for the establishment of charter schools  
8 within the county, the county board of education shall give  
9 preference to petitions that demonstrate the capability to provide  
10 comprehensive learning experiences to pupils identified by the  
11 petitioner or petitioners as academically low achieving pursuant  
12 to the standards established by the department under Section 54032,  
13 as that section read before July 19, 2006.

14 (j) Upon the approval of the petition by the county board of  
15 education, the petitioner or petitioners shall provide written notice  
16 of that approval, including a copy of the petition, to the school  
17 districts within the county, the Superintendent, and the state board.

18 (k) If a county board of education denies a petition, the petitioner  
19 ~~may not elect to~~ submit the petition for the establishment of the  
20 charter school to the state ~~board~~. *board in accordance with*  
21 *subdivision (j) of Section 47605. If a county board of education*  
22 *does not renew or revokes a petition approved in accordance with*  
23 *this section, the petitioner may submit the petition for appeal to*  
24 *the state board in accordance with Sections 47607 and 47607.5.*

25 (l) Teachers in charter schools shall be required to hold a  
26 Commission on Teacher Credentialing certificate, permit, or other  
27 document equivalent to that which a teacher in other public schools  
28 would be required to hold. These documents shall be maintained  
29 on file at the charter school and shall be subject to periodic  
30 inspection by the chartering authority. *It is the intent of the*  
31 *Legislature that charter schools be given flexibility with regard*  
32 *to noncore, noncollege preparatory courses.*

33 (m) A charter school shall transmit a copy of its annual,  
34 independent, financial audit report for the preceding fiscal year,  
35 as described in subparagraph (I) of paragraph (5) of subdivision  
36 (b), to the county office of education, the Controller, and the  
37 department by December 15 of each year. This subdivision does  
38 not apply if the audit of the charter school is encompassed in the  
39 audit of the chartering entity pursuant to Section 41020.

1 SEC. 3. Section 47605.8 of the Education Code is amended to  
2 read:

3 47605.8. (a) A petition for the operation of a state charter  
4 school may be submitted directly to the state board, and the state  
5 board shall have the authority to approve a charter for the operation  
6 of a state charter school that may operate at *one or* multiple sites  
7 throughout the state. The State Board of Education shall adopt  
8 regulations, pursuant to the Administrative Procedure Act (Chapter  
9 5 3.5 (commencing with Section ~~11500~~ 11340) of Part 1 of  
10 Division 3 of Title 2 of the Government Code) for the  
11 implementation of this section. Regulations adopted pursuant to  
12 this section shall ensure that a charter school approved pursuant  
13 to this section meets all requirements otherwise imposed on charter  
14 schools pursuant to this part, except that a state charter school  
15 approved pursuant to this section shall not be subject to the  
16 geographic and site limitations otherwise imposed on charter  
17 schools. The petitioner shall submit a copy of the petition, for  
18 notification purposes, to the county superintendent of schools of  
19 each county in which the petitioner proposes to operate the state  
20 charter school. The petitioner also shall ensure that the governing  
21 board of each school district in which a site is proposed to be  
22 located is notified no later than 120 days ~~prior to~~ *before* the  
23 commencement of instruction at each site, as applicable.

24 (b) The state board shall not approve a petition for the operation  
25 of a state charter school pursuant to this section unless *the*  
26 *petitioners have demonstrated that the charter school will provide*  
27 *a high-quality educational program and the state board makes a*  
28 ~~finding, based on substantial evidence,~~ *finding* that the proposed  
29 state charter school will provide instructional services of statewide  
30 ~~benefit that cannot be provided by a charter school operating in~~  
31 ~~only one school district, or only in one county;~~ *benefit. As part of*  
32 *the determination of the statewide benefit, the state board shall*  
33 *ensure that the charter school has described the manner in which*  
34 *the school will seek to share best and promising practices of the*  
35 *charter school with other traditional and charter public schools*  
36 *that have low academic performance. The state board may*  
37 *establish other criteria or conditions to define a statewide benefit.*  
38 The finding of the state board in this regard shall be made part of  
39 the public record of the proceedings of the state board and shall  
40 precede the approval of the charter.

1 (c) The state board, as a condition of charter petition approval,  
 2 may enter into an agreement with a third party, at the expense of  
 3 the charter school, to oversee, monitor, and report on, the  
 4 operations of the state charter school. The state board may prescribe  
 5 the aspects of the operations of the state charter school to be  
 6 monitored by the third party and may prescribe appropriate  
 7 requirements regarding the reporting of information concerning  
 8 the operations of the state charter school to the state board.

9 (d) The state board shall not be required to approve a petition  
 10 for the operation of a state charter school, and may deny approval  
 11 based on any of the reasons set forth in subdivision (b) of Section  
 12 47605.6.

13 SEC. 4. If the Commission on State Mandates determines that  
 14 this act contains costs mandated by the state, reimbursement to  
 15 local agencies and school districts for those costs shall be made  
 16 pursuant to Part 7 (commencing with Section 17500) of Division  
 17 4 of Title 2 of the Government Code.

18

19

20 REVISIONS:

21 Heading—Line 2.

22

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AMENDED IN ASSEMBLY APRIL 18, 2017

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1224**

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**Introduced by Assembly Member Weber**

February 17, 2017

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An act to add Section 47604.6 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1224, as amended, Weber. Charter schools: Chartering Authority Pilot Program.

Existing law, the Charter Schools Act of 1992, provides for the establishment and operation of charter schools and authorizes the governing board of a school district, a county board of education, and the State Board of Education to approve a petition for the establishment of a charter school and to act as a chartering authority.

This bill would establish the Chartering Authority Pilot Program under which the state board would be authorized to select up to ~~5~~ 3 county boards of education with demonstrated authorizing and oversight capacity to authorize and oversee up to ~~10~~ 5 additional charter schools each. The bill would authorize a nonprofit public benefit corporation that operates more than one charter school in the state to petition a county board of education participating in the pilot program to consolidate *some or* all of its existing and future charter schools under the jurisdiction of a single chartering authority, subject to approval by the state board. The bill would require the state board to annually evaluate and report to the Legislature on the performance of participating chartering authorities and each charter school approved pursuant to the ~~pilot program and program~~. *The bill would require the state board to*

*submit a final report to the Legislature on or before June 30, 2024, as provided. The bill would authorize the state board, after 7 years of operating the pilot program, board to extend the chartering authority of the participating chartering authorities: authorities, as provided. The bill would also authorize the state board or a participating chartering authority to solicit and receive grants from private nonprofit foundations and organizations to fund the startup and the administration of, or the research and reporting on, the pilot program.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 47604.6 is added to the Education Code,  
2 to read:

3 47604.6. (a) The Chartering Authority Pilot Program is hereby  
4 established under the administration of the state board. The state  
5 board shall consider and may select up to ~~five~~ *three* county boards  
6 of education with demonstrated authorizing and oversight capacity  
7 to authorize and oversee up to ~~10~~ *five* additional charter schools  
8 each pursuant to this section.

