

**Santa Monica-Malibu Unified School District  
Board of Education Meeting  
MINUTES**

**August 4, 2010**

A workshop of the Santa Monica-Malibu Unified School District Board of Education was held on Wednesday, August 4, 2010, in the District Administrative Offices: 1651 16<sup>th</sup> Street, Santa Monica, CA. The Board of Education called the meeting to order at 5:12 p.m. in the Board Room.

**I CALL TO ORDER**

A. Roll Call – Board of Education

Barry Snell

Kelly Pye – *excused absence*

Ben Allen

Oscar de la Torre – *left at 7:36pm*

Jose Escarce

Maria Leon-Vazquez

Ralph Mechur

B. Pledge of Allegiance

*Led by Mr. Allen*

**II WORKSHOP PROVIDING INFORMATION ON CHARTER SCHOOLS**

Local school boards are accountable to the community to provide a high-quality educational program that challenges all students. A group of parents from Malibu have indicated that they have an interest in starting a charter school. Even when students attend a charter school that has a separate governance structure and is granted significant freedom from state laws, the Board of Education maintains ultimate accountability if it is the entity that approved the charter. Staff from the Los Angeles County Office of Education (LACOE) will provide a workshop on charter schools that will include the board's role and responsibilities, as well as programmatic, attendance, and financial implications.

*Superintendent Cuneo introduced the LACOE team: Janis Isenberg, Project Director of the Charter Schools Office; Yolanda M. Benitez, Director of Williams Legislation; Marlene Dunn, Financial Advisory Services Officer; and Maurizio Smith, Unemployment Insurance Specialist. The handouts from the meeting can be found under Attachments at the end of these minutes. During the presentation from LACOE, board members asked the following questions and received the following answers.*

*Mr. Snell asked who determines the funding model for a charter school. Ms. Dunn replied that the petitioners choose either to be directly funded or locally funded in their petition; the district would then certify that choice. It is part of the annual agreement. Mr. Snell asked if the district was obligated to share revenue from parcel taxes or city funding with a charter school. Ms. Dunn said it was not.*

*Ms. Dunn clarified for Mr. Allen that most often a district's administrative costs to oversee a charter school exceed the maximum 1% fee districts are allowed to charge. Mr. Allen asked about special education and costs. Ms. Dunn replied that charter schools are not allowed to discriminate against enrolling a student. She added that, typically, there are fewer students with special needs in a charter school or those students have mild disabilities that are less expensive to serve. Special education costs will also be affected by whether or not the charter school is part of the SELPA. Mr. Allen asked about the repercussions of a charter school closing. Ms. Isenberg said the district would have to have immediate plans to incorporate those resident students back into the district as well as help out-of-district families reinstate with their resident districts.*

*Mr. de la Torre asked about a charter school's financial budgeting obligations. Ms. Dunn replied that a charter school, just like a district, must budget for the current year and two years going out. She cautioned that because charter schools are smaller entities and cannot transfer monies between funds like a whole district can, they tend to have a less stable cash flow and sometimes the recommended 3% financial reserve for districts is not enough for charter schools. She said a petition should include how the charter school plans to manage cash flow. Mr. de la Torre asked if a charter school was subject to Williams compliance. Ms. Benitez said they are not, but they can opt into the compliance requirement.*

*Dr. Escarce asked if a charter school could be required to participate in the district's gifting policy and Equity Fund program, or would that be prohibited. Ms. Dunn said that such details would need to be addressed in the Memorandum of Understanding.*

*Mr. Mechur asked who performs the charter school's financial duties. Ms. Dunn said some charter schools hire an independent accounting firm, while others have an agreement with their authorizing district, while still others hire LACOE. She said that if a charter school hires LACOE to provide financial services, that arrangement should be included in the Memorandum of Understanding.*

*Ms. Maez asked if a charter school was required to submit information to the district by certain dates leading up to the district's own required budget filing dates. Ms. Isenberg replied that such reporting date requirements could be included in the district's board policy and administrative regulation. She said that there are some required timelines in place, such as Prop 39 reporting.*

*The LACOE team further clarified that the district's board policy and administrative regulation on charter schools should have information about determining who will conduct the review of a charter school petition and what the process will be when a charter school fails to meet the stipulations of the Memorandum of Understanding with the district. They added that there is no set timeline for how long a district has to determine if a petition is complete. If the district denies a petition, the petitioners have 180 days to appeal to the county. LACOE reviews petitions and the Memorandum of Understanding between a district and charter school as one packet. Regarding charter school staff, teachers must decide if they will decertify from the union and work at-will for the charter school. The LACOE Team agreed that the best way for the board to better understand the charter school petition process would be for them to review actual petitions and Memorandums of Understanding, which they could provide. They said they would also provide the list of affirmations and assurances petitions are required to contain.*

### **III PUBLIC COMMENTS**

Public Comments is the time when members of the audience may address the Board of Education on items not scheduled on the meeting's agenda. All speakers are limited to three (3) minutes. When there is a large number of speakers, the Board may reduce the allotted time to two (2) minutes per speaker. The Brown Act (Government Code) states that Board members may not engage in discussion of issues raised during "III. Public Comments," except to ask clarifying questions, make a brief announcement, make a brief report on his or her own activities, or to refer the matter to staff. This Public Comment section is limited to twenty (20) minutes.

- *Ali Thonson, Marlo Hartsayker, and Robyn Ross addressed the board regarding establishing a charter school in Malibu.*

#### IV ADJOURNMENT

It was moved by Dr. Escarce, seconded by Mr. Allen, and voted 5/0 (Mr. de la Torre and Ms. Pye were absent) to adjourn the workshop at 7:51 p.m. The next regular meeting will be held on **Thursday, August 18, 2010**, at **5:30 p.m.** in the district office board room: 1651 16<sup>th</sup> Street, Santa Monica, CA 90404.

Approved: 8-18-10

Barry A. Snell  
President

[Signature]  
Superintendent

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## **ATTACHMENTS**

ATTACHED ARE THE FOLLOWING DOCUMENTS:

- Presentation: "Charter Schools: An Overview"
- Presentation: "Charter Schools: A Manual for Governance Teams"
- Document: "LACOE Information Bulletin No. 362"
- Document: "California Code of Regulations"
- Document: "Education Code"
- Document: "SMMUSD Board Policy and Administrative Regulation 0420.4 – Charter Schools"

## Los Angeles County Office of Education

### Charter Schools: *An Overview*

Santa Monica-Malibu Unified School  
District Board of Education  
August 4, 2010

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## California's Charter School Act 1992 (SB 1448)

### ***Preamble of California Charter Law (EC§47600)***

*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:*

- Improve pupil learning.
- Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
- Encourage the use of different and innovative teaching methods. Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- 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.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

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August 5, 2010

## What is a charter school?

***Public school that receives public funds under a written agreement (*charter*) that outlines student performance goals and educational services it will provide.***

- Excluded from many statutes and rules guiding traditional public schools
- Guarantees in its written agreement specified levels of student performance

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## Kinds of Charters

### ***Start-up or Conversion***

- Difference is with signature requirements
- Start-up:
  - parents representing 50% of projected first-year enrollment or
  - teachers representing 50% of the school's estimated first-year employment
- Conversion:
  - 50% of the teachers permanently employed at the school

*Petition must contain a "Prominent Statement" that parents / teachers are "meaningfully interested" in children attending / working at the school*

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## Funding

### ***Charter Funding Base:***

- General Purpose Block Grant
  - Based on statewide revenue limit averages including COLAs, \_  
deficits, and additional funding reductions
  - Estimated 2010-11 Per-ADA rates by grade levels:
    - K-3: \$4,769
    - 4-6: \$4,841
    - Santa Monica-Malibu USD's estimated 2010-11 revenue limit rate per  
ADA (as adjusted by deficits and additional funding reductions) is \_  
\$5,015
    - The district will receive an adjustment to their revenue limit for the  
difference between the charter school rate and the district rate.

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## Funding (cont.)

### ***Charter Funding Base:***

- Categorical Block Grant (AB 740)
  - Unrestricted funding representing several programs
  - Estimated 2010-11 per-ADA rate for all grade levels is \$399
- Additional Categorical Programs
  - Several other programs require participation and compliance with program requirements (for example, K-3 CSR)

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## Funding (cont.)

### ***Funding Models:***

- Direct Funded: Receive funding directly from county office of education
- Locally Funded: Receive funding through the authorizing district

### ***District Reimbursement (Cost to Charter):***

- 1% oversight fee charged to charter (District recovers actual cost of providing oversight)
- Prop 39 facilities fees (if applicable)

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## Petition Review Process

### ***Board Preparation:***

- Establish Board Policies
- Establish Procedures
- Determine who will Conduct Review
  - External Contractor
  - Internal Review Team: Educational, Legal, Fiscal
- Monitoring Expectations
  - Develop an MOU/Agreement

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## Petition Review Process

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### ***Basis of Review:***

- Consistent, fair, rigorous
- Petition fulfills legislative intent
- Petition contains all legal requirements
  - Affirmations and assurances
  - Description of the school: grades, size, location
  - 16 required elements are reasonably comprehensive (CCR standards)
  - Other Ed Code requirements are present
  - Board and petitioner are demonstrably likely to successfully implement
  - Sound educational program for all students to attend

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## Additional Petition Review Considerations

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### ***Additional Considerations:***

- Special Education
  - SELPA membership
  - School of district or LEA?
- Independent Study
- Proposition 39 – Facilities

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Los Angeles County Office of Education  
Charter School Office

## Review Timeline

***Receipt of Petition to Public Hearing: 30 days***

***Public Hearing to Board Decision: 60 days***

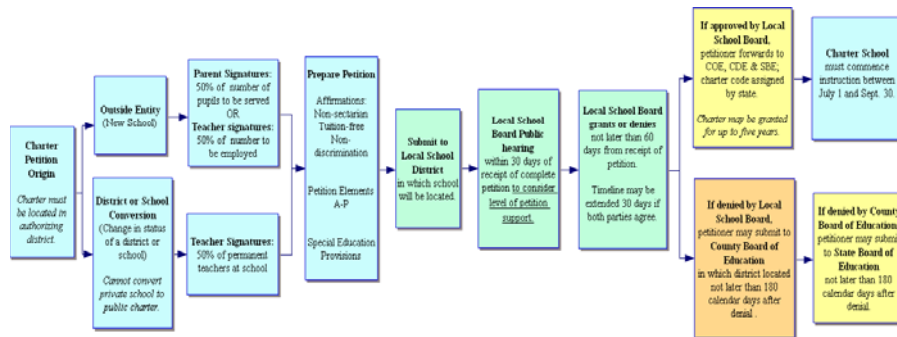
- Option for 30 day extension if both parties agree

***Initial Authorization: 1 to 5 years***

***Renewal Authorization: 5 years***

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## Review Process Overview



**KEY**  
Blue: Charter Petitioner Level  
Green: Local District/Local Board Level  
Orange: County Office/County Board Level  
Yellow: State Board of Education Level  
Purple: Restrictions or Exceptions  
  
CDE: California Department of Education  
CBE: County Board of Education  
COE: County Office of Education  
SBE: State Board of Education

**REFERENCES:**  
The California Charter Schools Act:  
Part 26.6 of the Education Code (EC), sections 47600 through 47694  
California Code of Regulations Title 5  
California Department of Education Charter School FAQs:  
<http://www.cde.ca.gov/els/csp/cspfaq.asp>

## Duties of Chartering Authority

### ***Three major responsibilities of the authorizing board and superintendent:***

- Review charter petition to ensure compliance with law and feasibility of proposed operations.
- Continuously review performance to ensure fiscal stability and programmatic effectiveness.
- Periodically determine whether a charter petition should be renewed or revoked.

*Source: Charter Schools / A Manual for Governance Teams p. 15*

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## Duties of Chartering Authority

### ***EC Section 47604.32***

- Identify contact person for the charter school
- Visit charter at least annually
- Ensure charter complies with all reporting requirements including:
  - Budget
  - Interim Reports
  - Unaudited Actuals
  - Audit

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## Duties of Chartering Authority (cont.)

### ***EC Section 47604.32***

- Monitor fiscal conditions
  - Through the review and analysis of the above financial reports as well as additional data (i.e., accounting records, enrollment and attendance trends, etc.)
  - *Note: LACOE does not review financial reports for charter schools authorized by districts.*
- Timely notification to CDE if any of the following circumstances occur or will occur:
  - Renewal of charter is granted or denied
  - Revocation
  - The charter ceases operation for any reason

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## Duties of Chartering Authority

### ***EC Section 47605(m)***

- Forward audit to district, county, controller and CDE

### ***Other oversight duties:***

- Dispute Resolution
- Complaint Procedures
- Lawful Admission and Expulsion Policies
- Attendance and Accounting
  - Charter's attendance reports are certified by the authorizing district and submitted with the district's reports. LACOE's certification is largely dependent upon the authorizing district's certification.
- Implements Charter as Written
- Determine if Meets Renewal Criteria

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## Additional Financial Implications

### ***Declining Enrollment***

- The authorizing district does not receive declining enrollment protection for ADA lost to the charter school.

### ***Fees for Business Services***

- LACOE charges a separate fee structure (expense reimbursement) for business services provided to charter schools (i.e., CalSTRS or CalPERS reporting, payroll processing, use of accounting system, etc.).
  - Refer to Informational Bulletins Nos. 347 and 362

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## Additional Financial Implications (cont.)

### ***Cash Flow***

- Charter schools experience the same State cash payment deferrals as districts
- Charter schools are not eligible for TRANs to manage cash flow deficiencies

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## Whether or not to Grant or Deny the Petition

### ***Grounds for Denial Limited to:***

- The charter school presents an unsound educational program for the pupils to be enrolled in the charter school
- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition
- The petition does not contain the number of signatures required
- The petition does not contain an affirmation of each of the [four] conditions described in subdivision (d) [of E.C. 47605]
- The petition does not contain reasonably comprehensive descriptions of [the required 16 elements]

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## Conversion Charters

### ***Additional things to Consider***

- An employee of the school district cannot be required to be employed in a charter school (E.C. 47605[e]).
- A pupil enrolled in the school district cannot be required to attend a charter school (E.C. 47605[f]).
- Who will govern the school? A 501(c)(3) board or district board?

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## Conversion Charters (cont.)

### ***Additional things to Consider***

- To what extent will the school rely on district services?
- Will funds be co-mingled?
- Special Education services and financial implications
- Facilities including Prop 39 requests
- Implications on school conversion on API for school and district

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### ***Discussion & Questions***



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## Charter Schools A Manual for Governance Teams





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# Preface



School districts are charged with providing a high-quality educational program that challenges all students to succeed. Local school boards are elected to hold the system accountable. When students attend a public charter school that has a separate governance structure and is granted significant freedom from state laws, the school board maintains ultimate accountability if it approved the charter. Thus, the school board must exercise due diligence in fulfilling its responsibilities with regard to charter schools and must act in the best interests of students enrolled in the charter school.

This handbook is a guide to help school districts and county boards of education, and superintendents negotiate the charter petition process and assist boards in their oversight and renewal responsibilities. Many of the processes and criteria for the review of charter petitions are delineated in law, but within those rules there is still considerable discretion for local boards to determine whether a proposed charter school is likely to be successful. In fact, by requiring petitioners to engage in careful, comprehensive and collaborative planning, the board may increase the likelihood of the school's success.

Boards must also receive regular reports on fiscal and educational matters to ensure the school is fulfilling the terms of its charter. Authorizing boards must have accurate information about charter school performance to determine whether to renew a charter when its term expires or whether it is necessary, in some circumstances, to revoke the charter before the end of its term. Reports also allow the disclosure and dissemination of successful practices that might be replicated in other district schools, a major tenet of the original charter school law.

Information contained in this handbook is intended for advisory purposes only. The handbook raises issues that the board should consider, but the board may develop additional procedures or requirements as needed to fit its unique circumstances. This handbook is not intended to provide legal advice. If questions arise about the interpretation of a law, district and county board members are strongly encouraged to seek the advice of legal counsel.

This handbook continues CSBA's efforts, beginning with the passage of the Charter Schools Act in 1992, to examine the governance issues raised by this educational reform strategy and to monitor studies of the effectiveness of charter schools. CSBA provides sample policies and administrative regulations reflecting legal requirements and additional considerations; CSBA's legislative advocates monitor related legislative proposals and advocate on behalf of districts and county offices of education in these matters and, CSBA's Policy Analysis department provides training to governance teams on charter authorizer role and responsibilities.

# Introduction

## ■ ■ ■ Charter Schools Act Provisions

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When the Charter Schools Act (Education Code 47600–47616.7) was signed into law in 1992, it provided for the establishment of 100 charter schools in California. These were to be public schools but would be exempted from most state Education Code provisions governing school districts, with the intent of enabling the charter schools to be more innovative and to particularly address the needs of academically low-performing students.

Specifically, the legislature's intent was to provide opportunities for teachers, parents/guardians, 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:

- Improve pupil learning.
- Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

- Provide parents/guardians and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- 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.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools (Education Code 47601).

Although the purpose, goals and basic charter school program remain the same, there have been a number of significant changes in the law since the program began.

# Introduction

## ■ ■ ■ Timeline of California Charter School Law

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### **1992**

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#### **SB 1448**

California's original charter school law was authored by Senator Gary Hart and signed into law by Governor Pete Wilson. The law is commonly referred to as The Charter Schools Act of 1992.