9 (b) The state board shall adopt a process, timeline, and  
10 application criteria that ~~allows~~ *allow* for at least one application  
11 cycle each year to be considered for charter authorization in  
12 accordance with this section until the maximum number of  
13 chartering authorities has been selected. The state board shall  
14 consider in its selection criteria the selection of counties that reflect  
15 the range of size, geography, and demographics of the state. At a  
16 minimum, the application shall include all of the following:

17 (1) A charter approval plan that includes a description of how  
18 the county board of education will apply the criteria and timelines  
19 specified in subdivision (b) of Section 47605 to evaluate and  
20 approve charter petitions.

21 (2) The scope of the pilot program that includes a description  
22 of the types of charter schools that the county board of education  
23 may consider within its pilot program that is beyond its traditional  
24 authorizing scope. This may include, but is not limited to, certain  
25 types of charter school educational models, multiple charter schools  
26 operating under a single governance structure, a specific regional  
27 or geographic scope within or beyond the county, and provisions

1 to assume the chartering duties of a small school district that  
2 chooses to opt out of chartering pursuant to subdivision (e).

3 (3) How the county board of education will ensure the charter  
4 schools authorized pursuant to this section create and implement  
5 a local engagement plan to ensure that the governing boards of  
6 school districts and communities in which the charter school will  
7 be located are notified of the proposed charter school and are  
8 provided an opportunity to comment on each proposed charter  
9 school. Engagement activities shall, at a minimum, include one  
10 public hearing during the timeline and approval process of the  
11 charter by the county in the community in which each proposed  
12 charter school plans to ~~operate and~~ operate. *The plan shall also*  
13 *include* a process for the chartering authority to work with the  
14 charter school to consider and resolve complaints about the charter  
15 school by the local community, including complaints by the  
16 governing board of the school district in which the charter is  
17 ~~located.~~ *located, and a clear process for parents to report any*  
18 *concerns or complaints about the charter school.*

19 (4) A charter school oversight plan that includes a description  
20 of the county board of education's capacity and expertise in  
21 approving and overseeing charter schools and how the county  
22 board of education plans to expand its capacity to accommodate  
23 additional charter schools. The plan shall, at a minimum, ensure  
24 compliance with Section 47604.32 and shall outline the provisions  
25 of any memorandum of understanding that may be necessary  
26 between the charter school and the participating chartering  
27 authority.

28 (5) Assurance that the participating chartering authority will  
29 generally align with standards of charter authorizing and oversight  
30 approved by the state board to ensure quality and proper levels of  
31 accountability for performance.

32 (6) A plan for annual reporting to the state board and for an  
33 annual public meeting in the county in which charter schools  
34 authorized by the county board of education are located that  
35 describes chartering activities and the academic performance and  
36 fiscal viability of each charter school authorized pursuant to this  
37 section.

38 (c) The state board shall establish a process to evaluate proposals  
39 submitted in accordance with subdivision (b) and select no more

1 than ~~five~~ *three* of the ~~highest-quality~~ *highest-quality* applications  
2 to participate in the pilot program.

3 (d) (1) The state board shall annually evaluate and report to the  
4 Legislature on the performance of the participating chartering  
5 authorities and each of the charter schools approved pursuant to  
6 the pilot program, and may require the participating chartering  
7 authority to submit annual reports as necessary to meet this  
8 requirement. ~~A report to be submitted pursuant to this paragraph~~  
9 ~~to the Legislature shall be submitted in compliance with Section~~  
10 ~~9795 of the Government Code.~~

11 (2) ~~At the end of seven years of operating the pilot program,~~  
12 ~~the~~ *On or before June 30, 2024, the state board shall submit a*  
13 *final report to the Legislature with conclusions about the success*  
14 *or challenges of the pilot program and whether any statutory*  
15 *changes are recommended to implement the conclusions. The state*  
16 *board may extend the authority for any of the pilot program*  
17 ~~participants,~~ *participants to continue to authorize and oversee the*  
18 *charter schools approved pursuant to this section, or, if the state*  
19 *board finds that a participating county board of education has been*  
20 *unable to provide reasonable oversight over its charter schools,*  
21 *the state board may terminate the authority of any of the*  
22 *participants. If the state board terminates the authority of a*  
23 *participating county board of education, the oversight of a charter*  
24 *school authorized by that county board of education pursuant to*  
25 *this section shall be transferred to the state board or to the*  
26 *governing board of the school district in which the charter school*  
27 *operates.*

28 (3) (A) *A report submitted to the Legislature pursuant to*  
29 *paragraphs (1) and (2) shall be submitted in compliance with*  
30 *Section 9795 of the Government Code.*

31 (B) *The reporting requirement pursuant to paragraphs (1) and*  
32 *(2) shall become inoperative on June 30, 2028, pursuant to Section*  
33 *10231.5 of the Government Code.*

34 (e) (1) ~~A participating chartering authority shall align charter~~  
35 ~~approvals to the~~ *Except for charter schools that meet the conditions*  
36 *pursuant to subdivision (f), a participating chartering authority*  
37 *may only approve charter schools that will operate within its*  
38 *county or an adjacent county, and any other geographic constraints*  
39 *imposed by the state board.*

1 ~~(2) Except as specified in paragraph (1), a charter school~~  
2 ~~authorized by a participating chartering authority is exempt from~~  
3 ~~Section 47605.1 and the geographic restrictions imposed pursuant~~  
4 ~~to Section 47605.~~

5 *(2) In order to ensure access for parents and other members of*  
6 *the community, a charter school shall ensure that any meeting of*  
7 *the governing body of the charter school be accessible in a*  
8 *teleconference location in the county that has authorized the*  
9 *charter school and any county in which the charter school*  
10 *operates.*

11 (f) (1) A nonprofit public benefit corporation that operates more  
12 than one charter school in the state may petition a county board  
13 of education participating in the pilot program to consolidate *some*  
14 *or* all of its existing and future charter schools under the jurisdiction  
15 of a single chartering authority that has been approved by the state  
16 board in accordance with this section for this purpose. ~~A~~

17 (2) A chartering authority that opts to accept the authorizing  
18 and oversight for an organization with multiple charter schools  
19 shall first receive approval from the state board to authorize and  
20 oversee charter schools beyond its typical geographic jurisdiction.  
21 ~~It~~ *A charter school authorized by a participating chartering*  
22 *authority is exempt from Section 47605.1 and the geographic*  
23 *restrictions imposed pursuant to Section 47605, if authorized by*  
24 *the state board to do so.*

25 (3) *In addition to the requirements of subdivision (b), the request*  
26 *shall include a process for the authorizing county board of*  
27 *education to review the overall fiscal and operational health of the*  
28 *charter organization as part of its oversight. The authorizing county*  
29 *board of education may approve only one charter organization*  
30 *pursuant to this subdivision. For purposes of subdivision (a), a*  
31 *charter organization approved under this subdivision shall count*  
32 *as one charter school and may transfer oversight of up to 10*  
33 *existing individual charter schools to the county board of*  
34 *education. A charter organization approved pursuant to this*  
35 *subdivision may add no more than one new charter school every*  
36 *other year for the length of the pilot program, and subject to*  
37 *approval by the county board of education.*

38 (4) *In order to ensure access to parents and other members of*  
39 *the community, a charter organization with multiple charter*  
40 *schools in multiple counties shall ensure that any meeting of the*

1 *governing body of the charter organization be accessible in a*  
 2 *teleconference location in each county in which the charter*  
 3 *organization has been authorized to operate a charter school.*

4 (g) Notwithstanding the geographic restriction of subdivision  
 5 (k) of ~~section~~ *Section 47605*, and in addition to the authority  
 6 provided in subdivision (k) of *Section 47605*, the state board may  
 7 designate one or more entities to oversee charter schools that it  
 8 approves pursuant to subdivision (j) of *Section 47605* in accordance  
 9 with the chartering authority approval process in this section.

10 (h) An operating charter school that changes chartering  
 11 authorities as a result of *approval* in this section shall continue to  
 12 operate under the terms and conditions of its approved charter and  
 13 shall not be deemed a new charter school. The charter school shall  
 14 retain all of its financial and operational practices and status as a  
 15 continuing charter school, including, but not limited to, funding  
 16 eligibility, funding rates under the local control funding formula,  
 17 demographic data, school codes, employment, enrollment  
 18 eligibility, and accountability status.

19 (i) *Notwithstanding Section 47613, a participating chartering*  
 20 *authority may charge for the actual costs of supervisory oversight,*  
 21 *management of the pilot, and reporting to the state board pursuant*  
 22 *to paragraph (6) of subdivision (b) in an amount no greater than*  
 23 *3 percent of the pilot charter schools' revenues. Accounting for*  
 24 *the use of oversight fees collected, and an evaluation of the*  
 25 *adequacy of oversight fees received, shall be included in the annual*  
 26 *reports submitted pursuant to subdivision (d).*

27 (i)

28 (j) Except where explicitly exempt, a participating chartering  
 29 authority shall comply with all laws and requirements of chartering  
 30 authorities imposed by this chapter, including all of the provisions  
 31 related to charter school approval, oversight, renewal, and  
 32 revocation. A charter school authorized by a county board of  
 33 education pursuant to this section shall comply with all of the  
 34 provisions applicable to charter schools pursuant to this chapter  
 35 except where explicitly exempted by this section.

36 (j)

37 (k) Nothing in this section shall be construed to limit or change  
 38 the chartering authority of school districts, county boards of  
 39 education, or the state board pursuant to *Section 47605, 47605.5,*  
 40 *47605.6, 47605.8 47605.8, or 47606.*

1 ~~(k)~~

2 (l) The state board *or a participating chartering authority* may  
3 solicit and receive grants from private nonprofit foundations and  
4 organizations for the purpose of funding the *startup and*  
5 ~~administration~~ *of, or research and reporting on,* the pilot  
6 program established under this section.

7 ~~(t)~~

8 (m) For purposes of this section, the following definitions apply:

9 (1) “Participating chartering authority” means a county board  
10 of education selected to participate in the pilot program authorized  
11 by this section.

12 (2) “Pilot program” means the Chartering Authority Pilot  
13 Program established pursuant to this section.





AMENDED IN SENATE APRIL 24, 2017

**SENATE BILL**

**No. 808**

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**Introduced by Senator Mendoza**

February 17, 2017

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An act to amend Sections 47604.33, 47604.5, 47605, 47605.1, 47607, 47613, and 47651 of, to add Section 47605.9 to, and to repeal Sections 47605.5, 47605.6, 47605.8, and 47607.5 of, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 808, as amended, Mendoza. Charter schools: chartering authorities and approvals.

~~Existing~~

(1) *Existing* law, the Charter Schools Act of 1992, provides for the establishment and operation of charter schools. Existing law generally requires a petition to establish a charter school to be submitted to the governing board of a school district, and, under specified circumstances, authorizes a petition to be submitted to and approved by a county board of education or the State Board of Education. Existing law provides that a county board of education may approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by a county office of education. Existing law also provides that a petition for the operation of a charter school may be submitted directly to the state board and that the state board has authority to approve a charter for the operation of a state charter school that may operate at multiple sites throughout the state.

This bill would repeal those provisions authorizing a county board of education or the state board to approve a petition to establish a charter

school and would specify that, on and after January 1, 2018, a petition to establish a charter school may not be approved by a county board of education or the state board and may be submitted only to the school district the boundaries within which the charter school would be located. The bill would provide that charter schools operating under a charter approved by a county board of education or the state board may continue to operate under those charters only until the date on which the charter is required to be renewed.

~~Existing law provides that the governing board of a school district shall not deny a petition to establish a charter school unless it makes written factual findings in support of one or more specific findings.~~

~~This bill would authorize the governing board of a school district to also deny a petition if it makes written factual findings in support of the fact that granting the petition would impose financial hardship on the school district.~~

*(2) Under existing law, a charter school that is unable to locate within the jurisdiction of the chartering school district may, under specified circumstances, establish a site outside of the boundaries of the school district but within the county in which the school district is located.*

*This bill would delete that provision.*

~~Existing~~

*(3) Existing law provides that if a petition to establish a charter school is denied by the governing board of a school district, the petitioner may submit the petition to the county board of education, which may grant or deny the petition.*

This bill would repeal those provisions and would instead provide that a petitioner may appeal the denial of a petition to the county board of education, which may consider the appeal only if the appeal alleges that the governing board of the school district committed a procedural violation in reviewing the petition. The bill would provide that if a county board of education finds, by substantial evidence, that the governing board of the school district committed a procedural violation in reviewing the petition, the county board of education shall remand the petition to the school district for reconsideration.

~~Existing~~

*(4) Existing law provides that a charter school may appeal a school district's decision to revoke the charter school's charter to the county board of education and, if the county board of education upholds the*

decision, to appeal the county board of education’s decision to the state board.

This bill would delete those provisions and would instead authorize a charter school, upon revocation of its charter by a school district, to appeal the decision to the county board of education to consider only whether the school district committed a procedural violation in making its decision and, if the county board of education finds a procedural violation was committed, to remand the charter school back to the school district to reconsider its decision to revoke the charter. ~~The bill would provide that if the school district affirms its decision to revoke the charter or if the charter school wants to appeal the school district’s decision because the findings made by the school district are not supported by substantial evidence, the charter school may seek judicial review.~~

~~This~~

(5) *This bill would also make other related changes and conforming and nonsubstantive changes.*

~~To~~

(6) *To the extent the bill would impose additional requirements on local educational agencies and charter schools, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 47604.33 of the Education Code is  
2 amended to read:

3 47604.33. (a) Each charter school shall annually prepare and  
4 submit the following reports to its chartering authority and the  
5 county superintendent of schools:

6 (1) On or before July 1, a preliminary budget. For a charter  
7 school in its first year of operation, the information submitted

1 pursuant to subdivision (g) of Section 47605 satisfies this  
2 requirement.