### **1996**

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#### **AB 2135**

Required an interim study of charter schools.

#### **AB 3223**

Required that charter schools formed in basic aid districts-of-choice receive revenue limit funding from the state.

#### **AB 3384**

Made changes to the Education Code affecting dispute resolution, a charter school revolving loan fund, participation in the state accountability system, and open meeting laws (Brown Act).

#### **SB 1883**

Expanded the number of charters permitted in districts with more than 600,000 pupils from 10 to 20.

### **1998**

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#### **AB 544**

Restricted a district board's ability to deny a petition. Reinforced the intent of the legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. AB 544 put in place restrictions on denial by stating that a school district governing

board shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice and the governing board can not deny a petition unless it makes written factual findings which 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.
4. The petition does not contain an affirmation of required conditions
5. The petition does not contain reasonably comprehensive description of the 16 required elements of the charter petition. (See page 19.)

AB 544 also increased the total charter school cap from 100 to 250, with an additional 100 added each year; required the state Board of Education to assign numbers to prospective charters; prevented charters from receiving funding for pupils who are also attending private schools; allowed charters to petition the county for appeal of a denied charter; allowed the state Board of Education to revoke a charter for specific causes; established minimum and maximum ages of attendance; established funding amounts equal to the funding of school districts serving similar populations; gave the superintendent of public instruction authority to make reasonable requests for information; allowed charters to operate as nonprofit public benefit corporations; required charters to meet all statewide performance standards; required all pupils to be admitted as space allows; required teachers to be credentialed in core subject areas; required unused school sites to be available to charter schools; and required independent evaluation of charters by July 1, 2003.



# Introduction

■ ■ ■ ■ *Timeline of California charter school law (continued)*

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## **1999**

### **AB 631**

Required charters to identify who the public school employer-of-record is pertaining to collective bargaining agreements.

### **AB 1115**

Created a new funding model based upon the “block grant” methodology.

### **AB 1600**

Implemented several sections of “clean-up” language.

### **SB 267**

Provided for greater access to start-up loans and made the authorizing agency (the school board, if it approved the charter) responsible for default on the state loans.

### **SB 434**

Required charter schools to offer minimum instructional minutes and maintain auditable records of attendance. Applied independent study laws and regulations to charters.

## **2000**

### **Proposition 39**

Required districts to provide “reasonably equivalent,” “contiguous, furnished and equipped” school facilities for charter schools.

## **2001**

### **SB 740**

Required the state Board of Education to make funding determinations for non-classroom-based instruction charter schools; established the Charter School Facility Grant Program.

## **2002**

### **AB 1994**

Provided for limitations on the ability of charter schools to apply for charters outside of the boundaries in which they intend to locate; required petitioners to submit petitions to county boards and have them denied before submitting them to the state Board of Education; required an additional element in petitions addressing school closure procedures; required charter schools to report financial data to districts and to the state; added the number of satellite schools to be counted against the statewide charter school cap.

## **2003**

### **AB 1137**

Required each authorizing agency to identify one staff member as a contact person for the charter school; required annual visits of each charter school and monitoring of the fiscal condition of the charter school; required each charter school to submit quarterly financial reports to its chartering authority and county superintendent of schools; provided that the cost of aforementioned duties would be funded with oversight fees; required that charter schools meet specific academic criteria as a condition of renewal; and required a chartering authority to comply with specified oversight responsibilities related to liability.

## **2005**

### **AB 1610**

Extended state Board of Education waiver authority for charters to January 1, 2007; explicitly required charter graduates to pass California High School Exit Exam in order to earn diploma. Required charter schools to



# Introduction

## ■ ■ ■ Timeline of California charter school law (continued)

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notify the superintendent of the school district of the pupil's last known address within 30 days, and, upon request, to 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 when a pupil leaves a charter; required charter amendments at renewal to conform to any law changes; allowed 1:25 teacher-to-pupil ratio for independent study in charters and clarified instructional time penalty waiver applicability to charters.

### **SB 319**

Addressed the financial penalty faced by unified districts that have high schools in their district convert to charter schools: any conversions that occurred after July 1, 2005, will result in unified districts only providing the funding they received per ADA in the prior year. The funding increase that existing high school conversions received above the unified district rate is reduced by 50 percent in 2005-06 so that in subsequent years they will receive the same rate that the student generated for the school district.

### **SB 430**

Authorized a county superintendent of schools to review the audit expenditures and internal controls of a charter school operating within the county if he or she believes that fraud, misappropriation of funds, or illegal fiscal practices have occurred. The review is limited to the alleged practices. As is current practice, the superintendent has 45 days to complete the audit and report the findings and recommendations to the charter school. Once the report is received, the charter school has 15 days to respond to the findings and recommendations and notify the superintendent of its proposed actions. Also, authorized the county superintendent to request a review of a charter school's fiscal or administrative condition from the Fiscal Crisis Management and

Assistance Team and allowed FCMAT to provide the same services to charter schools as it provides to districts. This law continued the trend toward increasing oversight of charter schools.

### **SB 1054**

Clarified that charter schools are not exempt from the provisions of the California Building Standards Code as adopted and enforced by local building enforcement agencies. This provision does not apply to charter schools that are already subject to the requirements of the Field Act.

## **2006**

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### **AB 2030**

Added provisions to ensure due process for charter revocation proceedings by establishing an appeals process and providing for continuous funding for a charter school while an appeal is pending under specified conditions. Specifically, AB 2030:

- Required a written notice of intent to revoke, and a notice of facts supporting revocation, be provided to the charter school prior to charter revocation (and after a reasonable opportunity to cure alleged violations has occurred).
- Required a public hearing within 30 days of issuing the notice of intent to revoke, and that a final decision to revoke (or not revoke) be issued within another 30 days, unless the charter school and the chartering authority mutually agree to a 30-day extension of the issuance of a decision.
- Required a chartering authority to make written factual findings supported by substantial evidence that is specific to the charter school that support the chartering authority's findings.

# Introduction

■ ■ ■ *Timeline of California charter school law (continued)*

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- Established various appeals processes:

1. If a school district is the chartering authority and it revokes a charter, the charter school may appeal within 30 days to the county board of education.
2. If the county board either does not issue a decision within 90 days of receipt, or determines to uphold the revocation, the charter school may appeal the revocation to the State Board of Education.
3. If the county board reverses the school district's revocation, the school district may appeal the reversal to the SBE.
4. If a county office of education is the chartering authority and the county board revokes a charter, the charter school may appeal within 30 days following the decision of the county board to the SBE.

If the revocation decision of the chartering authority is reversed on appeal, the agency that granted the charter continues to be regarded as the chartering authority.

While an appeal is pending, a charter school whose revocation proceedings are based on a material violation of the charter or failure to meet or pursue any of the pupil outcomes identified in the charter, shall continue to qualify for funding and may continue to hold all existing grants, resources, and facilities.

Required a final decision of a revocation or appeal of a revocation be reported to the chartering authority, the county board and the CDE.

## **SB 1209**

Permitted charter schools to receive Beginning Teacher Support and Assessment Induction Programs funding for their teachers to participate in the program. In order to receive funds for the BTSA Induction

Program through the Teacher Credentialing Block Grant, a LEA or charter school (both direct-funded and locally funded) must either:

1. Become an Approved BTSA Induction Program Sponsor, or
2. Affiliate as a partner with an approved BTSA Induction Program.

## **AB 2717**

Provided that charter schools are eligible for assistance under the California School Finance Authority Act. The CSFA assists school districts and community college districts by providing financing for working capital and capital improvements.

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## **2007**

### **SB 375**

The governing board of a school district is allowed to use certain monthly installment (10, 11 and 12 month) and withholding options in making salary payments to the district's certificated employees.

Authorized governing boards of a charter school to use the same monthly installment and withholding options for purposes of making salary payments to its certificated employees as permitted by school districts. Authorized charter schools in which a minor attends to issue a work permit upon receipt of a written request from a parent, guardian, foster parent or other specified person.

### **AB 766**

Added charter schools to the list of educational agencies that may conduct school-related field trips and excursions and may have all claims against them waived for injury, accident, illness or death occurring during the trip.

# Introduction

## ■ ■ ■ ■ How are charter schools structured?

Charter schools currently in operation offer a variety of educational programs and approaches, such as specialized courses of study, a focus on specific curricular areas, a focus on specific student populations, nontraditional school environments, multi-age classrooms, different school schedules, home study or independent study programs, virtual schools, programs that address the needs of the whole child, increased parent/guardian participation and varying governance structures.

By law, charter schools must be nonsectarian in their programs, admission policies, employment practices and all other operations. They must not charge tuition or discriminate against any student on the basis of ethnicity, national origin, gender or disability. Charter schools are subject to other state and federal discrimination laws.

Charter schools are often described as “dependent” and “independent.” While the Charter Schools Act does not recognize the terms “dependent” and “independent” when referencing charter schools, these terms have become shorthand to describe the relationship of the charter to the district. Dependent charters are considered charter schools that have been created by the district board and are an integral part of the district’s portfolio of schools. Independent charter schools are typically those charters that are formed by parents, teachers, community members or charter management organizations.

The law recognizes two “types” of charter schools - **conversion charter schools** and **start-up charter schools**. The difference between the two is in the signature requirement. Conversion charter petitions must have signatures of not less than 50 percent of the permanent status teachers currently employed at the public school to be converted. A “start-up” charter petition must include **either** at least one-half of the number of parents/guardians that the charter school estimates will enroll in the school or at least one-half of the number of teachers that the charter estimates will be employed by the charter school. In 2007-08, approximately 84 percent of charter schools were start-up charters. Sixteen percent were conversion charter schools.

Because the state laws and policies governing charter schools are continually evolving, and because the state Board of Education has established the Advisory Commission on Charter Schools (an advisory body to the state Board of Education that meets bi-monthly to consider issues concerning charter schools), districts and county offices of education are urged to periodically visit the California Department of Education Web site at [www.cde.ca.gov/sp/cs](http://www.cde.ca.gov/sp/cs) and contact CSBA for updates in legislation and regulations.

# Introduction

■ ■ ■ How are charter schools structured? (continued)

## Charter School/District Facts

There are currently 788 charter schools operating in California.  
There are charter schools in 49 of the 58 counties in California.

Charter schools are also distinguished by the way they are funded.

### ■ Direct-funded and local funded charters

Regardless of whether the charter is a conversion or start-up, the charter school may elect to be funded one of two ways.

1. Direct-funded charter schools elect to receive their funding directly from the superintendent of schools of the county in which the authorizing board approved the charter is located. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

Most direct-funded charter schools are truly independent entities with few or no ties to the authorizing board other than oversight responsibilities. Charters approved since Assembly Bill 544 was passed in 1998 tend to fall into this category. AB 544 allowed charters to operate as nonprofit public benefit corporations. In a direct-funded charter, the charter school is solely responsible for the provision of payroll, human resources, maintenance and operations, legal services and other administrative operations. The authorizing district is entitled to have one representative on the board of directors of the nonprofit public benefit corporation. The authorizing board of a nonprofit charter is not liable for the debts of the charter school.

2. Locally funded charter schools receive their funds through the school district that granted the charter. Most “dependent” charter school receive their funding in this manner.

## Should an authorizing board member accept a seat on the charter school’s board?

Although district board members may sit on the charter board, the situation raises a number of conflict of interest concerns (e.g., should a member of the authorizing board vote on issues that he/she will eventually be required to provide oversight for?). It is strongly recommended that districts consult with their legal counsel before allowing a member of the board to sit on the charter board. Because authorizing boards are now required to have a charter school liaison on staff, an alternative may be for the district to designate this person to sit on the charter school board. Having someone serve in this capacity would facilitate relationship building and would allow for sharing of best practices. In choosing a charter school liaison, the district will want to consider setting up periodic meetings between the liaison and a charter representative.

### ■ Non-classroom based charters

One-quarter of all charter schools are non-classroom based schools. Non-classroom based instruction includes home study, work-study, and distance and computer-based education, which are all forms of independent study. Funding for non-classroom based charter schools is determined by the Advisory Commission on Charter Schools and approved by the SBE. *Note: Non-classroom based charter schools must follow the same requirement found in Independent Study statutes as it pertains to enrollment. Non-classroom based charters can enroll students from the county in which it was approved and adjacent counties only.*

# Introduction

■■■■ How are charter schools structured? (continued)

## Charter school funding model

AB 1115 (1999) created a charter school block grant. The majority of the funds come from the revenue limit. In addition, there is a per-student share of funds from many state categorical funding programs. Categorical block grant funding may be used for any purposes determined by the charter governing board. Charter schools will receive a proportionate share of funding related to new programs, but will remain free to spend the funds as they wish, without being subject to the same restrictions as traditional public schools.

The block grant “formula” is as follows:  
$$\text{revenue limit} + \text{state categoricals (proportionate share)} = \text{total funding rate per ADA}$$

AB 740 (2005) brings 28 categorical programs into one single, flexible block grant. This move increased the Charter School Categorical Block Grant to \$400 per student in 2006-07 and \$500 per student in 2007-08, plus additional money for low-income students. It also increased the number of categorical programs charters are eligible to apply for. Included in this new block grant are:

- Home-to-school transportation
- Home-to-school transportation deferral
- Foster youth programs
- Specialized secondary program grants
- Gifted and talented education
- Gifted and talented education deferral
- Mathematics and reading professional program development
- Principal training
- Agricultural vocational education
- Deferred maintenance
- Instructional Materials Block Grant
- Peer Assistance and Review (schedule 2)
- Staff development (schedule 1 and 3)
- Teacher dismissal apportionments
- Year-round schools
- Carl Washington School Safety and Violence Prevention Act
- School safety deferral
- Ninth-grade class-size reduction
- International baccalaureate (schedule 1)
- Pupil Retention Block Grant
- Teacher Credentialing Block Grant (Beginning teacher support and assessment)
- Professional Development Block Grant
- Targeted Instructional Improvement Block Grant (voluntary, supplemental)
- Targeted instructional improvement deferral
- School and Library Improvement Block Grant
- School Safety Competitive Block Grant
- English language acquisition program
- Advanced Placement Grant Program

# Introduction

■ ■ ■ ■ *How are charter schools structured? (continued)*

## **Direct and local funding**

Charter schools funded under the direct funding model may receive funds directly (in a fund or account established on their behalf in the county treasury) or through the authorizing board if they elect to be locally funded. There are considerations for charter schools in making these determinations that authorizing boards should bear in mind:

- Charter schools electing to receive funds directly must notify the superintendent of schools of the county in which the charter-granting agency is located by June 1 prior to the affected year. A charter school's election to receive funds directly is not permanent and may be changed annually.
- The choice to receive funds directly applies to funds for all programs. Charter schools may not "pick and choose" among programs, opting to receive funds for some directly and for others through their charter-granting agencies.
- Of all categorical programs not included within the scope of the charter school block grant, Title I funding is the most significantly affected by a charter school's decision to receive funds directly.
- Whether charter schools opt to receive funding directly or through the charter-granting agency, funds would flow from the state through the county treasury. Funding for schools that do not opt for direct funding would be deposited in the county treasury accounts established for their sponsor district. Charter schools and districts would need to negotiate whether the district or the county will provide banking or other fiscal services to the school.

## **Local revenue sources**

The funding model does not address whether local sources such as local parcel and sales taxes, basic aid and local property taxes in excess of the revenue limit should be shared with charter schools. Current law provides that charter schools may negotiate with districts regarding these local sources (Education Code 47636 (b)).

The MOU should delineate the financial rights and responsibilities of each party. For example, the authorizing board may want the right to a percentage of money raised by the public education foundation of the charter school, if any. Or the charter school may want a share of the district's basic aid allotment.

## **Mandated/reimbursable costs**

The authorizing board should use mandated cost sheets, through the district's human resources department, to charge the state for time spent engaged in activities related to the approval of the petition or oversight of the charter school. The authorizing board should track the time spent and the direct and indirect costs of labor, supplies and services incurred in the following activities:

- Responding to information requests from the public regarding the Charter Schools Act of 1992 and the governing board's charter school policy and procedures (including printing and mailing costs).
- Evaluating charter petitions and requesting clarifications and modifications to the petitions.

# Introduction

## ■ ■ ■ ■ *How are charter schools structured? (continued)*

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- Participating on a petition appeals panel at the request of the county office of education, conducting the analysis of the school district decision process, responding to review panel inquiries and requests, and reporting to the involved parties.
- Oversight of the charter school for purposes of evaluation, renewal or revocation by the authorizing board.
- Preparation for public hearings for the adoption, review, revision, renewal, evaluation or revocation of charter petitions.

Authorizing boards should review the petition for “hidden” costs that the district might incur as a result of charter school activity. These costs should be recorded and reported under mandatory costs. For example, if a student leaves the charter school during the school year, the district should request a prorated reimbursement of the ADA for that student.

As a general rule, if a district has been provided a fee for its administrative services, it arguably has not incurred a “cost” in administering or “monitoring” this charter. Services provided under an MOU or administrative services agreement should not be included under the “monitoring” component of this reimbursement program (to the extent that the cost is covered by the fee). If there is no fee, then some of these costs may be claimable depending upon how the charter school is configured.

# Introduction

## ■ ■ ■ ■ What is the governing board's role?

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The charter is a contract between the school district board or county board of education and the petitioner that ensures a high-quality education for students. Like parties to any contract, boards need to be aware of their legal rights, responsibilities and obligations under the contract.