3 (2) On or before July 1, a local control and accountability plan  
4 and an annual update to the local control and accountability plan  
5 required pursuant to Section 47606.5.

6 (3) On or before December 15, an interim financial report. This  
7 report shall reflect changes through October 31.

8 (4) On or before March 15, a second interim financial report.  
9 This report shall reflect changes through January 31.

10 (5) On or before September 15, a final unaudited report for the  
11 full prior year.

12 (b) The chartering authority shall use any financial information  
13 it obtains from the charter school, including, but not limited to,  
14 the reports required by this section, to assess the fiscal condition  
15 of the charter school pursuant to paragraph (4) of subdivision (a)  
16 of Section 47604.32.

17 (c) The cost of performing the duties required by this section  
18 shall be funded with supervisorial oversight fees collected pursuant  
19 to Section 47613.

20 SEC. 2. Section 47604.5 of the Education Code is amended to  
21 read:

22 47604.5. The state board may, based upon the recommendation  
23 of the Superintendent, take appropriate action, including, but not  
24 limited to, revocation of the school’s charter, when the state board  
25 finds any of the following:

26 (a) Gross financial mismanagement that jeopardizes the financial  
27 stability of the charter school.

28 (b) Illegal or substantially improper use of charter school funds  
29 for the personal benefit of any officer, director, or fiduciary of the  
30 charter school.

31 (c) Substantial and sustained departure from measurably  
32 successful practices such that continued departure would jeopardize  
33 the educational development of the charter school’s pupils.

34 (d) Failure to improve pupil outcomes across multiple state and  
35 school priorities identified in the charter pursuant to subparagraph  
36 (A) of paragraph (5) of subdivision (b) of Section 47605 or  
37 subparagraph (A) of paragraph (5) of subdivision (d) of Section  
38 47605.6.

39 SEC. 3. Section 47605 of the Education Code is amended to  
40 read:

1 47605. (a) (1) Except as set forth in paragraph (2), a petition  
2 for the establishment of a charter school within a school district  
3 may be circulated by one or more persons seeking to establish the  
4 charter school. A petition for the establishment of a charter school  
5 shall identify a single charter school that will operate within the  
6 geographic boundaries of that school district. A charter school  
7 may propose to operate at multiple sites within the school district  
8 if each location is identified in the charter school petition. The  
9 petition may be submitted to the governing board of the school  
10 district for review after either of the following conditions is met:

11 (A) The petition is signed by a number of parents or legal  
12 guardians of pupils that is equivalent to at least one-half of the  
13 number of pupils that the charter school estimates will enroll in  
14 the charter school for its first year of operation.

15 (B) The petition is signed by a number of teachers that is  
16 equivalent to at least one-half of the number of teachers that the  
17 charter school estimates will be employed at the charter school  
18 during its first year of operation.

19 (2) A petition that proposes to convert an existing public school  
20 to a charter school that would not be eligible for a loan pursuant  
21 to subdivision (c) of Section 41365 may be circulated by one or  
22 more persons seeking to establish the charter school. The petition  
23 may be submitted to the governing board of the school district for  
24 review after the petition is signed by not less than 50 percent of  
25 the permanent status teachers currently employed at the public  
26 school to be converted.

27 (3) A petition shall include a prominent statement that a  
28 signature on the petition means that the parent or legal guardian  
29 is meaningfully interested in having his or her child or ward attend  
30 the charter school, or in the case of a teacher's signature, means  
31 that the teacher is meaningfully interested in teaching at the charter  
32 school. The proposed charter shall be attached to the petition.

33 (4) After receiving approval of its petition, a charter school that  
34 proposes to establish operations at one or more additional sites  
35 shall request a material revision to its charter and shall notify the  
36 authority that granted its charter of those additional locations. The  
37 authority that granted its charter shall consider whether to approve  
38 those additional locations at an open, public meeting. If the  
39 additional locations are approved, there shall be a material revision  
40 to the charter school's charter.

1 ~~(5) A charter school that is unable to locate within the~~  
2 ~~jurisdiction of the chartering school district may establish one site~~  
3 ~~outside the boundaries of the school district, but within the county~~  
4 ~~in which that school district is located, if the school district within~~  
5 ~~the jurisdiction of which the charter school proposes to operate is~~  
6 ~~notified in advance of the charter petition approval, the county~~  
7 ~~superintendent of schools and the Superintendent are notified of~~  
8 ~~the location of the charter school before it commences operations,~~  
9 ~~and either of the following circumstances exists:~~

10 ~~(A) The school has attempted to locate a single site or facility~~  
11 ~~to house the entire program, but a site or facility is unavailable in~~  
12 ~~the area in which the school chooses to locate.~~

13 ~~(B) The site is needed for temporary use during a construction~~  
14 ~~or expansion project.~~

15 ~~(6)~~

16 (5) Commencing January 1, 2003, a petition to establish a charter  
17 school shall not be approved to serve pupils in a grade level that  
18 is not served by the school district of the governing board  
19 considering the petition, unless the petition proposes to serve pupils  
20 in all of the grade levels served by that school district.

21 (b) No later than 30 days after receiving a petition, in accordance  
22 with subdivision (a), the governing board of the school district  
23 shall hold a public hearing on the provisions of the charter, at  
24 which time the governing board of the school district shall consider  
25 the level of support for the petition by teachers employed by the  
26 school district, other employees of the school district, and parents.  
27 Following review of the petition and the public hearing, the  
28 governing board of the school district shall either grant or deny  
29 the charter within 60 days of receipt of the petition, provided,  
30 however, that the date may be extended by an additional 30 days  
31 if both parties agree to the extension. In reviewing petitions for  
32 the establishment of charter schools pursuant to this section, the  
33 chartering authority shall be guided by the intent of the Legislature  
34 that charter schools are and should become an integral part of the  
35 California educational system and that the establishment of charter  
36 schools should be encouraged. The governing board of the school  
37 district shall grant a charter for the operation of a school under this  
38 part if it is satisfied that granting the charter is consistent with  
39 sound educational practice. The governing board of the school  
40 district shall not deny a petition for the establishment of a charter

1 school unless it makes written factual findings, specific to the  
2 particular petition, setting forth specific facts to support one or  
3 more of the following findings:

4 (1) The charter school presents an unsound educational program  
5 for the pupils to be enrolled in the charter school.

6 (2) The petitioners are demonstrably unlikely to successfully  
7 implement the program set forth in the petition.

8 (3) The petition does not contain the number of signatures  
9 required by subdivision (a).