### ■ The authorizing board and superintendent have three major responsibilities:

1. To review the charter petition, prior to approval, to ensure compliance with statutory conditions and feasibility of the proposed operations.
2. To continuously review the performance of the charter school in order to ensure fiscal stability and programmatic effectiveness.
3. To periodically determine whether a charter petition should be renewed or revoked in accordance with law.

The authorizing board also has certain rights, including the right to define the terms of services the district may provide the charter school after it has been approved.

This handbook provides information so governance teams can respond to charter petitions in an informed manner. Although the board is responsible for ensuring that all the tasks described are completed, the board may delegate some tasks to the superintendent or his or her designee. Once a charter is approved in a district or county, the superintendent must designate a contact person for the charter school. AB 1137, passed in 2003, requires that each authorizing district identify at least one staff member as a contact person for the charter school. It may be difficult to add on to the staff's responsibilities, particularly in small districts with limited resources, however this requirement exempts the district board from being held liable for any acts, errors or omissions of the charter school.

As local educational agencies and charter schools go through the petition review and oversight processes, it is important that they work together in the best interests of children. It was the intent of the Legislature that chartering entities and charter schools work through and resolve issues at the local level in a way that meets the needs of both parties. Although the state Board of Education can revoke a charter in extreme circumstances, there currently is no statewide charter school agency to which boards or parents/guardians can report problems regarding charter schools. Therefore, it is incumbent upon the local board to hold the charter school accountable for the goals outlined in its charter and those laws as applicable through the Charter Schools Act. The ultimate responsibility for the children's education and safety rests with the authorizing board.



# The petition review process

## ■ ■ ■ What preliminary steps should be taken in anticipation of a petition?

The following overview of the charter petition review process is presented in roughly chronological order. Note that the following steps apply to either districts or county offices receiving a petition, except where otherwise noted.

For purposes of describing the charter petition review process, an authorizing board is any district or county board that is capable of or has received a charter school petition, regardless of whether it has approved the petition. Unless otherwise indicated, a petition refers to a charter not yet approved by an authorizing board. One caveat to remember is that the law only requires the petitioner to submit a complete petition with reasonably comprehensive descriptions of the 16 required legal elements for the petition to be approved. The district may and should request or recommend additional information (see pages 30-31), but cannot legally require the petitioner to provide it as a condition for acceptance of the petition. A petition becomes a charter (contract) only upon approval by the authorizing board.

A district or county that has not had a charter petition submitted to it will likely have one in the near future. Be prepared. Even before any charter petition is received by the district, the board should have appropriate processes and information in place. This information should be a part of a package that is given to interested parties. A thorough petition process should be developed by all districts and county offices. Specifically, the board should:

### ■ Establish a process for responding to public inquiries and potential charter petitioners.

This protocol should include priorities for how the district handles the charter school petition process. These messages should be delivered to the media, parents/guardians, businesses and the community. For example, preference points might address:

- **The need for charter schools to be community based.** Those charter schools that are community based, and fulfill a particular need within a community, are more likely to be successfully implemented and best reflect the original intent of the charter school legislation.
- **The school board's role in the development of charter schools.** In assessing the goals and outcomes of the district, governance teams may contemplate creating its own charter school. (See page 45 for more detail.)
- **The school board's role in the process of approval/denial of charter school petitions.** California law states that the "governing board of the school district shall not deny a petition for the establishment of a charter school, unless it makes written factual find-

# The petition review process

■ ■ ■ What preliminary steps should be taken in anticipation of a petition? (continued)

ings.” The school board maintains the responsibility of evaluating the soundness of the proposed education program and the likelihood of its successful implementation. If the school board finds any deficiencies in the petition, as stated in the law, it is permitted to deny the petition as long as it can articulate those factual findings in writing. Note that under AB 1994, county boards of education are granted broader discretion in approving or denying petitions for countywide charter schools (see “Petitions submitted to county boards of education” on page 35).

- **District charter school policy.** The policy should include all information necessary to evaluate a prospective school’s potential. Every board that has received or can reasonably foresee receiving a petition to operate a charter school within its boundaries should have policies in place related to charter schools.

CSBA has developed sample policies and administrative regulations pertaining to charter schools, including student expectations. It is important that district policy contain the district’s definition of a sound educational program, because if a board denies a petition for failure to present a sound educational program, the board will need to articulate specific findings based on its own definition. Without a description of the district’s definition of a sound educational program already in place, the authorizing board will have a much more difficult time denying a petition on this basis (See “What should the board consider in approving or denying a petition?” on page 33).

- **List of district preferences for petition.** The district should provide petitioners with its unique preferences for petition approval in addition to all legal requirements. In order to remain proac-

tive, each district should outline their needs to encourage charter petitions that are designed to meet those needs. For instance, the district may want to encourage petitioners to focus on specific needs such as targeting low-performing schools, English language learners, etc.

Also, the intent of the original charter school legislation was that charter schools were to target low-achieving students. In accordance with Education Code 47605 (C)(h), the school district governing board 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 CDE under Section 54032. Governance teams will want to ensure that petitioners have a plan to adhere to this intent.

- **The board will also want to determine what support will be given to the petitioners, if any, and the process by which to give that support.** Some districts have staff look at petitions prior to formal submission to allow petitioners time to fix deficiencies before submission. Other districts strongly believe that charter petitioners must submit a thorough and complete petition without assistance from the district. This allows the board and district staff to judge the charter petition on its own merits and determine if they are capable of running a school.

# The petition review process

■ ■ ■ ■ *What preliminary steps should be taken in anticipation of a petition? (continued)*

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## ■ Establish a charter petition review committee.

The superintendent should establish a committee to review the petition. The committee will review the petition and supporting documentation during the 60-day period before action is required. The committee should include staff with expertise from the human resources department, business/finance department, facilities, education services, special education and curriculum, along with legal counsel. The committee will want to provide an explanation for each of its comments and/or explanations on the petition for the board to review.

## ■ Establish a procedure for tracking mandated costs.

Districts and counties should be aware that there is a charter school mandated reimbursement program. The petition review, renewal and oversight processes result in mandated costs to districts. (For more information on tracking mandated costs incurred during oversight of the charter, see “Administrative and support services plan” on page 39.)

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition?

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Complete charter petitions have four required parts: a petition/letter, the proposed charter itself (including 16 required legal elements), a signature page and required additional information. CSBA advises including a fifth section containing recommended additional information.

### ■ Petition/letter

A petition to establish a charter can be circulated by any person and, after meeting signature requirements (see page 26 for signature requirements) submitted to the governing board for consideration.

CSBA recommends that a completed petition should include, at a minimum, the following information and materials:

- The name, address and phone number of the petitioners, together with a statement signed by them formally applying to the board for approval of the charter school.
- Identification of lead petitioner or petitioners
- A thorough description of the education, work experience, credentials, degrees and certifications of the individual persons circulating the petition and comprising, or proposing to comprise, the board of directors, administrators and managers of the proposed charter school.
- The bylaws, articles of incorporation and other management documents, as applicable, governing or proposed to govern the charter school.
- A list of consultants whom the charter school has engaged, or proposes to engage, for the purpose of developing, operating and evaluating the charter school, together with a thorough description of the experience of such consultants.
- A description of the number of students anticipated to attend the charter school and the grade levels to be included for these students for each year of operation in the charter term.
- An attorney's opinion providing a thorough description of the potential civil liability, if any, of the charter school and school district.
- Any and all policies that the charter school intends to implement, including but not limited to employee handbooks, student handbooks, health and safety policies, student discipline policies, conflict of interest policies and admissions policies.
- A statement setting forth the administrative structure of the school, including detailed job descriptions assigning executive, budget, disciplinary, school district liaison, parent/guardian contact, counseling, special education, maintenance, research, personnel, employee evaluative functions and other responsibilities.
- Documents identifying the facility in which the charter school intends to locate, including all necessary permits, licenses, use agreements and/or other authorization necessary for use and occupation of the site in compliance with law.
- Any other information as specifically requested by the district regarding the charter school petition subsequent to the submission of the charter school petition.

# The petition review process

■ ■ ■ ■ What are the required elements of a charter petition? (continued)

## ■ Petition

As stated earlier, a required piece of the charter petition is the petition itself. Education Code 47605 and 47611.5 require the charter to meet the following 16 legal requirements. The charter must have a reasonably comprehensive description of each requirement. The law allows local districts and county offices to determine what is “reasonably comprehensive”. CSBA offers the following recommendations, but districts may expand upon these recommendations based on local needs.

(a) A description of the educational program of the school and its goals, designed, among other things, to identify those whom the 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. If the proposed school will serve high school pupils, a description of how the charter school will inform parents/guardians about the transferability of courses to meet college entrance requirements must be included in the description.

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Mission and goals of the proposed charter school.
- Description of the educational program, including how instructional resources will be provided.
- Description of instructional methodology to be used for students at all levels.
- Description of curriculum plan, including method of curriculum planning and process by which best practices can be exchanged (pursuant to charter law intent to create innovative programs).
- Description of the valid evidence provided that supports the program’s objectives and how learning best occurs or, if such evidence is not available, an explanation for the theoretical basis supporting the program’s approach to learning.
- Description of how the proposed school uniquely provides for unmet needs of students in the district.
- Clear identification of which students the charter is attempting to educate and why.
- Description of support and intervention systems that will be available to assist struggling students, including English learners and students with disabilities.
- Description of how the charter school will accomplish the goal that students become “self-motivated, competent and lifelong learners”.
- Description of how any federal dollars will be utilized as a component of the charter’s program.
- Empirical evidence to support successes of the educational program.
- The manner in which a charter school serving high school students will inform parents/guardians 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

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition? (continued)

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-g” admissions criteria may be considered to meet college entrance requirements.

- Outreach to students who drop out
- Include, at minimum, a full curriculum for each course or grade level as an attachment.

**(b) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes” 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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Identification of the measurable student outcomes, including baseline goals that will be utilized.
- Description of how the outcomes are consistent with the skills, knowledge and attitudes expected of the students as described in the program’s goals.
- Evidence that the school’s academic standards meet or exceed statewide standards, as required by Education Code 47605, and those of the district.

**(c) The method by which pupil progress in meeting those pupil outcomes is to be measured.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Description of the method(s) and formula for measuring stated student outcomes and clear, attainable goals and criteria for assessing whether pupil outcomes and baseline goals have been achieved.
- Description of how often progress will be measured and how progress will be communicated to authorizer.
- Description of assessment instruments (e.g., standardized tests, AP tests, portfolios, etc.) used by the charter school.
- Description of how the school will comply with testing requirements under the Public School Accountability Act (PSAA), Academic Performance Index and California High School Exit Exam and how students will be assessed to ensure that they are meeting state standards in required subject areas. (The charter school is responsible for administering all state assessments.)
- Name of staff person responsible for administering state assessments.

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

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- The status of the charter school as a nonprofit public benefit corporation or public school.

# The petition review process

■ ■ ■ ■ What are the required elements of a charter petition? (continued)

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- If the charter school will operate as a nonprofit public benefit corporation, provisions for the liability for the debts and obligations of the charter school and a description of the school's governance structure under the nonprofit public benefit corporation model.
- Declaration by charter that it declares itself a "separate legal entity" for these purposes.
- Provide a plan that is void of conflicts of interest and maintains appropriate oversight at the school.
- Proof of insurance.
- Copies of bylaws or articles of incorporation.
- If the charter school will be run by a management company, description of the company's role in the school's operation and oversight, the school's reasons for choosing the specific provider and evidence of positive student achievement results by the company in comparable settings.
- Description of the charter school governing board, including how many will sit on the board, the selection process, the qualifications and education experience of individual board members, the decision-making process, the length of board members' terms, and how they will be removed, if necessary. The authorizing board's official duties in the governance structure of the charter school, if any, should be delineated. Methods for resolving issues of conflict of interest for members of the governing body should also be addressed. Note: Substantial evidence should be provided that the founding group demonstrates the capacity to

establish and sustain a successful school and can manage public funds effectively and responsibly, or will hire staff that has proven experience in managing public funds can. The board will want to take a close look at qualifications and background experience in education as well as fiscal experience.

- Description of how the school will be run on a day-to-day basis, including descriptions of decision-making processes, fiscal controls, and parental involvement.
- Assurances that the school will regularly consult with parents/guardians and teachers regarding the school's educational program, as required by Education Code 47605.
- Assurances that conflict of interest rules will be implemented and followed.
- Protocol for governing board meetings, such as the Brown Act and Robert's Rules of Order (the CDE has determined that meetings of the charter governing board are subject to the Brown Act).

## **(e) The qualifications to be met by individuals to be employed by the school.**

*CSBA recommends that a "reasonably comprehensive description" would address the following:*

- The types of credentials, if any, the teachers will be required to hold (e.g., professional clear, preliminary, permit, waiver). Teachers in core subjects (those identified by the charter school) must hold a valid teacher credential, permit or other equivalent document required by public schools.

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition? (continued)

- The process to be used to provide for the inspection of credentials (i.e., a description of the process for handling credential checking and other personnel matters).
- The credentials/qualifications of other charter school staff (e.g., counselors, librarians, administrators, nurses and others).
- Verification that teachers and paraprofessionals who are required to be certified are “highly qualified” as required by the federal No Child Left Behind Act.
- Statement of acknowledgement that all employees, even if not public, are subject to state and federal employment laws.

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

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Method for conducting criminal background checks on employee candidates, as required by Education Code 44830.1 and 45122.1, to ensure that the charter school does not hire any person who has been convicted of a violent or serious felony.
- Requirement of a health check for all employees pursuant to state law and district personnel policies, where applicable, such as tuberculosis.
- Assurance that the charter school’s facilities meet state and local building codes, except where exempt.

- Assurance that the charter facilities meet federal requirements, including the Americans with Disabilities Act.
- Description of the charter’s safety plan and disaster preparedness plan.
- Description of efforts to comply with state and federal laws regarding food safety and environmental protection.
- Description of efforts to comply with state and federal laws designed to protect children, including, but not limited to, the proper administration of medication to students in schools and the reporting of child abuse.

*Note that federal health and safety laws apply to charter schools and cannot be waived.*

**(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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Description of efforts and timelines to ensure racial and ethnic balance.
- Description of a viable plan for recruiting a student population reflective of the population of the surrounding community.

*Note that if a charter school is started in a district that operates under a Title VI desegregation plan approved by the Office of Civil*



# The petition review process

## ■ ■ ■ ■ What are the required elements of a charter petition? (continued)

*Rights, or under a court order requiring desegregation, the charter school must be operated in a way that is consistent with those regulations. The establishment of a charter school cannot adversely affect the racial composition of the schools from which the charter school students will be taken.*

### (h) Admissions requirements, if applicable.

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Description of the specific admissions requirements, if any, of the proposed charter, except that selection must not be based on academic or athletic ability or on place of residence except as described on page 27 under “Required additional information.”
- Method to be used to conduct a public random drawing for admission if more students wish to attend than space permits (Education Code 47605).
- Description of how the admissions requirements are consistent with laws regarding nondiscrimination. Assurances should be made that students requiring special education services will be admitted.

*Note that with regard to student recruitment, charter schools cannot recruit students in any way that discriminates against students on the basis of race, gender, color, national origin or disability. In advertising for students, charter schools are required by federal law to distribute materials in ways that effectively reach all segments of the parent community. Charter schools must also be sure to safeguard the rights of parents/guardians who are limited-English proficient, providing*

*materials in languages other than English in order to communicate effectively with all parent groups. Similarly, in recruiting students of parents/guardians with disabilities, outreach materials should be available upon request in various alternative formats (such as Braille or large print, or in public meetings where interpreters are available).*

- Beware of parent or student “contracts” that may seem to discourage enrollment. These are illegal.

**(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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Manner in which the audit will be made public.
- Description of the manner in which the charter school will keep track of financial data and compile information in the prescribed format needed for the annual statement of receipts and expenditures for the prior fiscal year that is due to the authorizing board by Sept. 15 of each year.
- Proof of knowledge of requirement and the process by which charter school will submit quarterly financial reports to its chartering authority and the county superintendent of schools (required by AB 1137).
- Description of services the charter intends to contract out to the district or another provider (if not included in a memorandum of understanding).

# The petition review process

■ ■ ■ What are the required elements of a charter petition? (continued)

- Manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the authorizing board.

## **(j) Procedures by which pupils can be suspended or expelled.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Student code of conduct and process by which this information is given to students and parents/guardians.
- Description of disciplinary steps to be taken prior to suspension or expulsion.
- Grounds for suspension and expulsion and how these are consistent with federal law.
- Suspension and expulsion policies for special education students and how these are consistent with federal law.
- The process by which parents/guardians and students will be informed about the reasons for any such actions and their due process.
- Appeal process.
- Educational alternative, if any, to be provided for students who are suspended/expelled.
- The process by which the charter school will notify the superintendent of the school district of the expelled student’s last known address and send a copy of student’s cumulative record to the school district.

**(k) The manner by which staff members of the charter school will be covered by the State Teachers’ Retirement System (STRS), the Public Employees’ Retirement System (PERS), or federal Social Security.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Description of which staff will be covered by which retirement system.
- An account of the costs related to these benefits.

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

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Description of attendance alternatives that are consistent with district policy relative to intradistrict attendance.

**(m) A description of the rights of any 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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Relevant provisions of applicable statutes, district policy and/or the district collective bargaining agreement relative to separation of employment from the district and return to district.