10 (4) The petition does not contain an affirmation of each of the  
11 conditions described in subdivision (d).

12 (5) The petition does not contain reasonably comprehensive  
13 descriptions of all of the following:

14 (A) (i) The educational program of the charter school, designed,  
15 among other things, to identify those whom the charter school is  
16 attempting to educate, what it means to be an “educated person”  
17 in the 21st century, and how learning best occurs. The goals  
18 identified in that program shall include the objective of enabling  
19 pupils to become self-motivated, competent, and lifelong learners.

20 (ii) The annual goals for the charter school for all pupils and  
21 for each subgroup of pupils identified pursuant to Section 52052,  
22 to be achieved in the state priorities, as described in subdivision  
23 (d) of Section 52060, that apply for the grade levels served, or the  
24 nature of the program operated, by the charter school, and specific  
25 annual actions to achieve those goals. A charter petition may  
26 identify additional school priorities, the goals for the school  
27 priorities, and the specific annual actions to achieve those goals.

28 (iii) If the proposed charter school will serve high school pupils,  
29 the manner in which the charter school will inform parents about  
30 the transferability of courses to other public high schools and the  
31 eligibility of courses to meet college entrance requirements.  
32 Courses offered by the charter school that are accredited by the  
33 Western Association of Schools and Colleges may be considered  
34 transferable and courses approved by the University of California  
35 or the California State University as creditable under the “A” to  
36 “G” admissions criteria may be considered to meet college entrance  
37 requirements.

38 (B) The measurable pupil outcomes identified for use by the  
39 charter school. “Pupil outcomes,” for purposes of this part, means  
40 the extent to which all pupils of the charter school demonstrate



1 that they have attained the skills, knowledge, and attitudes specified  
2 as goals in the charter school's educational program. Pupil  
3 outcomes shall include outcomes that address increases in pupil  
4 academic achievement both schoolwide and for all groups of pupils  
5 served by the charter school, as that term is defined in subparagraph  
6 (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil  
7 outcomes shall align with the state priorities, as described in  
8 subdivision (d) of Section 52060, that apply for the grade levels  
9 served, or the nature of the program operated, by the charter school.

10 (C) The method by which pupil progress in meeting those pupil  
11 outcomes is to be measured. To the extent practicable, the method  
12 for measuring pupil outcomes for state priorities shall be consistent  
13 with the way information is reported on a school accountability  
14 report card.

15 (D) The governance structure of the charter school, including,  
16 but not limited to, the process to be followed by the charter school  
17 to ensure parental involvement.

18 (E) The qualifications to be met by individuals to be employed  
19 by the charter school.

20 (F) The procedures that the charter school will follow to ensure  
21 the health and safety of pupils and staff. These procedures shall  
22 include the requirement that each employee of the charter school  
23 furnish the charter school with a criminal record summary as  
24 described in Section 44237.

25 (G) The means by which the charter school will achieve a racial  
26 and ethnic balance among its pupils that is reflective of the general  
27 population residing within the territorial jurisdiction of the school  
28 district to which the charter petition is submitted.

29 (H) Admission requirements, if applicable.

30 (I) The manner in which annual, independent financial audits  
31 shall be conducted, which shall employ generally accepted  
32 accounting principles, and the manner in which audit exceptions  
33 and deficiencies shall be resolved to the satisfaction of the  
34 chartering authority.

35 (J) The procedures by which pupils can be suspended or  
36 expelled.

37 (K) The manner by which staff members of the charter schools  
38 will be covered by the State Teachers' Retirement System, the  
39 Public Employees' Retirement System, or federal social security.

1 (L) The public school attendance alternatives for pupils residing  
2 within the school district who choose not to attend charter schools.

3 (M) The rights of an employee of the school district upon  
4 leaving the employment of the school district to work in a charter  
5 school, and of any rights of return to the school district after  
6 employment at a charter school.

7 (N) The procedures to be followed by the charter school and  
8 the entity granting the charter to resolve disputes relating to  
9 provisions of the charter.

10 (O) The procedures to be used if the charter school closes. The  
11 procedures shall ensure a final audit of the charter school to  
12 determine the disposition of all assets and liabilities of the charter  
13 school, including plans for disposing of any net assets and for the  
14 maintenance and transfer of pupil records.

15 (6) The petition does not contain a declaration of whether or  
16 not the charter school shall be deemed the exclusive public  
17 employer of the employees of the charter school for purposes of  
18 Chapter 10.7 (commencing with Section 3540) of Division 4 of  
19 Title 1 of the Government Code.

20 ~~(7) Granting the petition would impose financial hardship on~~  
21 ~~the school district.~~

22 (c) (1) Charter schools shall meet all statewide standards and  
23 conduct the pupil assessments required pursuant to Sections 60605  
24 and 60851 and any other statewide standards authorized in statute  
25 or pupil assessments applicable to pupils in noncharter public  
26 schools.

27 (2) Charter schools shall, on a regular basis, consult with their  
28 parents, legal guardians, and teachers regarding the charter school's  
29 educational programs.

30 (d) (1) In addition to any other requirement imposed under this  
31 part, a charter school shall be nonsectarian in its programs,  
32 admission policies, employment practices, and all other operations,  
33 shall not charge tuition, and shall not discriminate against a pupil  
34 on the basis of the characteristics listed in Section 220. Except as  
35 provided in paragraph (2), admission to a charter school shall not  
36 be determined according to the place of residence of the pupil, or  
37 of his or her parent or legal guardian, within this state, except that  
38 an existing public school converting partially or entirely to a charter  
39 school under this part shall adopt and maintain a policy giving

1 admission preference to pupils who reside within the former  
2 attendance area of that public school.

3 (2) (A) A charter school shall admit all pupils who wish to  
4 attend the charter school.

5 (B) If the number of pupils who wish to attend the charter school  
6 exceeds the charter school's capacity, attendance, except for  
7 existing pupils of the charter school, shall be determined by a  
8 public random drawing. Preference shall be extended to pupils  
9 currently attending the charter school and pupils who reside in the  
10 school district except as provided for in Section 47614.5. Other  
11 preferences may be permitted by the chartering authority on an  
12 individual school basis and only if consistent with the law.

13 (C) In the event of a drawing, the chartering authority shall  
14 make reasonable efforts to accommodate the growth of the charter  
15 school and shall not take any action to impede the charter school  
16 from expanding enrollment to meet pupil demand.

17 (3) If a pupil is expelled or leaves the charter school without  
18 graduating or completing the school year for any reason, the charter  
19 school shall notify the superintendent of the school district of the  
20 pupil's last known address within 30 days, and shall, upon request,  
21 provide that school district with a copy of the cumulative record  
22 of the pupil, including a transcript of grades or report card, and  
23 health information. This paragraph applies only to pupils subject  
24 to compulsory full-time education pursuant to Section 48200.

25 (e) The governing board of a school district shall not require an  
26 employee of the school district to be employed in a charter school.