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition? (continued)

- Employee policies and procedures, including benefits, hiring procedures, leave rights and copies of employment contracts.
- Description of how these rights will be communicated to prospective employees.

**(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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- The dispute procedure, agreed upon by both parties.
- Relevant timelines for the dispute resolution.
- Method, if any, for appeals.

**(o) A declaration 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.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- A declaration of whether charter school employees will be part of the collective bargaining unit in the sponsoring district.
- Statement that charter school employees who are part of the sponsoring district’s or county’s employee union will be employed under the terms of the district or county collective bargaining agreement.

- If the petitioners elect not to have charter school employees join the sponsoring district’s or county’s employee union, a declaration as to whether petitioners intend to organize and bargain as a separate unit. Note that charter employees are not required to engage in collective bargaining, but they have that right if they choose as a group to do so.

**(p) A description of the procedures to be used if the charter school closes.**

*CSBA recommends that a “reasonably comprehensive description” would address the following:*

- Detailed description of the procedures to be used in the case of a decision by the authorizing board or state Board of Education to revoke the school’s charter, a decision by authorizing board not to renew the charter or a decision by the school to voluntarily close, including plans for the final audit of the school.
- Plans for disposing of any net assets and for the maintenance and transfer of pupil records.

### ■ Signature page

The signature page requires the names, addresses and phone numbers of those persons endorsing the charter school petition, with original signatures of such petitioners. The proposed charter must be attached to the petition as it is circulated for signatures, and may not be substantially altered after signatures are gathered.

- **Signatures.** If the proposed school is a conversion school (petition to convert an existing public school to a charter school), the petition must be signed by at least 50 percent of the permanent teachers at the school to be converted. If the proposed school is a start-up school

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition? (continued)

(petition to create a new start-up charter school), the petition must be signed by a number of parents/guardians equal to at least 50 percent of students projected for first year enrollment, or signed by a number of teachers equal to at least 50 percent of the teachers projected to teach in the first year of operation.

The district staff should verify teacher signatures on the petition, to the extent possible, to ensure that the teachers have the required credentials and are eligible to sign the petition.

- **Certification of interest.** In circulating the petition, the petitioners must include a prominent statement explaining that a signature means that the parent/guardian is “meaningfully interested” in having his/her child attend the charter school or that the teacher is “meaningfully interested” in teaching at the charter school.

The district should examine the signature page to help evaluate “meaningful interest.” The petitioner may be asked to provide declarations or other similar documentation to substantiate “meaningful interest” if questions arise in evaluating the petition.

### ■ Required additional information

The proposed charter must include all required assurances specified in the Charter Schools Act. A certification of assurances must be completed and submitted with the petition. Pursuant to Education Code 47605, petitioners must provide:

- Assurance that the charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations.
- Assurance that the charter school shall not charge tuition.
- Assurance that the charter school shall not discriminate against any person on the basis of ethnicity, national origin, gender or disability.
- Assurance that the charter school shall offer at least the minimum amount of instructional time at grade level. (A charter school must offer the total annual instructional minutes by grade levels that are required by Education Code Section 46201(a)(3). However, a charter school has scheduling flexibility on how the total annual minute requirement is met within the fiscal year, and there is not a specific number of minutes per day required to be offered.)
- Assurance that admission shall not be determined according to the student’s or parent’s/guardian’s place of residence, except that a conversion school shall give admission preference to students who reside within the former attendance area of the public school. *Note: Community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools and charter schools only for students who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported. Education Code 51747.3(b).*
- Assurance that the charter school shall admit all students who wish to attend. However, when the number of students who wish to attend exceeds the school’s capacity, the school shall conduct a public random drawing. Preference shall be extended to students currently attending the charter school, students who reside in the district, and students who fulfill any other criteria permitted by the authorizing board if consistent with law.

# The petition review process

## ■ ■ ■ What are the required elements of a charter petition? (continued)

- Information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, including where the school intends to locate, the manner in which administrative services will be provided, and potential civil liability effects, if any, upon the school and authorizing board. (More information is provided under “Administrative and support services plan” on page 39).
- Financial statements that include a proposed first-year operational budget with start-up costs and anticipated revenues and expenditures necessary to operate the school, including special education; and cash-flow and financial projections for the first three years of operation.

### ■ Recommended additional information

Boards may request additional information before issuing a final decision. The following are examples of information that districts might request in reviewing the charter:

- Length of term for charter, as determined by the authorizing board (usually one to five years).
- School calendar, along with class schedule. This information will assist the district in determining whether the charter school meets the instructional minute requirement.
- Transportation arrangements, if any. If charter schools provide transportation to and /or from school or while at school, they may be subject to state and federal laws governing vehicles, drivers, etc. The district is not obligated to provide transportation unless it is required by an IEP.
- A representative sample of curriculum and materials. This might include at least one grade level or subject area.
- Staff development procedures and materials.
- Names, addresses and biographical information regarding founding members, board members and corporate officers of the school (including historical background information of corporation’s formation and decision to manage public schools if managed by a private firm).
- Assurance that the charter school is prepared to comply with the Individuals with Disabilities Education Act, Section 504, Americans with Disabilities Act, Title VI, IX, and other federal requirements, including written acknowledgement that federal laws are not eligible for waivers.
- Records of claims or lawsuits against the charter school.
- Whether the charter school will participate in the National School Lunch Program. This is relevant information if the charter intends to target students from sociologically disadvantaged backgrounds. It is also a good test of whether they are familiar with school district accounting practices to see if they properly account for this program in their budget.
- Other petitions the petitioners or nonprofit public benefit corporation has submitted to other districts and the disposition of those petitions.

# The petition review process

■ ■ ■ ■ *What are the required elements of a charter petition? (continued)*

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- Other names used by the nonprofit public benefit corporation or affiliation of the parties in the NPBC.

## ■ Petitions for charter districts

To become a charter district (i.e., all district schools are charter schools), petitioners must have 50 percent of the teachers within the school district sign the petition. A petition for a charter district must be approved by joint action of the superintendent of public instruction and state Board of Education. However, students cannot be required to attend charter schools, and teachers cannot be required to teach in them. Hence, the charter petition must specify alternative public school arrangements for students who choose not to attend charter schools and must provide employment alternatives for teachers who choose not to teach in charter schools.

# The petition review process

## ■■■ What steps should be taken after receiving a properly submitted petition?

After receiving a properly submitted petition, one that includes all the required signatures, elements and affirmations, the authorizing board should record receipt of the petition, conduct a thorough review of the petition internally, have legal counsel conduct a review to ensure compliance with the Education Code, hold required public hearings, and take action on the petition.

### ■ Record receipt

Upon receipt of a complete and properly submitted petition, the district should date stamp all pages of the submitted application.

### ■ Hold public hearings

Within 30 days of receiving a petition, the authorizing board is required by law to hold a public hearing to determine the level of support by teachers, other employees, parents/guardians and the community. This is the opportunity for petitioners to appear and provide testimony to the board. This is an extremely important role for the board. Community support is crucial for the success of the charter school. Absent community support, or in some cases, opposition by community, is an indicator to use in deciding whether to approve or deny a petition because it directly impacts the likely success of the proposed charter school.

Questions to ask:

- Does the community understand the objective of the charter school?

- Are there community agreements with the district to use joint facilities? Will the school be recruiting students from outside the geographical boundaries of district?
- Is the charter facility, if not contiguous to another district school facility, located in a part of the community that raises safety issues for the children?

Also, note that the authorizing board may hold multiple hearings, provided that the district meets all required timelines. In addition to notices required for meetings pursuant to the Brown Act, the district should provide additional notice of the hearing(s) to each bargaining unit representing employees of the district.

### ■ Conduct internal review

The appropriate district departments, via the review committee mentioned above (human resources, fiscal services, risk management, student services, curriculum, facilities, etc.), should conduct a thorough petition review and compile reports. The superintendent may consider developing a checklist or rubric for review of a charter school petition.

Districts should also advise petitioners on the practicalities of the petition and whether it meets the goals of the district, especially if the petitioners and/or authorizing board have limited resources. Districts should encourage petitioners to identify resources in advance in order to address capacity issues.

Remember that the review and approval process is preferable to the oversight process for purposes of ensuring quality and equity. Districts are encouraged to be as proactive as possible in the early stages of the petition

# The petition review process

■ ■ ■ ■ *What steps should be taken after receiving a properly submitted petition? (continued)*

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submission, review and approval process in order to avoid pitfalls later. It is extremely difficult to go back and “fix” a petition once it is approved.

## ■ Conduct legal review

It is imperative that districts consult with legal counsel to ensure compliance of the petition with applicable charter school and other Education Code provisions and applicable laws outside of the Education Code. Charter school petitioners are increasingly retaining legal counsel to assist them in every step of the petition process and so should districts.

- Charter schools are subject to federal civil rights and disability laws, including the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act.
- If the charter school intends to incorporate as a nonprofit public benefit corporation, the authorizing board/staff should verify that the petitioner has filed a certified copy of the Articles of Incorporation with the California Secretary of State, if necessary, and has included a copy in the petition, along with the corporate bylaws.
- The authorizing board should ensure that the petition addresses how charter school directors and officers will be governed by conflict of interest statutes and regulations. This includes provisions on how the charter school would address potential self-dealing by charter schools directors or officers, as well as potential noncompetition clauses. The authorizing board should request a list of names of the board of directors of the petitioning

nonprofit, as well as a list of board members for any proposed contractors and a description of the relationship between the nonprofit and contractor.

- The petition should also confirm that the charter school will comply with the Brown Act and Public Records Act, both of which apply to charter schools.
- The Fair Political Practices Committee has indicated that the Political Reform Act applies to charter schools. The authorizing board should ask how the petitioners will incorporate the law’s requirements in the petition or conflict of interest policy.
- Charter schools are required to comply with the Field Act for facilities, or the Uniform Building Code provisions applicable to the type of building occupied by the charter school, to ensure the health and safety of students and staff.
- The charter petition should address all insurance and liability issues and must be reviewed for adequacy. Some district and county insurance carriers may automatically cover a charter school within a district, but this needs to be verified with the carrier. Property and liability policies should specify that the chartering agency is an additional insured. If the district or county insurance carrier does not cover the charter school, the authorizing board should ensure that health benefit insurance, workers compensation, property and liability are provided at levels sufficient to meet the chartering agency’s insurance requirements.



# The petition review process

■ ■ ■ ■ *What steps should be taken after receiving a properly submitted petition? (continued)*

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- Point-of-service issues (e.g. testing administration, food services, accounting services) between the authorizing board and the petitioners need to be addressed. Legal counsel should review all proposed contracts for services to be provided by the district.

## ■ Extrinsic factors

Charter schools have become a political hot button in many communities. School boards are increasingly facing hostile community members, both supporting and opposing a charter, at board meetings where a charter petition will be heard. The political pressure, from other elected officials and community organizations, is increasing. Media coverage of board meetings when charter petitions are heard is on the rise. Unfortunately, the decision to approve or deny a petition can become about pleasing constituents rather than determining what is best for the students in the district. It is important for school board members to base their decisions on the strength or weakness of the petition and to make a decision about whether the petitioners will deliver a sound education for the students in the district.

## ■ Take action

Within 60 days after receipt of the petition (90 days if mutually agreed upon), the board must have completed the review process and must determine whether to grant or deny the petition based on the criteria described below.

# The petition review process

## ■ ■ ■ What should the board consider in approving or denying a petition?

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### ■ Legal criteria for approving or denying a petition

There are several questions the district/county board must ask itself in deciding to approve or deny a charter petition: Does the petition present a sound educational program? Are the petitioners demonstrably likely to successfully implement the program set forth in the charter? Does the petition contain a reasonably comprehensive description of the 16 required elements? The authorizing board must grant the charter petition unless certain petition requirements are not met. The board is not allowed to consider the potential impacts a charter school would have on the other educational programs of a district or the district's fiscal health or state of its facilities, among other issues.

The charter law requires that the charter shall be granted unless the authorizing board makes written factual findings, citing specific facts that one or more of the following conditions exist:

- The charter presents an unsound educational program for the students to be enrolled in the charter school.
- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- The petition does not contain the number of signatures required.
- The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
- The petition does not contain reasonably comprehensive descriptions of the 16 required charter elements.

The law does not define or give specifics as to what an “unsound educational program” might look like. Nor does the law give a definition of “reasonably comprehensive”. With regard to the first requirement, as previously stated, it is important for the district to have in policy on file a definition of a sound educational program in order to articulate specific findings with regard to a petition's unsound educational program. As for the second requirement, the finding is usually articulated based on the petitioner's unsound financial structure; the authorizing board should deny a petition on these grounds in order to avoid liability for a financially unstable charter. It can also be based on the lack of experience of the proposed charter school governing board. Districts should study the backgrounds of each prospective board member for appropriate experience in running a school. If found lacking, the district should determine if the charter board will be hiring people who have the appropriate experience. It should also be noted that county boards and the state board now have greater latitude to approve petitions under AB 1994 when approving countywide and statewide charters respectively (see “What alternative avenues of approval are available to petitioners?” on page 35).

### ■ Grade level restrictions

A petition to establish a charter school may not be approved to serve students 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 students in all of the grade levels served by that school district. In other words, elementary school districts would be prohibited from approving petitions for charter schools serving high school students.

# The petition review process



*What should the board consider in approving or denying a petition (continued)*

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But an elementary school district serving students K-6 can approve a petition for a K-8 charter school, since the school would be serving students in all of the grade levels served by the K-6 district, plus additional grade levels of 7-8.

## ■ Possible board actions

After analyzing the petition, weighing it against the legal criteria for accepting or denying a petition, and reviewing staff recommendations, the board may take one of the following actions:

- Grant the charter for a term of up to five years.
- Ask the petitioners to withdraw the petition until they can correct deficiencies.
- Deny the petition based on legal grounds.
- Seek a waiver of timelines in order to have additional time to consider the petition.

# The petition review process

## ■ ■ ■ What alternative avenues of approval are available to petitioners?

### ■ Petitions for schools outside geographical boundaries of district

In 2002, the governor signed AB 1994 into law, prohibiting, with some exceptions, charter schools from locating outside the jurisdiction of its authorizing agency except in very limited circumstances.

**Exceptions.** A charter school may locate outside of the district of the authorizing board if the site outside of the district is needed for temporary use during a construction project or expansion project or the charter school is unable to find adequate space within the chartering district to house its entire program. In these circumstances, the charter school may operate one site outside of the district boundaries as long as the site is within the county of the authorizing board and the charter school notifies the county superintendent, the school district and the superintendent of public instruction.

**Exclusions.** The following schools or programs operating schools are excluded from the jurisdictional requirement altogether:

- Schools operating in compliance with Workforce Investment Act of 1998
- California Conservation Corps, including local Conservation Corps
- Federal job corps
- Youth build programs
- Juvenile court schools

**Multiple sites within a district.** A charter school may operate multiple sites within a district. Petitioners for new charter schools must state

the desire to operate multiple sites in the petition, and the authorizing board must consider the request as part of the petition approval process. Existing charter school operators must notify the authorizing board and seek an amendment to the charter if they desire to move or add school sites. This includes satellite facilities, resource centers and meeting space. A charter 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: (a) The facility is used exclusively for the educational support of students who are enrolled in non-classroom based independent study of the charter school and (b) The charter school provides its primary educational services in, and the majority of the students it serves are residents of, the county in which the school is authorized [Education Code 47605.1(c)(1)(2).] Amendments made to charter petitions require the charter schools and the authorizing board's joint approval.

### ■ Petitions submitted to county boards of education

**Original authorizations.** Under AB 1994, county boards of education may approve petitions for countywide charter schools. Such schools could operate at multiple sites within a county and must provide “instructional services that are not generally provided by a county office of education,” presumably expanding the student populations that a county-approved charter school may serve. However, the county board may deny the petition if it finds that the charter school can be better served by operating in only one school district in the county, or on any other basis that the board finds justifies denial of the petition in accordance with law. A countywide charter petition that is denied can not appeal to the State Board of Education.

# The petition review process

■ ■ ■ ■ What alternative avenues of approval are available to petitioners? (continued)

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A county board of education that approves a petition for the operation of a countywide charter is responsible for the oversight of the charter school. It may 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.

**Appellate authorizations.** Petitioners may submit a petition to the county board if the district board has denied the petition. If the county board fails to act on a petition within 120 days of receipt, the original decision of the district board to deny the petition shall be subject to judicial review. If the county approves the petition on appeal, the county becomes the authorizer and responsible for oversight. Under law, the petitioner must first appeal to the county office of education before appealing to the state Board of Education.

A charter school approved on appeal by the county board or state board of education, or a charter school approved as a statewide benefit charter school can submit a Proposition 39 request to the district of residence. The district of residence must provide facilities to the charter school. (*See Proposition 39 section.*)

## ■ Petitions submitted to the state Board of Education

Under current law, petitioners are allowed to submit a charter petition to the state Board of Education for approval if a district and/or county board has denied the petition. In addition, under AB 1994, charter petitions that can demonstrate a statewide instructional benefit may be submitted directly to the SBE.

**Original authorizations.** Under AB 1994, the SBE may approve petitions for statewide benefit charter schools, in a manner similar to the process by which county boards can approve countywide charters. Such schools could operate at multiple sites within the state, and the SBE must deny the petition if it finds that the charter school will not provide instructional services of a statewide benefit that cannot be provided by a school operating in only one district or county. The SBE is not required to approve a petition for a statewide charter school, and may deny a petition on the same grounds as a petition submitted to a district or county board.