27 (f) The governing board of a school district shall not require a  
28 pupil enrolled in the school district to attend a charter school.

29 (g) The governing board of a school district shall require that  
30 the petitioner or petitioners provide information regarding the  
31 proposed operation and potential effects of the charter school,  
32 including, but not limited to, the facilities to be used by the charter  
33 school, the manner in which administrative services of the charter  
34 school are to be provided, and potential civil liability effects, if  
35 any, upon the charter school and upon the school district. The  
36 description of the facilities to be used by the charter school shall  
37 specify where the charter school intends to locate. The petitioner  
38 or petitioners also shall be required to provide financial statements  
39 that include a proposed first-year operational budget, including

1 startup costs, and cashflow and financial projections for the first  
2 three years of operation.

3 (h) In reviewing petitions for the establishment of charter  
4 schools within the school district, the governing board of the school  
5 district shall give preference to petitions that demonstrate the  
6 capability to provide comprehensive learning experiences to pupils  
7 identified by the petitioner or petitioners as academically low  
8 achieving pursuant to the standards established by the department  
9 under Section 54032, as that section read before July 19, 2006.

10 (i) Upon the approval of the petition by the governing board of  
11 the school district, the petitioner or petitioners shall provide written  
12 notice of that approval, including a copy of the petition, to the  
13 applicable county superintendent of schools, the department, and  
14 the state board.

15 (j) ~~(H)~~ If the governing board of a school district denies a  
16 petition, the petitioner may appeal that denial to the county board  
17 of education. The county board of education may consider an  
18 appeal pursuant to this subdivision only if the appeal alleges that  
19 the governing board of the school district committed a procedural  
20 violation under this part in reviewing the petition. If the county  
21 board of education finds, by substantial evidence, that the  
22 governing board of the school district committed a procedural  
23 violation under this part in reviewing the petition, the county board  
24 of education shall remand the petition to the school district for  
25 reconsideration.

26 ~~(2) If the county board of education fails to act on an appeal~~  
27 ~~within 120 days of receipt, the decision of the governing board of~~  
28 ~~the school district to deny a petition shall be subject to judicial~~  
29 ~~review.~~

30 (k) Teachers in charter schools shall hold a Commission on  
31 Teacher Credentialing certificate, permit, or other document  
32 equivalent to that which a teacher in other public schools would  
33 be required to hold. These documents shall be maintained on file  
34 at the charter school and are subject to periodic inspection by the  
35 chartering authority. It is the intent of the Legislature that charter  
36 schools be given flexibility with regard to noncore, noncollege  
37 preparatory courses.

38 (l) A charter school shall transmit a copy of its annual,  
39 independent financial audit report for the preceding fiscal year, as  
40 described in subparagraph (I) of paragraph (5) of subdivision (b),

1 to its chartering entity, the Controller, the county superintendent  
2 of schools of the county in which the charter school is sited and  
3 the department by December 15 of each year. This subdivision  
4 does not apply if the audit of the charter school is encompassed in  
5 the audit of the chartering entity pursuant to Section 41020.

6 SEC. 4. Section 47605.1 of the Education Code is amended to  
7 read:

8 47605.1. (a) (1) Notwithstanding any other law, a charter  
9 school that is granted a charter from the governing board of a  
10 school district or county office of education after July 1, 2002, and  
11 commences providing educational services to pupils on or after  
12 July 1, 2002, shall locate in accordance with the geographic and  
13 site limitations of this part.

14 (2) A charter school that receives approval of its charter from  
15 a governing board of a school district, a county office of education,  
16 or the state board before July 1, 2002, but does not commence  
17 operations until after January 1, 2003, shall be subject to the  
18 geographic limitations of this part, in accordance with subdivision  
19 (e).

20 (b) This section is not intended to affect the admission  
21 requirements contained in subdivision (d) of Section 47605.

22 (c) Notwithstanding any other law, a charter school may  
23 establish a resource center, meeting space, or other satellite facility  
24 located in a county adjacent to that in which the charter school is  
25 authorized if the following conditions are met:

26 (1) The facility is used exclusively for the educational support  
27 of pupils who are enrolled in nonclassroom-based independent  
28 study of the charter school.

29 (2) The charter school provides its primary educational services  
30 in, and a majority of the pupils it serves are residents of, the county  
31 in which the charter school is authorized.

32 (d) Notwithstanding subdivision (a) or subdivision (a) of Section  
33 47605, a charter school that is unable to locate within the  
34 geographic boundaries of the chartering school district may  
35 establish one site outside the boundaries of the school district, but  
36 within the county within which that school district is located, if  
37 the school district in which the charter school proposes to operate  
38 is notified in advance of the charter petition approval, the county  
39 superintendent of schools is notified of the location of the charter

1 school before it commences operations, and either of the following  
2 circumstances exist:

3 (1) The charter school has attempted to locate a single site or  
4 facility to house the entire program, but such a facility or site is  
5 unavailable in the area in which the charter school chooses to  
6 locate.

7 (2) The site is needed for temporary use during a construction  
8 or expansion project.

9 (e) (1) For a charter school that was granted approval of its  
10 charter before July 1, 2002, and provided educational services to  
11 pupils before July 1, 2002, this section only applies to new  
12 educational services or schoolsites established or acquired by the  
13 charter school on or after July 1, 2002.

14 (2) For a charter school that was granted approval of its charter  
15 before July 1, 2002, but did not provide educational services to  
16 pupils before July 1, 2002, this section only applies upon the  
17 expiration of a charter that is in existence on January 1, 2003.

18 (3) Notwithstanding other implementation timelines in this  
19 section, by June 30, 2005, or upon the expiration of a charter that  
20 is in existence on January 1, 2003, whichever is later, all charter  
21 schools shall be required to comply with this section for schoolsites  
22 at which educational services are provided to pupils before or after  
23 July 1, 2002, regardless of whether the charter school initially  
24 received approval of its charter school petition before July 1, 2002.  
25 To achieve compliance with this section, a charter school shall be  
26 required to receive approval of a charter petition in accordance  
27 with this section and Section 47605.

28 (4) This section is not intended to affect the authority of a  
29 governmental entity to revoke a charter that is granted on or before  
30 the effective date of this section.

31 (f) Notwithstanding any other law, the jurisdictional limitations  
32 set forth in this section do not apply to a charter school that  
33 provides instruction exclusively in partnership with any of the  
34 following:

35 (1) The federal Workforce Innovation and Opportunity Act (29  
36 U.S.C. Sec. 3101 et seq.).

37 (2) Federally affiliated Youth Build programs.

38 (3) Federal job corps training or instruction provided pursuant  
39 to a memorandum of understanding with the federal provider.

1 (4) The California Conservation Corps or local conservation  
2 corps certified by the California Conservation Corps pursuant to  
3 Sections 14507.5 or 14406 of the Public Resources Code.