The SBE may, as a condition of charter petition approval, 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 charter school. The SBE 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 SBE.

The SBE, with input from the Advisory Commission on Charter Schools, adopts regulations concerning SBE approved charter schools. An updated list of charter school regulations is available from the California Department of Education at [www.cde.ca.gov/sp/cs/lr](http://www.cde.ca.gov/sp/cs/lr).

**Appellate authorizations.** A charter petition may be submitted to the SBE if the county denies the petition or if the county upholds the district's denial. If the SBE fails to act on a petition within 120 days of receipt, the original decision of the district board to deny the petition shall be subject to judicial review.

■ ■ ■ ■ *What alternative avenues of approval are available to petitioners? (continued)*

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If the SBE approves the petition, then the CDE becomes the oversight agency. The SBE may, by mutual agreement, designate as the oversight agency any local educational agency in the county in which the charter school is located or the board that originally denied the petition. The SBE **cannot** require a local school district or county to oversee an SBE approved charter school. Revocation authority, however, remains with the SBE.

Note that when a charter granted by the SBE comes up for renewal, the petition for renewal must first be submitted to the local board that originally denied the charter. If the board denies the petition for renewal, the school may then petition the SBE for renewal.

A charter school approved by the SBE may request Proposition 39 facilities from the district in which they reside. (See page 48.)

# The petition review process

## ■ ■ ■ ■ What should be included in a memorandum of understanding?

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A memorandum of understanding is an agreement between the charter school and the authorizing board written to clarify financial and operational issues. An MOU is not required by charter law but is strongly recommended; it is usually negotiated during the petition approval process and is approved after the petition. The MOU should be reviewed annually and adjusted based on need. It provides an opportunity for the authorizing board to spell out anything that was not included in the original charter petition. The district may want to expand on the legally required charter elements or other required parts of the petition, or may want to include some of the items discussed below. The MOU serves as a binding legal agreement between the authorizing board and the charter school to protect both parties. Therefore, it is important to identify any matters for which the district wants to hold the petitioners accountable (timelines, etc.).

Although the authorizing board has other procedures and criteria for monitoring charter school performance and operations, the most effective monitoring occurs via the petition review process, when terms of compliance are described in the MOU. The more clear and comprehensive the district's expectations are spelled out in the MOU, the more smoothly the monitoring process will be once the charter is approved.

Outlined below are recommended elements for the MOU. Since some of the MOU items are lengthy and may need to be spelled out in great detail, separate MOUs for business operations, administrative and support services, special education and assessment should be considered.

### ■ Business plan

Although some aspects of the charter school's business operations must be addressed in the original charter, the MOU might include an expanded business plan addressing:

- Charter organizational chart
- Governing board activities (process for complying with Brown Act)
- Internal fiscal controls
- Staffing ratios
- Participation in STRS and PERS
- Reporting requirements
- Identification of financial reporting system, manual or automated
- Proposed school calendar
- Liability insurance and hold harmless provisions
- Safety programs
- Health and safety requirements for facilities
- Facilities maintenance, replacement and expansion
- Facilities' ability to accommodate the school's start-up population and projected growth
- Identification of annual/long-term debt
- Budget format
- Estimated revenues, categorical programs
- Expectation to use "best efforts" to apply for grant money
- Estimated expenditures, including start-up costs, salary

# The petition review process

## ■ ■ ■ What should be included in a memorandum of understanding? (continued)

- schedules, employee benefits, food services, transportation and other expenditure assumptions
- Budget criteria standards
- Budget reserve positions
- For renewal applications, current financial statements, including a detailed balance sheet and statements of income and expense
- Auditor selection, audit criteria, resolution of audit findings
- Financial stability indicators
- Legal costs to be paid if the school fails
- Procedure to be used to resolve disputes over fiscal management

### ■ Facilities plan

The district and the charter school must negotiate an agreement regarding use and payment for space. The agreement should reflect terms and conditions similar to those found in a commercial lease agreement. The district should ensure that the agreement includes details regarding the following:

- If providing own facility, documents that provide reasonable evidence that the charter school facility is or will be safe and habitable; compliance with all applicable building codes, health and safety codes; and is well-suited for its educational purpose.
- Information included in the final notice of facilities to be provided by the district.
- Agreement on use and payment for space.
- Pro rata share.

- Indemnification and liability insurance.
- Indication that allocated facilities remain district property.
- Provisions that the charter school will comply with district policies regarding the operations and maintenance of school facilities and furnishings and equipment.

The charter school must report actual ADA to the school district every time the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the district.

The charter school and district may negotiate separate agreements and/or reimbursement arrangements for specific services not considered part of facilities costs. Such services may include, but are not limited to, the use of additional space and operations, maintenance and security services.

The authorizing board should delineate in as much detail as possible the facilities use agreements that it has with the charter school. The facilities plan should make it clear that district policies and rules are to be followed when charter students use district facilities.

### ■ Administrative and support services plan

An MOU should detail who will be responsible for the various administrative and support services of the charter school. The business plan should include how these support services will be delivered and how they will be paid for. During the review of a charter petition, discussions must take place and decisions must be made regarding the extent to which the district will provide administrative and support services to the



# The petition review process

## ■ ■ ■ ■ *What should be included in a memorandum of understanding? (continued)*

charter school. Districts are limited by law to one percent actual oversight costs. If the authorizing board is providing substantially rent-free facilities to the charter, it can charge an additional two percent for facilities, which creates a total of three percent that can be charged to the charter. The one percent and three percent limits are for “supervisory oversight” of a charter school. The scope of supervisory oversight has broadened over the past few years; however, those duties are not clearly defined by the law. Therefore, it is important for authorizing board members to attend or ensure that staff attends CSBA workshops and conferences that provide updates to the law. The county offices of education and CSBA’s Policy Services are also good sources for this information.

Examples of reimbursable activities under supervisory oversight (monitoring) include:

- Development of MOUs, such as MOUs for business operations, administrative and support services, special education, facilities and assessment.
- Performance monitoring to ensure the school’s compliance with the terms of the charter, including conducting site visits, reviewing performance data and engaging in ongoing dialogue.
- Legal auditing to ensure that the practices and procedures of the charter school comply with applicable state and federal law.
- Financial monitoring, including reviewing reports regarding the finances of the charter school, and reviewing contracts and long-term obligations of the charter (e.g., leases) for compliance with state law and sound financial practices.

- Site visit protocols.

The actual delivery of services would probably not be considered supervisory oversight for purposes of the law. However, the charter school may contract with the chartering entity and/or outside groups for delivery of administrative and support services beyond the one percent and three percent limits. These services may include but are not limited to:

- Accounting
- Accounts payable
- Attendance accounting
- Audits
- Budgeting
- Payroll
- Personnel/human resources
- Health services, i.e. nursing
- Legal services

Procedures for outreach and recruitment from district schools, as well as access to district students.

- Risk management/insurance
- Purchasing
- Instructional media
- Data processing
- Maintenance of facilities

# The petition review process

## ■ ■ ■ ■ *What should be included in a memorandum of understanding? (continued)*

- Maintenance of equipment
- Utilities
- Custodial services
- Grounds
- Transportation (note that charter schools are not required to provide transportation, even for low-income students)
- Food services
- Athletic programs/extra-curricular activities, i.e., sports, dances, etc. (Are charter students allowed to participate on district teams?)
- Media/library services

The MOU should outline how these, or any other, services will be delivered.

### ■ **Special education plan**

A charter school can choose to be its own local education agency or choose to be a school of the authorizing district for special education purposes. If the charter chooses to be a school of the district, the authorizing district becomes responsible for delivering special education services to the eligible students in the charter schools it oversees. It is important to note that once an eligible student has enrolled in a charter school, for purposes of the special education law, it no longer matters where the student resides, except in determining how services will be delivered. The California Department of Education holds the authorizer, not the district of residence (unless the two are the same) responsible for ensuring that appropriate services are provided. Therefore, if the charter

chooses to be a school of the authorizing district instead of designating itself as its own LEA, the authorizing district is now responsible for serving all eligible special education students at that charter school, regardless of where these students reside. The authorizing board and charter school should develop an MOU that clarifies how special education services will be provided to charter school students and the charter school's relationship to the special education local plan area. Note that federal special education laws are not eligible for waivers.

If a charter chooses to be its own LEA, it must join a SELPA and deliver all services to its students. A charter school can join any SELPA in the state and is not restricted to joining the same SELPA as the authorizing school district.

Currently, most charter schools are operating as a school of the authorizing district for special education purposes. As such, extensive negotiations are needed between the charter school, the granting agency and the SELPA to work out issues regarding responsibility, oversight and fiscal accountability.

Because some special education expenses are typically not reimbursed, remaining an arm of the district offers less financial risk for charter schools, particularly small charter schools and those serving above-average numbers of special education students. Still, such schools should plan on contributing a significant sum to pay the charter school's fair share of excess special education costs. In drafting budget estimates, charter school petitioners should reserve sufficient funding to address these excess costs, perhaps based on the sponsoring district's estimated level of excess costs.

# The petition review process

■ ■ ■ ■ *What should be included in a memorandum of understanding? (continued)*

The following factors should be considered by the authorizing board and charter school in developing a special education MOU:

- The capacity of the charter school to implement and deliver special education services and programs.

Clarification of how services will be provided.

- The financial incentives established by the funding allocation plans of the local SELPA.
- The local district's special education costs and costs in SELPA.

An agreed upon per-pupil amount to cover excess costs of services LEA makes available to charter school (local fund contribution)

- The difference in ADA revenue for special education vs. general education purposes.
- How the charter school will identify special education students.
- How the charter school will provide facilities access for special education students.
- How the charter school will monitor its special education programs.
- The district should include a stipulation in the MOU that no individualized education program meeting will be held without a district representative.

## Special education funding model

The statewide special education funding model combines funds from several different sources into a unique rate for each SELPA. Special education funding is generated by the total ADA reported by districts and combined at the SELPA level. Charter schools generate special education revenue by reporting ADA.

Current law excludes special education funding from the charter school block grant and contains extensive provisions regarding special education in charter schools. Charter schools have two options for establishing their relationship with special education laws and funding systems:

1. For special education purposes, charter schools are generally presumed to be an arm of the local educational agency that granted their charter, unless the charter school has established itself as an independent LEA for special education purposes. State and federal special education funding will be allocated in accordance with the SELPA local allocation plan, which is typically to the district's SELPA, not the charter school. The charter-granting agency "shall ensure that all children with disabilities enrolled in the charter school receive special education services." The charter-granting agency is responsible for providing an "equitable share of special education funding and services" to the charter school. The charter school, in return, must "contribute an equitable share of its charter school block grant funding to support district wide special education costs."

# The petition review process

■ ■ ■ ■ *What should be included in a memorandum of understanding? (continued)*

2. Charter schools that have established themselves as independent LEAs for special education purposes must provide “verifiable, written assurances” that they will comply with all federal special education laws and that they will join a SELPA. *Note that a charter school operates, by default, as a school of the district for special education purposes until it has been accepted as an LEA member by a SELPA.* Even after the charter school is an LEA member of a SELPA, funds will flow directly to the SELPA, not the charter school, and the charter school will receive funding pursuant to the SELPA’s local allocation plan policies. Charter schools that are independent LEAs for special education purposes may also form their own SELPA, either individually or in partnership with other charter schools.

In September 2002, the California Department of Education released a 10-page document entitled “Special Education and Charter Schools: Questions and Answers.” This document is available on the California Department of Education Web site at [www.cde.ca.gov](http://www.cde.ca.gov). Authorizing boards are advised to check back with CSBA periodically to obtain the most recent information available.

## ■ Student assessment, access, data reporting plan

The original charter is required by law to include a description of the proposed assessment program related to the school’s measurable student outcomes. An MOU can be useful in elaborating on these plans, and should address:

- Assessments to be administered. Assessments identified must include state and federally mandated tests at appropriate grade levels, and may include district-determined benchmark assessments at designated years. If the assessments do not include the district-determined assessments, the description should indicate how other assessments are equivalent to those of the district.
- What, if any, role the district will play in charter school testing arrangements. Remember, it is the charter school’s responsibility to administer state and federal assessments to students.
- Whether growth targets for charter school students will be the same as or different than those for other district students. It is recommended that benchmarks for charter school student performance on state-required tests be higher than the district’s Academic Performance Index. That way, the charter school can enhance its credibility, and the district can be assured that the charter school’s mission is fulfilling the intent of the charter school law to improve student achievement. At a minimum, the charter school must demonstrate that it is making “adequate yearly progress” as defined by the No Child Left Behind Act, and meeting its API growth targets.

# The petition review process

■■■ *What should be included in a memorandum of understanding? (continued)*

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- Districts should encourage charter schools to refine performance measures after the data from first-year students are collected.

Procedures for providing updates on progress to the authorizing board.

- Districts should decide if they will allow charter school students to participate in district-sponsored activities such as sports, dances, etc. The district should consider insurance and liability issues before making this decision. If allowed, charter school students should be expected to meet the same academic requirements as other district students in order to participate in these activities.
- Reporting of student data. The plan should include the method by which the charter school will report test scores, demographic data and other student data.

A year prior to the renewal of the charter school, the district and charter school should revisit the MOU and develop a plan that will help the charter school accomplish the new requirements needed to renew its charter. (New requirements are listed under “What is the process for renewing a charter?” on page 63.)

## ■ Additional MOU items to consider

Beyond the suggestions listed above, there are additional items the district may want to consider including in an MOU. These will provide the authorizer with clarification on issues that could be problematic.

- Definition of material amendments to charter
- Procedure and protocol for site visits (pre-opening, periodic, unannounced)
- Conditions for renewal
- Notice to cure/revocation process (This should be included on the actual charter petition but it is helpful to spell out the details in an MOU.)
- Closure procedures (This should be included on the actual charter petition but it is helpful to spell out the details in an MOU.)
- District-created charter schools

# The petition review process

## ■■■■ Converting or creating charter schools

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The federal No Child Left Behind Act also places extensive requirements on states and districts to respond to academic underperformance in their schools. Specifically, NCLB outlines a system of escalating sanctions for schools that receive federal Title I funding and do not meet “adequate yearly progress” goals. These schools are identified as program improvement schools and after four consecutive years of not meeting AYP benchmarks, districts must create a plan for restructuring the school. After the fifth year, the district must implement that plan. NCLB provides the following list of possible actions for restructuring:

- Reopen the school as a public charter school.
- Replace all or most of the school staff, including the principal, who are relevant to the school’s failure to meet AYP goals.
- Enter into a contract with an entity, such as a private management company with a demonstrated record of effectiveness, to operate the school as a public school.
- Turn the operation of the school over to the state education agency, if permitted under state law and agreed to by the state.
- Any other major restructuring of a school’s governance arrangement.

In California, restructuring strategies have varied at the local level, including the conversion of schools into charters.

The intent and language of California’s charter school law clearly allows for school districts to convert their own schools into charter schools. There are benefits, as well as, risks for districts who wish to go

in that direction. Because NCLB allows for low-performing schools to be converted into charters for fourth- and fifth-year restructuring purposes, districts should look into this option to determine if it is a valid response to the challenges faced at these schools. Research can be done to determine if the programs in place at high- performing charter schools in the state with the same challenges as their own (e.g., poverty rates, English learners, high numbers of special education students, etc.) can be applied to their low-performing schools.

It is important for the board and superintendent to look to the community for support before moving in this direction. The charter school law was designed to give parents/guardians and educators a more proactive role in their children’s education. The most successful charter schools have followed this grassroots approach. Union support is another important factor that plays into the politics of converting charter schools. Successful charter schools often find a way to work with the union leadership in crafting a proposal that will include an opportunity for teachers and classified staff at the site to play a more collaborative role in the creation and leadership of the school.

There are also circumstances when a district feels strongly that a program improvement school needs to be restaffed in order to be successful and may wish to go this route irrespective of union support. However, conversion charter school petitions must be signed by at least fifty percent of the permanent status teachers at the school , so “restaffing” a conversion may be difficult. If a conversion charter is approved, Education Code 47611.5 allows charter schools to declare themselves the exclusive public school employer of the staff of their

# The petition review process

## ■ ■ ■ ■ *Converting or creating charter schools (continued)*

schools. Therefore, the charter school does not need to abide by the collective bargaining agreement of the authorizing district and can staff the school as it sees fit. Boards will want to confer with their legal advisors on this matter.

Converted schools that are operated by an outside entity will have their own governance structure and board. An existing school district board of trustees may govern a charter school but, if so, the charter school should form an advisory body made up of charter school stakeholders to advise the school district governing board on issues such as program implementation, budgets, and facilities.

However charters might fit into restructuring in districts, school boards and district staff will want to be cautious and thoughtful when proceeding down this path.

Conversion charter schools are not the only way that governance teams can incorporate charter schools into their district. A district governance team can also create a start-up charter school. Once again, community sentiment and collaboration with certificated and classified employees is essential to a successful charter school. Governance teams will need to spend time analyzing and evaluating student data to determine if there is a need in the district that a charter school can fill.

### **Questions to ask might include:**

- Are there students whose educational needs have not been met by the traditional schools?
- Would exemption from sections of the Education Code help the district to meet those needs?
- Can the district meet those needs through the creation of innovative programs versus creating a charter school?