4 (5) Instruction provided to juvenile court school pupils pursuant  
5 to subdivision (b) of Section 42238.18 or pursuant to Section 1981  
6 for individuals who are placed in a residential facility.

7 SEC. 5. Section 47605.5 of the Education Code is repealed.

8 SEC. 6. Section 47605.6 of the Education Code is repealed.

9 SEC. 7. Section 47605.8 of the Education Code is repealed.

10 SEC. 8. Section 47605.9 is added to the Education Code, to  
11 read:

12 47605.9. (a) On and after January 1, 2018, a petition to  
13 establish a charter school under this part may be submitted only  
14 to the governing board of the school district the boundaries within  
15 which the charter school proposes to locate.

16 (b) A charter school operating under a charter approved by a  
17 county board of education or the state board pursuant to Section  
18 47605, 47605.5, 47605.6, or 47605.8, as those sections read on  
19 January 1, 2017, may continue to operate under the authority of  
20 those chartering authorities only until the date on which the charter  
21 is up for renewal, at which point the charter school shall submit a  
22 petition for renewal to the governing board of the school district  
23 the boundaries within which the charter school is located.

24 SEC. 9. Section 47607 of the Education Code is amended to  
25 read:

26 47607. (a) (1) A charter may be granted for a period not to  
27 exceed five years and may be granted one or more subsequent  
28 renewals by the chartering authority for a period of five years for  
29 each renewal. A material revision of the provisions of a charter  
30 petition may be made only with the approval of the chartering  
31 authority. The chartering authority may inspect or observe any  
32 part of the charter school at any time.

33 (2) Renewals and material revisions of charters are governed  
34 by the standards and criteria in Section 47605, and shall include,  
35 but not be limited to, a reasonably comprehensive description of  
36 any new requirement of charter schools enacted into law after the  
37 charter was originally granted or last renewed.

38 (3) (A) The chartering authority shall consider increases in  
39 pupil academic achievement for all groups of pupils served by the

1 charter school as the most important factor in determining whether  
2 to grant a charter renewal.

3 (B) For purposes of this section, “all groups of pupils served  
4 by the charter school” means a numerically significant pupil  
5 subgroup, as defined by paragraph (3) of subdivision (a) of Section  
6 52052, served by the charter school.

7 (b) Commencing on January 1, 2005, or after a charter school  
8 has been in operation for four years, whichever date occurs later,  
9 a charter school shall meet at least one of the following criteria  
10 before receiving a charter renewal pursuant to paragraph (1) of  
11 subdivision (a):

12 (1) Attained its Academic Performance Index (API) growth  
13 target in the prior year or in two of the last three years both  
14 schoolwide and for all groups of pupils served by the charter  
15 school.

16 (2) Ranked in deciles 4 to 10, inclusive, on the API in the prior  
17 year or in two of the last three years.

18 (3) Ranked in deciles 4 to 10, inclusive, on the API for a  
19 demographically comparable school in the prior year or in two of  
20 the last three years.

21 (4) (A) The entity that granted the charter determines that the  
22 academic performance of the charter school is at least equal to the  
23 academic performance of the public schools that the charter school  
24 pupils would otherwise have been required to attend, as well as  
25 the academic performance of the schools in the school district in  
26 which the charter school is located, taking into account the  
27 composition of the pupil population that is served at the charter  
28 school.

29 (B) The determination made pursuant to this paragraph shall be  
30 based upon all of the following:

31 (i) Documented and clear and convincing data.

32 (ii) Pupil achievement data from assessments, including, but  
33 not limited to, the California Assessment of Student Performance  
34 and Progress established by Article 4 (commencing with Section  
35 60640) of Chapter 5 of Part 33 for demographically similar pupil  
36 populations in the comparison schools.

37 (iii) Information submitted by the charter school.

38 (C) A chartering authority shall submit to the Superintendent  
39 copies of supporting documentation and a written summary of the  
40 basis for any determination made pursuant to this paragraph. The



1 Superintendent shall review the materials and make  
2 recommendations to the chartering authority based on that review.  
3 The review may be the basis for a recommendation made pursuant  
4 to Section 47604.5.

5 (D) A charter renewal may not be granted to a charter school  
6 before 30 days after that charter school submits materials pursuant  
7 to this paragraph.

8 (5) Qualified for an alternative accountability system pursuant  
9 to subdivision (h) of Section 52052.

10 (c) (1) A charter may be revoked by the chartering authority  
11 under this chapter if the chartering authority finds, through a  
12 showing of substantial evidence, that the charter school did any  
13 of the following:

14 (A) Committed a material violation of any of the conditions,  
15 standards, or procedures set forth in the charter.

16 (B) Failed to meet or pursue any of the pupil outcomes identified  
17 in the charter.

18 (C) Failed to meet generally accepted accounting principles, or  
19 engaged in fiscal mismanagement.

20 (D) Violated any provision of law.

21 (2) The chartering authority shall consider increases in pupil  
22 academic achievement for all groups of pupils served by the charter  
23 school as the most important factor in determining whether to  
24 revoke a charter.

25 (d) Before revocation, the chartering authority shall notify the  
26 charter school of any violation of this section and give the charter  
27 school a reasonable opportunity to remedy the violation, unless  
28 the chartering authority determines, in writing, that the violation  
29 constitutes a severe and imminent threat to the health or safety of  
30 the pupils.

31 (e) Before revoking a charter for failure to remedy a violation  
32 pursuant to subdivision (d), and after expiration of the charter  
33 school's reasonable opportunity to remedy without successfully  
34 remedying the violation, the chartering authority shall provide a  
35 written notice of intent to revoke and notice of facts in support of  
36 revocation to the charter school. No later than 30 days after  
37 providing the notice of intent to revoke a charter, the chartering  
38 authority shall hold a public hearing, in the normal course of  
39 business, on the issue of whether evidence exists to revoke the  
40 charter. No later than 30 days after the public hearing, the

1 chartering authority shall issue a final decision to revoke or decline  
2 to revoke the charter, unless the chartering authority and the charter  
3 school agree to extend the issuance of the decision by an additional  
4 30 days. The chartering authority shall not revoke a charter, unless  
5 it makes written factual findings supported by substantial evidence,  
6 specific to the charter school, that support its findings.

7 (f) (1) If a school district is the chartering authority and it  
8 revokes a charter pursuant to this section, the charter school may  
9 appeal the revocation to the county board of education within 30  
10 days following the final decision of the chartering authority to  
11 consider only whether the school district committed a procedural  
12 violation in revoking the charter.

13 (2) In an appeal brought by a charter school, a county board of  
14 education shall determine only whether the school district  
15 committed a procedural violation in revoking the charter. If the  
16 county board determines that the school district committed a  
17 procedural violation in revoking the charter, the county board of  
18 education shall remand the charter school back to the school district  
19 to reconsider whether to revoke the charter school's charter.