A district-created charter school will follow the same petition process as any other proposed charter. The petition requirements remain the same. There has been some discussion and debate regarding the legality of a school board also serving as the board of the charter school pertaining to conflict of interest rules. Legal counsel must be consulted in the creation of any charter school.

### **Questions to ask legal counsel include:**

1. Can a district board also be the board of a charter school?
2. What are the legalities of performing oversight of the charter when the district board is the governance structure of the charter?
3. If problems arise in the charter that lead to revocation, does the district board follow the same laws and regulations it would for an independent charter? (i.e., how does a district board revoke itself?)
4. Can the district apply for the Federal Charter Start Up Grant from CDE if there is not a separate governance structure at the charter?

# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ When did Proposition 39 become effective?

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California voters passed Proposition 39, an initiative statute, on Nov. 8, 2000. The state Board of Education adopted implementing regulations that provide direction to districts on how to implement the provisions of Proposition 39. These regulations are available at the California Department of Education Web site at [www.cde.ca.gov/sp/cs/re/csqatoc.asp](http://www.cde.ca.gov/sp/cs/re/csqatoc.asp).

Proposition 39 went into effect in November 2003. As stated in Education Code 47614, the passage of Proposition 39 is indicative of “the intent of the people” that “public schools facilities should be shared fairly among all public school pupils, including those in charter schools.” Essentially, districts are required to provide facilities to charter schools located within their geographical boundaries, subject to certain requirements, and regardless of whether the district approved the charter.



# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ ■ What are the district's obligations under Proposition 39?

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### ■ Service of in-district students

Districts are required to provide facilities, if requested, for charter schools that have an in-district ADA of 80 or more. The facilities must be reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. An “in-district student” is a student entitled to attend the district’s schools. However, a student eligible to attend the district’s schools based on interdistrict attendance or based on parental employment shall be considered a student of the school district where the student resides. Independent study students count as part of in-district ADA unless the charter provides for non-classroom-based instruction. Districts are only required to allocate space for in-district students; districts are not required to allocate space for students who do not reside in the district. The district may choose to negotiate to provide facilities for students who are not in-district at a cost, but such an arrangement is made at the district’s discretion.

Recent court cases have provided direction for districts facing charter school facilities requests.

In August, 2004, another appellate court considered the “reasonable projection” issue in the case of *Environmental Charter High School v. Centinela Valley Union High School District*. This case considered the newly adopted state Board of Education regulations implementing Proposition 39. The Court ruled that when requesting facilities from a school district, the district is within its right to request the names and contact information from the charter school as part of the documentation of the number of in-district students meaningfully

interested in attending the charter school. Centinela Valley Union HSD had denied the facilities request by the Environmental Charter High School based on the schools’ refusal to provide any information about in-district students other than an estimated number. The Court ruled Centinela had every right to deny the request based on incomplete information. It went on to state that when a charter school submits a facilities request, it must make a showing of its enrollment projections with relevant documents. The Court stated it did not expect this showing to be arithmetically precise however, it must be reasonable in the sense that it has some basis in logic, reason and experience.

In July 2005, the California Court of Appeals issued a ruling in the case of *Ridgecrest Charter School v. Sierra Sands Unified School District* which has an enormous impact on school districts and how Proposition 39 charter school facilities requests are handled.

The court held that when considering a request for charter school facilities under Proposition 39, districts must, to the maximum extent practicable, consider the needs of charter students and district students equally. It goes on to state it was the intent of the Legislature via AB 544 to reduce, if not eliminate, the practical distinctions between charter schools and district-run schools. Therefore, according to the court, charter school students are district students and should be treated accordingly. Technically, the holding of this case applies only to districts in the Fifth Appellate District (Central Valley counties), but nonetheless all school districts should take into consideration this court’s perspective of the requirements of Proposition 39.

# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ What are the district's obligations under Proposition 39? (continued)

In March 2008, revised Proposition 39 regulations were approved. The new regulations are based on some of the court decisions mentioned above. The new regulations go into effect fall 2008 for facilities requests in the 2009-10 school year. The new requirements are folded into the information below. It is imperative that districts consult with legal counsel on all charter school facilities issues.

### ■ Timeline

Facilities requests must be submitted on or before November 1 of the preceding fiscal year. The school district must review the charter school's projection of in-district ADA and total ADA on or before December 1. The district must express any objections in writing by this date and state the ADA projections the district considers reasonable.

The December 1 date is important. If the district does not respond in writing by this date, the charter's projections stand and are not subject to challenge. The charter school then has until January 2 to respond to any objections by the district. If the charter does not respond by this date, the district's projections stand.

On or before February 1, the district will prepare, in writing, a preliminary proposal regarding the space to be allocated to the charter school. On or before March 1, the charter school shall respond in writing, to the district's proposal, expressing any concerns and outlining the differences in the proposed offer and the charter's request.

On or before April 1, the district will submit a final notification of the space offered to the charter school. The charter school must notify the district on whether or not it intends to accept the district's offer of

space. This notification must occur by May 1 or 30 days after the school district notification—whichever is later.

The charter school can withdraw or modify its notification before this deadline. Once the charter school accepts the proposed facilities, however, it is committed to paying the pro rata share amount agreed upon (see "May districts charge the charter school for facilities costs?" on page 53). If the charter school does not respond by the deadline, it forfeits rights to use the facilities for the following fiscal year. If the charter chooses to accept the district's offered space, the district must make space available for occupancy at least 10 working days prior to the start of school.

### ■ Providing facilities that are in "reasonably equivalent" conditions

The regulations require districts to provide a facility in "conditions reasonably equivalent" to those of the district's other public schools. The regulations establish a benchmark for defining "reasonably equivalent" through a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility shall be an existing facility that is most consistent with the needs of the students at the charter school.

Districts are to provide facilities in the same ratio of teaching stations to ADA as those provided to students in the comparison group schools. For purposes of determining ratios, the district ADA is calculated using projections for the fiscal year and grade levels for which the facilities are requested by the charter (e.g., a district would calculate the ADA for grades K-3 if the charter petition was seeking to create a K-3 charter). The charter school teaching station ratios

# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ ■ *What are the district's obligations under Proposition 39? (continued)*

are then calculated by using a classroom ADA comprised of only that portion of the charter students who reside within the district boundaries with the ratio used by the district.

The number of teaching stations is determined using the classroom inventory prepared pursuant to Sec. 1859.30 of Title 2 of the California Code of Regulations, adjusted to exclude classrooms identified as interim housing portables. If the district's classroom inventory includes specialized classroom space, such as science laboratories, the facilities provided must include a share of specialized classroom space. Districts are also required to provide administrative space, kitchen, multi-purpose room and play area space, and other non-teaching space commensurate with the in-district classroom ADA of the charter school.

Sharing arrangements may allow for space allocated to a charter school to be shared with district-operated programs, at either the same time or at different times. The portion of space that may be shared is calculated based on the space used exclusively by the charter compared to amount of space exclusively used by district-operated programs.

Title 5 regulations require that all of the factors listed below are to be used by the district and the charter school to determine whether the condition of facilities provided is reasonably equivalent to the condition of comparison group schools:

- School site size
- Condition of interior and exterior surfaces
- Condition of mechanical, plumbing, electrical and fire alarm systems

- Conformity of mechanical, plumbing, electrical and fire alarm systems to applicable codes
- Availability and condition of technology infrastructure
- Suitability of facility as a learning environment including, but not limited to, lighting, noise mitigation and size for intended use
- Manner in which the facility is furnished and equipped

### ■ **Facilities must be contiguous, furnished and equipped**

Facilities are “contiguous” if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities may also include facilities located at more than one site, provided that the school district minimizes the number of sites assigned, considers student safety and the district governing board first makes a finding that the charter school could not be accommodated at a single site and adopts a written statement of reasons. Also in the new regulations, it is clear that in evaluating a charter school's request for facilities, the district must give the charter's in-district students the same consideration as students in district-run schools.

# Allocation of facilities to charter schools – Proposition 39

■ ■ ■ ■ *What are the district's obligations under Proposition 39? (continued)*

The new regulations greatly expand the definition of furnished and equipped to include reasonably equivalent furnishings and equipment necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction. The furnishings and equipment must be reasonably equivalent to that in the comparison group schools.

## **Equipment**

Equipment refers to property that does not lose its identity when removed from its location, has relatively permanent value and its purchase increases the total value of a LEA's physical properties. The new regulations include examples of "equipment" as furniture, vehicles, machinery, film, videotape and major software programs. Furnishings and equipment acquired for a school site with non-district resources are excluded when determining reasonable equivalence. This includes PTA, private donor and foundation purchased equipment.

## ■ **Conversion charter schools**

New provisions were included in the revised regulations addressing conversion charter schools. Conversion charter schools that remain in the original, existing school site for their first year of operation shall have the same site made available to the charter for each year thereafter upon their annual request for facilities to the district. The district cannot move the conversion charter from its location without a material revision to the charter. Both the authorizing board and the charter school must agree upon any material revision. The district may charge the charter the pro-rata costs for the site and the district is entitled to receive reimbursement for over-allocated space from the charter school. The exception to this is if the conversion charter notifies the district, by February 1 of its first year of operation, that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocation space in the following year or thereafter. The district can then use the extra space for its own programs.

# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ What are the operations and maintenance responsibilities of both parties?

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### ■ Responsibilities of charter schools

Charter schools are responsible for ongoing operations and maintenance of facilities, furnishings and equipment in accordance with district policies. Charter schools cannot use facilities for non-school-related activities or permit others to do so without the permission of the district. Facilities, furnishings and equipment provided to a charter school by a district under the regulations remain the property of the district. Therefore, facilities may not be sublet or used, without the district's permission, for purposes other than those that are consistent with district policies and practices for use of other district schools.

### ■ Responsibilities of districts

Districts are responsible for the replacement of furnishings and equipment supplied by the district in accordance with district schedules and practices and for projects eligible to be included in the school district deferred maintenance plan. Districts should note that space allocated for use by the charter school, subject to sharing arrangements, is to be made available for the charter school's entire school year regardless of the district's instructional year or class schedule. Districts are not required to provide facilities outside of the district's geographical boundaries.

## Allocation of facilities to charter schools – Proposition 39

### ■ ■ ■ May districts charge the charter school for facilities costs?

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Yes. The district providing facilities may charge a pro rata share of its facilities costs for the use of the facilities—essentially an amount equivalent to what the district spent on facilities from unrestricted revenues from the district’s general fund in the year preceding the fiscal year in which facilities were provided. The charge per square footage is to be applied equally by the district to all charter schools that receive facilities. The new regulations require the charter school to report the per-square-foot charge it is paying in the current fiscal year to the CDE. The CDE will post the per-square-foot amounts on its Web site. It is important that districts be vigilant about the pro rata share calculations to ensure they are properly charging charter schools.

#### ■ Determination of facilities costs

In order to determine the charter’s pro rata share of facilities costs, a district may include costs associated with plant maintenance and operations, facilities acquisition, construction, rents and leases. They may also include the contribution from unrestricted general fund revenues to the school district’s Ongoing and Major Maintenance Account, Routine Restricted Maintenance Account, and/or deferred maintenance fund, costs from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and costs paid from unrestricted general fund revenue for replacement of furnishings and equipment according to district’s schedules and practices. Facilities costs also include debt service costs. Facilities costs do not include costs that are paid by the charter school, including costs associated with operation and maintenance.

#### ■ Reimbursement for over-allocated space

The charter school must submit a projection of in-district ADA. If the projection is off by 25 ADA or 10 percent of the projected in-district classroom ADA, whichever is greater, the charter is responsible for reimbursing the district for the allocated space by July 1 (the beginning of the fiscal year in which the charter school intends to open).

A charter school must notify the district when it anticipates it will have over-allocated space. The district may then elect to use the over-allocated space for school district programs, but it must notify the charter school within 30 days of the notification by the charter school. If the district notifies the charter school that it intends to use all or a portion of the over-allocated space, payments for over-allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the district notification to use the space. If the district notifies the charter school that it does not intend to use the space, the charter school must continue to make payments for over-allocated space and pro rata share payments. The district may reduce the amounts owed by the charter school at its discretion.

# Allocation of facilities to charter schools – Proposition 39

## ■ ■ ■ ■ What must be included in a written facilities request?

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School districts should have a form available for charter schools to use when submitting a Proposition 39 request. The California Department of Education's Charter Division form is available on its Web site for district use at [www.cde.ca.gov/sp/cs/as/csfacform.asp](http://www.cde.ca.gov/sp/cs/as/csfacform.asp). This will ensure that the district will receive all necessary information in a consistent and timely manner. However, the charter school can use its own form as long as it contains all required information. The form should include all applicable Education Code and Title 5 sections. The law requires that the request also include:

- Reasonable projections of in-district and total ADA and in-district and total classroom ADA (the classroom and non-classroom ADA must be separated out, broken down by grade level and by the school in the school district that the student would otherwise attend).
- Description of the methods for calculating the projections. (In *Sequoia Union High School District v. Aurora Charter High School* the court concluded that a charter school need not show "arithmetical precision in its projection" or provide a level of documentation that would be admissible at trial. The court found that Aurora's projection based on its past enrollment, its current enrollment, and interest expressed from current and prospective students to attend the next academic year satisfied the reasonable projection requirement.)
- Documentation of the number of in-district students meaningfully interested in attending the charter school.
- The charter school's instructional calendar.
- Information regarding the general geographic area in which the charter school wishes to locate.
- Information about the charter school's educational program that is relevant to assignment of facilities.

Districts may require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents/guardians and teachers, or to otherwise make the request available for review.

## Allocation of facilities to charter schools – Proposition 39

### ■ ■ ■ What must be included in the district's response?

The district shall prepare a preliminary proposal regarding the space to be allocated to the charter school and the associated pro rata share amount and provide the proposal to the charter school by February 1. The charter must respond to the district's preliminary proposal by March 1. By April 1 of the preceding fiscal year for which facilities are required, the district must provide final notice of facilities to be provided.

In the final notice, the district must identify:

- The teaching station and nonteaching station space offered for the exclusive use of the charter school and the teaching station and nonteaching station space to be shared with the district;
- For shared space, the arrangements for sharing;
- The in-district classroom ADA assumptions for the charter school upon which the allocation is based and, if the assumptions are different than those submitted by the charter school, a written explanation of the reasons for the differences; and
- Pro rata share amount and payment schedule, which shall take into account the timing of revenues from the state and from local property taxes.

The charter must respond in writing whether it intends to accept the district's offer. This response must occur by May 1 or 30 days after school district's submission of offer.

### What are other options for charter school facilities funding?

Funding for facilities may also be available to charter schools under the SB 740 Charter School Facility Grant Program (2005-06 is currently the last year for funding unless renewed funding is approved by the Legislature), Proposition 47 (approved by voters in November 2002) and Proposition 55 (approved by voters in 2004). However, as these programs have many additional caveats and requirements, districts are encouraged to visit the California Department of Education Charter Schools home page at [www.cde.ca.gov/sp/cs](http://www.cde.ca.gov/sp/cs) or to contact CSBA for the most recent information available.



# Oversight responsibilities of the authorizing board



Recent Federal education policy efforts support the expansion of charter schools, with much emphasis given to accountability and high performance standards. This can be welcome news for local authorizers in their efforts to provide high quality oversight to their charter schools. To ensure that charter schools are held accountable for the taxpayer funds they receive and to demonstrate accountability for the measurable outcomes set forth in their charters, the authorizing entity should develop and implement policies and procedures for academic and fiscal monitoring. It is imperative that authorizing boards ensure that their charter schools are achieving the student outcomes that each school sets forth in its charter agreement. Because the charter agreement for each school specifies measurable student outcomes for gauging the academic performance of the school, districts and county offices of education should have guidelines in place to effectively monitor their charter schools against the agreed-upon student outcomes.

The district can also look to the standards for revocation of a charter school (see page 64) for guidance in oversight. This includes the 16 required elements in the original charter petition.

## ■ AB 1137

As noted earlier in this handbook, AB 1137 requires each chartering entity to identify one staff member as a contact person for the charter school. The district should develop oversight materials such as checklists and rubrics to assist staff in monitoring the performance of the school. These materials can outline what the district will be looking at while visiting schools and what materials to have ready for district staff. This will also provide clear direction for the charter school as to the expectations

of the authorizing district. An additional section of AB 1137 requires the authorizing entity to annually visit each charter school. The law does not prohibit the district from visiting more often. The district staff should attempt to visit the school two to three times during the school year. This will allow the district to monitor the charter more closely and develop relationships with the staff at the charter school.

AB 1137 also requires the district to monitor the fiscal condition of the charter school and requires the charter school to submit quarterly financial reports to its chartering authority and county superintendent of schools. Districts should evaluate these reports carefully for any discrepancies and to ensure that the charter is financially solid. District staff should regularly

### **Charter schools must annually submit the following reports to the chartering authority and the county superintendent (or only the county superintendent if it is approved by the county):**

1. On or before July 1, a preliminary budget.
2. On or before December 15, an interim financial report that shall reflect changes through October 31.
3. On or before March 15, a second interim financial report that shall reflect changes through January 31.
4. On or before September 15, a final, unaudited report for the full prior year.

These reports should be used by the authorizer to assess the fiscal condition of the charter school [Education code 47604.33 (a).]

# Oversight responsibilities of the authorizing board



report results of monitoring to the board. An authorizing entity must follow the requirements of AB 1137 to avoid liability.

## ■ The authorizing board is also obligated to monitor charter school performance to determine whether the charter school:

- Has implemented the provisions of the charter as approved by the board.
- Is obeying all requirements of federal, state, and local law that apply to charter schools.
- Is being operated prudently in all respects, including, but not limited to, governance, educational program, faculty and staff facilities, business management, and support services.
- Is providing a sound education for all of its students.
- Is meeting its student achievement and organizational performance goals and objectives outlined in the charter.
- Has committed any violations that would subject the charter to possible revocation under Education Code 47607(b).
- Submitted annual audit.
- Is meeting all legal requirements of IDEA and, if it's own local educational agency for special education purposes, administering appropriate services to its students.
- Is fiscally stable.

- Provided timely notification to the CDE if:
  - a renewal of the charter is granted or denied;
  - the charter is revoked; or
  - the charter school will cease operation for any reason.

The extent of a granting authority's monitoring activities of a charter school will depend to a large extent upon the charter, any MOUs in place, any ancillary administrative services agreement, and the relationship between the school district and the charter school. It is important for the district and charter school to develop an amicable relationship so that monitoring and oversight are easily accomplished.

## ■ Monitoring of academic program

With the renewed focus on charter school accountability at the state and federal level, authorizers must be cognizant of the academic achievement progress being made by the charter school they have approved—whether dependent or independent.

# Oversight responsibilities of the authorizing board

## ■ ■ ■ ■ What are the reporting requirements of a charter school?

---

AB 1994 requires petitions to describe how a charter school that will serve high school students will inform parents/guardians about the transferability and eligibility of courses to other public high schools and about how students can meet college entrance requirements.

Charter schools are also required to promptly respond to all reasonable inquiries, including but not limited to inquiries regarding its financial records, from its authorizing board or from the superintendent of public instruction and to consult with the authorizing board or the superintendent of public instruction regarding any inquiries.

Governing boards are required to approve an annual statement of all receipts and expenditures for the district for the preceding fiscal year with the county superintendent of schools. Under AB 1994, each charter school is required to prepare, by Sept. 15 and in a format prescribed by the superintendent of public instruction, an annual statement of all receipts and expenditures of the charter school for the preceding fiscal year and to file the statement with the authorizing board.

In addition, AB 1994 vests authority in county superintendents to monitor the operations of a charter school located within that county and to conduct an investigation into the operations of that charter school based on parental complaints or other information that justifies the investigation. The liability of a county superintendent of schools when conducting those activities is limited. Charter schools are required to consult with the county office of education regarding inquiries. If the county superintendent of schools believes that fraud, misappropriation of funds, or illegal fiscal practices have occurred at a charter school operating within the county, he or she may request that

the Fiscal Crisis and Management Assistance Team audit expenditures and internal controls.

Districts should require regular written reports of charter schools. Whether this means annual or quarterly reports depends on the length of the initial charter and whether the charter school is employing experimental methods which would require additional time to see if they positively impact student achievement. The district and the charter school may jointly develop content and evaluation criteria for the reports with the input of parents/guardians of potential enrollees, or the charter school may develop the criteria with district oversight. The charter school's report should provide information that will allow the authorizing board to assess:

- Progress toward educational goals
- Organizational viability
- Legal compliance concerns

# Oversight responsibilities of the authorizing board

## ■ ■ ■ May charter schools impose site visit limitations?

No. As stated earlier, authorizing entities are required to visit the charter school annually. Outside of that requirement, the authority that granted the charter may inspect or observe any part of the charter school at any time. It is recommended that district staff visit the charter school at least two to three times during the year. Staff should schedule some of their visits with the charter but also may want to make some unannounced visits. The staff may want to develop an agenda for visits that would include document review, scheduled interviews (with administrators, board, staff, parents/guardians and students) and facility walk-through. As part of the agenda, a document review checklist should be provided to the charter school beforehand that outlines all of the Education Code requirements for oversight. The charter school should have inquiry and visitation procedures in place regarding both the public and district representatives. Board members should follow the same protocol they would use in visiting other district schools (e.g., it is generally not appropriate to visit the school unannounced).

## Who oversees a state Board of Education-approved charter school?

The state Board of Education is responsible for the oversight of an SBE-approved charter school. The SBE may, by mutual agreement, designate supervisory and oversight responsibilities for a charter school 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 (See “Petitions submitted to the state Board of Education” on page 36).

## Are there other tools districts can use to monitor charters?

The Charter Schools Act implicitly allows a granting authority to require, as a condition of granting a charter, that the record keeping, financial reporting, and programmatic review procedures be enumerated in the charter. In addition, a number of charter schools have a memorandum of understanding outlining the delivery of administrative services to the charter school. (See “Administrative and support services plan” on page 39). These agreements may provide an additional basis for proactive oversight of the charter school.

# Oversight responsibilities of the authorizing board

## ■ ■ ■ ■ To what extent are local boards liable for the fiscal activity of the charter?

---

The revocation of a number of insolvent charter schools within the state has provoked heated discussion regarding the potential for fiscal liability of the granting authority.

Prior to AB 1137, a charter-authorizing entity could not be held liable for the debts or obligations of the charter school, or for any claims arising from the performance of acts, errors, or omissions by the charter school, if the charter school was to be operated by or as a nonprofit public benefit corporation. AB 1137 places a caveat on that blanket exemption. Specifically, a charter-authorizing entity is free from liability for the debts or obligations of a charter school that is operated by or as a nonprofit public benefit corporation if the charter authorizer has complied with specific new oversight responsibilities required by AB 1137.

In general, public entities are immune from liability for injuries that arise out of their acts or omissions (Government Code sec. 815(a)). Despite this general immunity, however, public entities (including local boards and county boards) are liable for injuries caused by acts of their employees for which those employees would be liable as individuals (Government Code sec 815.2(a)). Under this authority, a charter school could be liable, as a separate public entity, for the injurious acts of its employees.

In a 1997 legal opinion, obviously not considering subsequent changes in the law relative to district oversight, the California Department of Education stated that an authorizing board should become liable, if at all, only after it has notice of a pattern or series of fiscally irresponsible actions, and fails to prevent further injuries by expeditious revocation of the charter. This theory of district or county office liability would be similar

to the liability of a district for the misconduct of its employees when the district has knowledge of similar prior misconduct and adopts a policy of “deliberate indifference to the consequences” of that misconduct.

Based on the 1997 legal opinion, the California Department of Education issued a memo concluding that:

- Charter schools are not subject to the audit and oversight laws that apply to school districts, including the annual audit under Education Code 41020, a state controller audit under Education Code 14506, and oversight requirements of AB 1200.
- Local educational agencies are generally not the financial guarantors of charter schools that they grant.
- A chartering authority may become liable for the debts and obligations of the charter school if it has notice of a pattern or series of fiscally irresponsible actions and fails to prevent further injuries by expeditious revocation of the charter.

While AB 1994 contains new fiscal reporting requirements for charter schools (see “What are the reporting requirements of a charter school?” on page 58), it is still important for authorizing boards to be proactive with regard to fiscal oversight. In fact, failure to do so could lead to liability. Therefore, to exercise responsible fiscal oversight, the authorizing board should:

- Before the charter petition is approved, ensure that the charter includes the “manner in which an annual audit of the financial and programmatic operations of the school is to be conducted,” as required by law, and a reasonable system for fiscal accountability.

# Oversight responsibilities of the authorizing board

■ ■ ■ ■ *To what extent are local boards liable for the fiscal activity of the charter? (continued)*

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This should include compliance with the Annual Standards and Procedures for Audits of California K-12 Local Education Agencies issued by the Education Audit Appeals Panel, as applicable. The charter and/or any business plan contained in a memorandum of understanding should state the specific financial standards the charter school is expected to use, as well as insurance requirements and budget reserve minimums. Some problems can be avoided by setting high standards of fiscal accountability at the front end and ensuring that the proposed budget is realistic and balanced.

- Follow current law and annually review the charter school's audit report, and quarterly review any other financial reports specified in the charter and/or any memorandum of understanding, to determine whether the charter school has acted in accordance with reasonable and prudent business standards. By requiring an audit provision in the original charter, the law implies the duty of the chartering authority to ensure that such procedures are actually in operation and to review the charter school's audit report.
- Make reasonable inquiries regarding the charter schools financial records, as appropriate. Pursuant to Education Code 47604.3, charter schools must promptly respond to all reasonable inquiries from the authorizing board or the superintendent of public instruction regarding financial records.

Under AB 1994, charter schools are required to file annual statements of all receipts and expenditures with the authorizing board (see "What are the reporting requirements of a charter school?" on page 58). This will most likely require a breakdown of revenues identified by source, and details regarding the amounts spent for certain expenditure categories, such as employee salaries and benefits, books, supplies, equipment, contracted services, other operating expenses, capital outlay, and other outgo. Charter schools should be prepared to provide additional financial information about beginning and ending balances, amounts set aside for reserves, amounts spent for debt service, and specific amounts spent from certain state and federal funding sources.

- Take expeditious action to revoke the charter upon discovery of serious fiscal mismanagement. As noted below (see "Revocation of charters, revocation appeals and closures" on page 64), the authorizing board may revoke the charter if it finds that the charter school failed to meet generally accepted accounting standards of fiscal management. The California Department of Education suggests that at least an annual review of a charter school's overall fiscal management is required in order to provide minimal safeguards against abuse of public funds by a charter school.

# Oversight responsibilities of the authorizing board

## ■ ■ ■ ■ **Are there special requirements for non-classroom-based charter schools?**

---

A nonclassroom-based school, is one in which more than 20 percent of instructional time is offered in a location different from the primary school site. Nonclassroom-based charter schools tend to rely on individualized, self-paced student learning plans. Nonclassroom-based instruction includes independent study, home study, distance study, computer-based study, and work-study. Pursuant to SB 740, the state Board of Education has adopted regulations regarding the financial reporting requirements for non-classroom based independent study charter schools. Such schools must submit funding requests to the state Board of Education. The regulations are available on the California Department of Education's Web site at [www.cde.ca.gov/sp/cs](http://www.cde.ca.gov/sp/cs).

# Oversight responsibilities of the authorizing board

## ■ ■ ■ What is the process for renewing a charter?

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Education Code 47607 requires that petitions for renewal be judged by the same standards and criteria as the initial approval of charters. In a move to create more accountability for charter schools, AB 1137 also put in place additional criteria a charter school must meet in order to be renewed. Since Jan. 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school's charter may not be renewed unless specific academic performance standards have been met. A charter school must meet at least one of the following performance standards: (1) attainment of the school's Academic Performance Index (API) growth target in two of the last three years or in the aggregate last three years; (2) an API decile ranking of four or better in the prior year or two of last the three years; (3) an API Similar Schools decile ranking of four or better in two of the last three years; (4) documented evidence that the performance of charter school students is at least equal to that of the students in schools of the district that those students would otherwise be attending; or (5) qualification for participation in the Alternative School Accountability Model.

The authorizing board will determine the above standards based on all of the following:

- Documented and clear and convincing data.
- Student achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program (STAR) for demographically similar student populations in the comparison schools.
- Information submitted by the charter school.

The authorizing board must submit to the superintendent of public instruction copies of the supporting documentation and written summary of the basis for any renewal determination.

The law does not establish timelines for the renewal process, so the district should establish timelines and procedures ahead of time that consider the needs of the district as well as the students, parents/guardians and staff of the charter school. Such procedures must provide sufficient time for the board to review the renewal petition, notify the charter school of its decision, allow for the possible appeal of the board's decision to the county board or state Board of Education, and enable students to be otherwise accommodated before the start of the school year if the charter renewal is denied.

Each renewal must be for a period of five years. Pursuant to Education Code 47607, the authorizing board and the charter school may mutually agree on modifications to the charter petition. AB 1610, passed in 2005, requires that renewals and material revisions 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.



# Revocation of charters, revocation appeals and closure

## ■ ■ ■ ■ Can the state Board of Education recommend revocation of a charter?

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It is the Legislature's intent to "hold the schools established (under the Charter Schools Act) accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems." As part of this accountability, state law gives chartering entities the authority to revoke charters under specified conditions.

Yes. Pursuant to Education Code 47604.5, the state Board of Education may take "appropriate action," including revocation, based upon the recommendation of the superintendent of public instruction, when it finds one or more of the following:

- Gross financial mismanagement that jeopardizes the financial stability of the charter school.
- Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school.
- Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's students.

The SBE can take such action regardless of whether it is the authority that granted the charter.

# Revocation of charters, revocation appeals and closure

## ■ ■ ■ Under what circumstances can an authorizing board revoke a charter?

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A charter may be revoked by the authority that granted the charter if the authority finds that the charter school did any one or more of the following (Education Code 47607):

- Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
- Failed to meet or pursue any of the pupil outcomes identified in the charter.
- Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement.
- Violated any provision of law.

## Process for revocation

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Prior to revocation, the authorizing board must notify the charter school of the violation and allow reasonable opportunity to correct the violation, unless the violation is a severe and imminent threat to the health or safety of pupils. This notification to cure must be detailed, clear of its intention and provide a timeline to remedy violations.

In 2006, AB 2030 was signed into law. This legislation addresses the issue of charter school revocations, adding provisions to define due process for revocation proceedings, establish an appeals process, and provide for continued funding for charter schools while an appeal is pending under specified conditions. It is important for governance teams to adhere to the requirements of AB 2030 so that the appellate bodies have legal arguments to uphold the revocation.

Specifically, AB 2030 does the following:

- Requires a written notice of intent to revoke, and a notice of facts supporting revocation, be provided to the charter school prior to charter revocation (and after a reasonable opportunity to cure alleged violations has occurred).
- Requires a public hearing within 30 days of issuing the notice of intent to revoke, and that a final decision to revoke (or not revoke) be issued within another 30 days, unless the charter school and the chartering authority mutually agree to a 30-day extension of the issuance of a decision.
- Requires a chartering authority to make written factual findings supported by substantial evidence that is specific to the charter school that support the chartering authority's findings (Legal representation during this process is vital).

# Revocation of charters, revocation appeals and closure

## ■ ■ ■ Process for revocation (continued)

- Establishes various appeals processes:
- 1. If a school district is the chartering authority and it revokes a charter, the charter school may appeal within 30 days to the county board of education.
- 2. If the county board either does not issue a decision within 90 days of receipt, or determines to uphold the revocation, the charter school may appeal the revocation to the State Board of Education.
- 3. If the county board reverses the school district's revocation, the school district may appeal the reversal to the SBE.
- 4. If a county office of education is the chartering authority and the county board revokes a charter, the charter school may appeal within 30 days following the decision of the county board to the SBE.

*Important note: If the revocation decision of the chartering authority is reversed on appeal, the agency that granted the charter continues to be the chartering authority.*

- While an appeal is pending, a charter school whose revocation proceedings are based on a material violation of the charter or failure to meet or pursue any of the pupil outcomes identified in the charter, shall continue to qualify for funding and may continue to hold all existing grants, resources, and facilities.
- Requires a final decision of a revocation or appeal of a revocation be reported to the chartering authority, the county board, and the CDE.

## What closure procedures must the charter school have in place?

For a variety of reasons, it may be necessary for a charter school to close. These may range from a voluntary action by the charter school operators to a revocation of the charter school, for cause, by the authorizing entity or the state Board of Education.

As stated in “What are the required elements of a complete charter petition?” on page 19, the charter school must describe procedures to be used if the charter school closes, including provisions for a closeout audit and transfer of student records. A charter school should work closely with the authorizing entity to ensure that clear and practical closure policies are in place. The law contains provisions for the revocation of a charter school, but does not specifically address what happens when a charter school voluntarily ceases to operate, or what becomes of the school's assets when a school is revoked or closed. It is up to the school to establish specific procedures as part of its charter. If the school is a non-profit corporation, the corporation's bylaws and laws governing non-profits may provide additional guidance. Specifically, any policy or procedure on closure should address notification of closure to parents/guardians, students, the California Department of Education, any district that may be receiving students of the charter school and the county office of education of the county where the charter school is located. The closure policy should also address transfer and maintenance of student records and transcripts, a final audit and transfer of assets of the school.



**Los Angeles County  
Office of Education**

**INFORMATIONAL  
BULLETIN**

9300 Imperial Highway, Downey, California 90242-2890 • (562) 922-6111

Darline P. Robles, Ph.D., *superintendent*

Bulletin No. 362

April 3, 2007

**TO:** Charter School Administrators  
Director of Charter Schools  
Business and Personnel Administrators  
Los Angeles County School Districts and Charter Schools

**FROM:** Philip Thi, Financial Operations Consultant  
Business Charter Schools Unit  
Division of School Financial Services

**SUBJECT:** Charter School Services and Support

The Los Angeles County Office of Education (LACOE), school districts, and the State Board of Education are approving an ever increasing number of charter schools within Los Angeles County. These charter schools as public school educational entities, have administrative and business responsibilities. Some of these responsibilities are based on federal or state laws. Others are required in the authorizing charter agreements or in side-agreements/memorandums of understanding with the authorizing entity.