20 ~~(3) If the county board of education does not issue a decision~~  
21 ~~on the appeal within 90 days of receipt, or the county board of~~  
22 ~~education upholds the revocation, the charter school may seek~~  
23 ~~judicial review in a court of competent jurisdiction.~~

24 ~~(4) If a school district after reconsideration upholds its decision~~  
25 ~~to revoke the charter or if the charter school wants to appeal a~~  
26 ~~school district's decision to revoke a charter because the findings~~  
27 ~~made by the school district pursuant to subdivision (c) are not~~  
28 ~~supported by substantial evidence, then the charter school may~~  
29 ~~seek judicial review.~~

30 ~~(5) A court may reverse the revocation decision if it determines~~  
31 ~~that the findings made by the chartering authority under subdivision~~  
32 ~~(c) are not supported by substantial evidence or may uphold the~~  
33 ~~revocation decision of the school district if it determines that the~~  
34 ~~findings made by the chartering authority under subdivision (c)~~  
35 ~~are supported by substantial evidence.~~

36 ~~(g) If the revocation decision of the chartering authority is~~  
37 ~~reversed on appeal, the school district that granted the charter shall~~  
38 ~~continue to be regarded as the chartering authority.~~

39 (h)

1 (g) During the pendency of an appeal filed under this section,  
 2 a charter school, whose revocation proceedings are based on  
 3 subparagraph (A) or (B) of paragraph (1) of subdivision (c), shall  
 4 continue to qualify as a charter school for funding and for all other  
 5 purposes of this part, and may continue to hold all existing grants,  
 6 resources, and facilities, in order to ensure that the education of  
 7 pupils enrolled in the charter school is not disrupted.

8 ~~(i)~~  
 9 (h) Immediately following the decision of a county board of  
 10 education to remand a decision of a school district to revoke a  
 11 charter back to the school district for reconsideration, the following  
 12 shall apply:

13 (1) The charter school shall qualify as a charter school for  
 14 funding and for all other purposes of this part.

15 (2) The charter school may continue to hold all existing grants,  
 16 resources, and facilities.

17 (3) Any funding, grants, resources, and facilities that had been  
 18 withheld from the charter school, or that the charter school had  
 19 otherwise been deprived of use, as a result of the revocation of the  
 20 charter shall be immediately reinstated or returned.

21 ~~(j)~~  
 22 (i) A final decision of a revocation or appeal of a revocation  
 23 pursuant to subdivision (c) shall be reported to the chartering  
 24 authority, the county board of education, and the department.

25 SEC. 10. Section 47607.5 of the Education Code is repealed.

26 SEC. 11. Section 47613 of the Education Code is amended to  
 27 read:

28 47613. (a) Except as set forth in subdivision (b), a chartering  
 29 authority may charge for the actual costs of supervisory oversight  
 30 of a charter school not to exceed 1 percent of the revenue of the  
 31 charter school.

32 (b) A chartering authority may charge for the actual costs of  
 33 supervisory oversight of a charter school not to exceed 3 percent  
 34 of the revenue of the charter school if the charter school is able to  
 35 obtain substantially rent free facilities from the chartering authority.

36 (c) A local educational agency that is given the responsibility  
 37 for supervisory oversight of a charter school, pursuant to  
 38 paragraph (1) of subdivision (k) of Section 47605, as it read on  
 39 January 1, 2017, may charge for the actual costs of supervisory  
 40 oversight, and administrative costs necessary to secure charter

1 school funding. A charter school that is charged for costs under  
2 this subdivision may not be charged pursuant to subdivision (a)  
3 or (b).

4 (d) This section does not prevent the charter school from  
5 separately purchasing administrative or other services from the  
6 chartering authority or any other source.

7 (e) For purposes of this section, “chartering authority” means  
8 a school district.

9 (f) For purposes of this section, “revenue of the charter school”  
10 means the amount received in the current fiscal year from the local  
11 control funding formula calculated pursuant to Section 42238.02,  
12 as implemented by Section 42238.03.

13 (g) For purposes of this section, “costs of supervisory  
14 oversight” include, but are not limited to, costs incurred pursuant  
15 to Section 47607.3.

16 SEC. 12. Section 47651 of the Education Code is amended to  
17 read:

18 47651. (a) A charter school may receive the state aid portion  
19 of the charter school’s total local control funding formula allocation  
20 pursuant to Section 42238.02, as implemented by Section 42238.03,  
21 directly or through the local educational agency that either grants  
22 its charter or was designated by the state board.

23 (1) In the case of a charter school that elects to receive its  
24 funding directly, the warrant shall be drawn in favor of the county  
25 superintendent of schools of the county in which the local  
26 educational agency that granted the charter, or was designated by  
27 the state board as the oversight agency pursuant to paragraph (1)  
28 of subdivision (k) of Section 47605, as it read on January 1, 2017,  
29 is located, for deposit to the appropriate funds or accounts of the  
30 charter school in the county treasury. The county superintendent  
31 of schools is authorized to establish appropriate funds or accounts  
32 in the county treasury for each charter school.

33 (2) In the case of a charter school that does not elect to receive  
34 its funding directly pursuant to this section, the warrant shall be  
35 drawn in favor of the county superintendent of schools of the  
36 county in which the local educational agency that granted the  
37 charter is located or was designated the oversight agency by the  
38 state board pursuant to paragraph (1) of subdivision (k) of Section  
39 47605, as it read on January 1, 2017, for deposit to the appropriate  
40 funds or accounts of the local educational agency.

1 (3) In the case of a charter school, the charter of which was  
2 granted by the state board before January 1, 2017, but for which  
3 the state board has not delegated oversight responsibilities pursuant  
4 to paragraph (1) of subdivision (k) of Section 47605, as it read on  
5 January 1, 2017, the warrant shall be drawn in favor of the county  
6 superintendent of schools in the county where the local educational  
7 agency is located that initially denied the charter that was later  
8 granted by the state board. The county superintendent of schools  
9 is authorized to establish appropriate funds or accounts in the  
10 county treasury for each charter school.

11 (b) On or before June 1 of each year, a charter school electing  
12 to receive its funding directly shall so notify the county  
13 superintendent of schools of the county in which the local  
14 educational agency that granted the charter is located or, in the  
15 case of charters for which the state board has designated an  
16 oversight agency pursuant to paragraph (1) of subdivision (k) of  
17 Section 47605, as it read on January 1, 2017, the county  
18 superintendent of schools of the county in which the designated  
19 oversight agency is located. An election to receive funding directly  
20 applies to all funding that the charter school is eligible to receive,  
21 including, but not limited to, the local control funding formula  
22 allocation pursuant to Section 42238.02, as implemented by Section  
23 42238.03, other state and federal categorical aid, and lottery funds.

24 SEC. 13. If the Commission on State Mandates determines  
25 that this act contains costs mandated by the state, reimbursement  
26 to local agencies and school districts for those costs shall be made  
27 pursuant to Part 7 (commencing with Section 17500) of Division  
28 4 of Title 2 of the Government Code.

O