LACOE has statutory responsibilities such as:

- disbursing public funds through the Los Angeles County Treasury,
- remitting and reporting employees' retirement contributions to California State Teachers' Retirement System (CalSTRS) or California Public Employees' Retirement System (CalPERS), and
- submitting attendance and financial reports to the California Department of Education (CDE)

LACOE/SFS provides services to facilitate the processing of CalSTRS and CalPERS requirements and other business processes by operating the PeopleSoft Financial System (PSFS) and the Human Resources System (HRS). These systems are components of services made available to districts, other local educational agencies and charter schools within Los Angeles County. LACOE, through the Division of School Financial Services (SFS) responded to the needs of the charter school community by establishing a Charter Schools Unit to field questions and respond to concerns. Philip Thi is the Financial Operations Consultant, who oversees this unit. He can be reached at (562) 922-8693 or [thi\\_philip@lacoe.edu](mailto:thi_philip@lacoe.edu).

SFS offers charter schools five (5) levels of support. Depending upon the characteristics of an individual charter school, the school may choose the appropriate support level.

SFS offers the following services:

- CalSTRS and/or CalPERS retirement reporting
- Funding disbursement
- PeopleSoft (PSFS) for accounts payable processing and accounting services
- HRS for payroll processing, including direct deposit

(over)

The five types of services are:

Charter Type	Type Description
Type I—Pass Through	<ul style="list-style-type: none"> <li>Funds received in LA County Treasury and disbursed by LACOE</li> <li>No STRS/PERS retirement reporting</li> <li>No HRS or PeopleSoft</li> </ul>
Type I-PS—Use of PeopleSoft System only	<ul style="list-style-type: none"> <li>Funds received in LA County Treasury and disbursed by LACOE</li> <li>No STRS/PERS retirement reporting</li> <li>Uses PeopleSoft to receive financial reports</li> </ul>
Type II—Retirement Reporting only	<ul style="list-style-type: none"> <li>Funds received in LA County Treasury and disbursed by LACOE</li> <li>STRS/PERS Retirement reporting through use of 3<sup>rd</sup>-party vendor</li> <li>No HRS or PeopleSoft</li> </ul>
Type III—Retirement Reporting and PeopleSoft	<ul style="list-style-type: none"> <li>Funds received in LA County Treasury and disbursed by LACOE</li> <li>STRS/PERS Retirement reporting through use of 3<sup>rd</sup>-party vendor</li> <li>Uses PeopleSoft for at least some of business functions</li> </ul>
Type IV—Full Service	<ul style="list-style-type: none"> <li>Uses HRS to generate payroll and retirement reporting</li> <li>Uses PeopleSoft for all or part of business functions</li> </ul>

Services are described in detail below:

### **Type I—Pass Through**

A *Pass Through* charter school is a charter that has an alternative retirement system because they did not elect CalSTRS or CalPERS; they maintain a separate bank (financial) account; and will not use LACOE's PSFS and HRS.

LACOE offers only funding disbursement.

This charter school is responsible for the following:

- covering its employees with an alternative retirement system
- obtaining alternative accounts payable processing and accounting services
- paying employees through other systems

If the charter school changes its charter document to include CalSTRS and/or CalPERS retirement contributions and deductions, then the charter school **must** contact LACOE immediately regarding the required retirement reporting through LACOE.

**Type I-PS—Pass Through and PeopleSoft**

A *Pass Through using PeopleSoft Financial System* is a charter school that has an alternative retirement system because they did not elect CalSTRS or CalPERS; they maintain a separate bank (financial) account; and use LACOE's PSFS.

LACOE offers only funding disbursement and use of PeopleSoft.

This charter school is responsible for the following:

- covering its employees with an alternative retirement system
- obtaining alternative accounts payable processing and accounting services
- paying employees through other systems

The charter school in this classification is responsible for the following:

- covering its employees with an alternative retirement system;
- obtaining alternative accounts payable processing and accounting services; and
- paying employees through other systems

If the charter school changes its charter document to include CalSTRS and/or CalPERS retirement contributions and deductions, then the charter school **must** contact LACOE immediately regarding the required retirement reporting through LACOE.

**Type II—Retirement Reporting and Processing (RR&P)**

A *Retirement Reporting and Processing (RR&P)* charter offers CalSTRS and/or CalPERS to its employees; they maintain a separate bank (financial) account; and will not use LACOE's PSFS and HRS.

LACOE offers:

- CalSTRS and/or CalPERS retirement reporting
- funding disbursement, after sufficient funds have been reserved for CalSTRS and/or CalPERS

This charter school is responsible for the following:

- obtaining alternative accounts payable processing and accounting services
- paying employees through other systems
- maintaining all payroll records for such payments. These records must be retained indefinitely for adjustment processing purposes
- providing payroll and retirement information to a third-party vendor interface for the retirement reporting
- submitting CalSTRS and/or CalPERS required forms, reports and/or files to LACOE, including a copy of the payroll register, according to published schedule
- accepting financial responsibility for all CalSTRS and/or CalPERS fines and penalties resulting from incomplete, inaccurate, or late reports and/or inadequate or late deposits

**Type III—PeopleSoft (PSFS) and Retirement Reporting and Processing (RR&P)**

A *PeopleSoft (PSFS) and Retirement Reporting and Processing (RR&P)* charter school offers CalSTRS and/or CalPERS to its employees; uses LACOE's PSFS for accounts payable processing and accounting services; but will not use LACOE's HRS.

LACOE offers:

- CalSTRS and/or CalPERS retirement reporting
- PSFS for accounts payable processing and accounting services

This charter school is responsible for the following:

- paying employees through other systems
- maintaining all payroll records for such payments. These records must be retained indefinitely for adjustment processing purposes
- providing payroll and retirement information to a third-party vendor interface for the retirement reporting
- submitting CalSTRS and/or CalPERS required forms, reports and/or file to LACOE, including a copy of the payroll register, according to published schedule
- accepting financial responsibility for all CalSTRS and/or CalPERS fines and penalties resulting from incomplete, inaccurate, or late reports and/or inadequate or late deposits
- maintaining a separate bank (financial) account, to deposit and disburse all private funding, e. g. donations, in accordance with Government Code Section 27011

**Type IV—Full HRS, PSFS and RR&P Services**

A *Full HRS, PSFS and RR&P* charter school is a charter that offers CalSTRS and/or CalPERS to its employees and uses LACOE's PSFS and HRS.

LACOE offers:

- CalSTRS and/or CalPERS retirement reporting
- PSFS for accounts payable processing and accounting services
- HRS for payroll processing including direct deposit

When this type is selected, LACOE and charter have to meet at least four (4) weeks prior to first payroll issue date in order to review implementation process and schedule appropriate automated system training.

This charter school is responsible for:

- complying with operating procedure, policies and schedules within the CalSTRS and/or CalPERS, PSFS and HRS
- maintaining a separate bank (financial) account, to deposit and disburse all private funding, e. g. donations, in accordance with Government Code Section 27011

### **Agreement with LACOE**

Every charter school in Los Angeles County should have a master agreement with LACOE. This agreement covers standard contract language for all the defined types of charters, and a separate schedule pertaining to the exact type of service/support needed. Please refer to Information Bulletin No. 141—*Charter Schools 2006-07 Expense Reimbursement* for detailed information regarding the fee structure that is being used in 2006-07 to reimbursement LACOE's expenses in support of charter school operations and reporting. If your charter school would like to change service type, please complete and return the attached form by May 30, 2007.

### **LACOE Systems Overview**

SFS staff is available if you would like to discuss a specific service-type or to schedule a LACOE Systems Overview. All charters who return the attachment requesting a meeting time to discuss options will receive a call from a SFS representative to confirm the meeting date and time.

If you have any questions regarding this bulletin, please contact:

Philip Thi	(562) 922-8693	thi_philip@laoe.edu
Claudette Wiggan-Reid	(562) 401-5574	wiggan_claudette@laoe.edu

Please note that school districts and other Local Educational Agencies are being sent this bulletin for informational purposes only.

PT:cmw  
Attachment

Approved by:  
Pamela Fees, Director  
Division of School Financial Services

Bul. No. 362  
SFS-A45-2006-07



## Requesting a Change in Charter School Service Types

LACOE Charter School Number and/or Department of Education I.D. Number

Charter School Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

Contact Person \_\_\_\_\_

This charter school currently **receives** the following type of support and services from SFS: *Check one box.*

- ☐ Type I—*Pass Through Only*
- ☐ Type I-PS—*Pass Through with PeopleSoft (PSFS)*
- ☐ Type II—*Retirement Reporting and Processing (RR&P)*
- ☐ Type III—*PeopleSoft (PSFS) and Retirement Reporting and Processing (RR&P)*
- ☐ Type IV—*Full HRS, PSFS and RR&P Services*

As detailed in Informational Bulletin No. 362, dated April 3, 2007, it is the intent of the charter school identified above to change to the following type of support and service from SFS. *Check one box.*

- ☐ Type I—*Pass Through Only*
- ☐ Type I-PS—*Pass Through with PeopleSoft (PSFS)*
- ☐ Type II—*Retirement Reporting and Processing (RR&P)*
- ☐ Type III—*PeopleSoft (PSFS) and Retirement Reporting and Processing (RR&P)*
- ☐ Type IV—*Full HRS, PSFS and RR&P Services*

### LACOE Systems Overview:

Our charter school would like to schedule a LACOE Systems Overview. Some suggested dates are:

1) Desired Date: \_\_\_\_\_ Time \_\_\_\_\_

2) Desired Date: \_\_\_\_\_ Time \_\_\_\_\_

**Return completed form by May 30, 2007, via fax to:**

LACOE, Division of School Financial Services  
Attention: Claudette Wiggan-Reid, Cubicle 2035  
Fax Number (562) 940-1624

Attachment to:  
Bul. No. 362  
SFS-A45-2006-07

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5 CA ADC § 11960

5 CCR § 11960

Cal. Admin. Code tit. 5, s 11960

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 5. EDUCATION

## DIVISION 1. CALIFORNIA DEPARTMENT OF EDUCATION

## CHAPTER 11. SPECIAL PROGRAMS

## SUBCHAPTER 19. CHARTER SCHOOLS

## ARTICLE 1. CHARTER SCHOOL REGULAR AVERAGE DAILY ATTENDANCE

This database is current through 02/09/07, Register 2007, No. 6

s 11960. Regular Average Daily Attendance for Charter Schools.

(a) As used in Education Code section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

(b) The State Superintendent of Public Instruction shall proportionately reduce the amount of funding that would otherwise have been apportioned to a charter school on the basis of average daily attendance for a fiscal year, if school was actually taught in the charter school on fewer than 175 calendar days during that fiscal year.

(c)(1) Beginning in 2004-05, a pupil who is over the age of 19 years may generate attendance for apportionment purposes in a charter school only if both of the following conditions are met:

(A) The pupil was enrolled in a public school in pursuit of a high school diploma (or, if a student in special education, an individualized education program) while 19 years of age and, without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress towards award of a high school diploma (or, if a student in special education, satisfactory progress in keeping with an individualized education program) consistent with the definition of satisfactory progress set forth in subdivision (b) of Section 11965.

(B) The pupil is not over the age of 22 years.

(2) This subdivision shall not apply to a charter school program specified in Education Code section 47612.1. A charter school program as specified in Education Code section 47612.1 may be either:

(A) the whole of a charter school, if the school has an exclusive partnership agreement with one or more of the programs specified in Education Code section 47612.1 and serves no other pupils; or

(B) an instructional program operated by a charter school that is exclusively dedicated to pupils who are also participating in one of the programs specified in Education Code section 47612.1, provided that arrangement is

set forth in an exclusive partnership agreement between the charter school and one or more of the programs specified in Education Code section 47612.1.

(d) No individual who is ineligible to generate attendance for apportionment purposes in a charter school pursuant to subdivision (c) may be claimed as regular attendance for apportionment purposes by a local education agency that is authorized by law to grant charters. This subdivision shall not apply to claims other than claims for regular attendance for apportionment purposes.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 41420, 46301 and 47612, Education Code.

#### HISTORY

1. New subchapter 19 and section filed 9-7-93 as an emergency; operative 9-7-93 (Register 93, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-94 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 19 and section refiled 12-23-93 as an emergency; operative 1-6-94 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-6-94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-23-94 order transmitted with amendments to OAL 5-4-94 and filed 6-15-94 (Register 94, No. 24).
4. Amendment of section heading and subsection (a), repealer of subsection (c) and amendment of Note filed 7-1-98 as an emergency; operative 7-1-98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-1-98 order transmitted to OAL 10-13-98 and filed 11-13-98 (Register 98, No. 46).
6. New subsections (c) (1)-(d) filed 2-10-2004; operative 3-11-2004 (Register 2004, No. 7).

5 CCR s 11960, 5 CA ADC s 11960  
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s 11963. Definition of Classroom-Based Instruction.

(a) In accordance with the definition of classroom-based instruction specified in Education Code section 47612.5(e)(1), and for purposes of identifying and reporting that portion of a charter school's average daily attendance that is generated through nonclassroom-based instruction pursuant to Education Code sections 47634.2(c) and 47612.5(e)(2), classroom-based instruction in a charter school occurs only when all four of the following conditions are met.

(1) The charter school's pupils are engaged in educational activities required of those pupils, and the pupils are under the immediate supervision and control of an employee of the charter school who is authorized to provide instruction to the pupils within the meaning of Education Code section 47605(l).

(2) At least 80 percent of the instructional time offered at the charter school is at the schoolsite.

(3) The charter school's schoolsite is a facility that is used principally for classroom instruction.

(4) The charter school requires its pupils to be in attendance at the schoolsite at least 80 percent of the minimum instructional time required pursuant to Education Code section 47612.5(a)(1).

(b) The requirement to be "at the schoolsite" is satisfied if either of the following conditions is met.

(1) The facility in which the pupils receive instruction is:

(A) Owned, rented, or leased by the charter school principally for classroom instruction;

(B) Provided to the charter school by a school district pursuant to Education Code section 47614 principally for classroom instruction; or

(C) Provided to the charter school free-of-charge principally for classroom instruction pursuant to a written agreement.

When not being used by the charter school for classroom instruction, the facility may be rented, leased, or allowed to be used for other purposes (e.g., for evening adult classes not offered by the charter school, local theater productions, or community meetings) and still be deemed to be principally for classroom instruction.

(2) The charter school facility meets the criteria in paragraph (1) of subdivision (b) and the pupils are on a field trip during which the pupils remain under the immediate supervision and control of the employee of the charter school and are carrying out an educational activity required of the pupils.

(c) The requirement to be "at the schoolsite" is not satisfied if the pupils are in a personal residence (i.e., a dwelling), even if space in the residence is set aside and dedicated to instructional purposes and/or the charter school rents or leases space in the residence for the provision of instruction. As used in this subdivision, a personal residence shall not include a facility that is licensed by a state or local government agency to operate as a facility in which pupils not related to the facility's owners are provided custodial care and supervision (e.g., a licensed children's institution or a boarding school).

(d) The definitions in this section are solely for the purpose of determining if a charter school must submit a determination of funding request pursuant to Education Code section 47634.2.

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

#### HISTORY

1. New article 1.5 (sections 11963-11963.6) and section filed 10-28-2003; operative 10-28-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44). For prior history of article 1.5, sections 11963-11963.4, see Register 2002, No. 42.

5 CCR s 11963, 5 CA ADC s 11963  
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5 CA ADC s 11963

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s 11963.1. Nonclassroom-Based Instruction in Charter Schools.

This article does not change the requirement that nonclassroom-based instruction in charter schools comply with the provisions of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code.

Note: Authority cited: Sections 33031 and 47612.5, Education Code. Reference: Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28; and Section 47612.5, Education Code.

**HISTORY**

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to GovernmentCode section 11343.4 (Register 2003, No. 44).

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s 11963.2. Average Daily Attendance for Nonclassroom-Based Instruction in Charter Schools.

(a) A charter school may receive funding for nonclassroom-based instruction only if a determination of funding is made pursuant to Education Code section 47634.2. A determination of funding is a specific percentage approved by the State Board of Education for each affected charter school by which the charter school's reported nonclassroom-based average daily attendance must be adjusted by the Superintendent of Public Instruction prior to the apportioning of funds based upon that average daily attendance. A determination of funding shall only be approved by the State Board for a charter school if the charter school has submitted a request.

(b) A determination of funding request approved by the State Board of Education shall be 70 percent, unless a greater or lesser percentage is determined appropriate by the State Board of Education in accordance with section 11963.4. In no case shall an approved determination of funding exceed 100 percent.

Note: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

### HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to GovernmentCode section 11343.4 (Register 2003, No. 44).

2. Amendment of section and Note filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

5 CCR s 11963.2, 5 CA ADC s 11963.2  
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s 11963.3. Determination of Funding Request Forms and Calculations.

(a) For purposes of submitting a determination of funding request, the California Department of Education shall issue a form or set of forms to collect the information specified in this subdivision. Unless otherwise indicated, charter schools submitting a determination of funding request shall complete the form or forms in accordance with the definitions used in the 2005 edition of the California School Accounting Manual (which can be obtained from the California Department of Education web site at: <http://www.cde.ca.gov/fg/ac/sa>). The form or forms shall be developed by the California Department of Education in consultation with the Advisory Commission on Charter Schools. The form or forms shall include all of the following and, to the extent the form or forms include more than the following, the form or forms shall require the approval of the State Board of Education and comply with applicable provisions of the Administrative Procedure Act.

(1) The name, charter number, authorizing entity, address, contact name and title, telephone number, fax number, and email address, if any, for the charter school.

(2) The percentage requested by the school as its determination of funding.

(3) The number of fiscal years for which the determination of funding is requested, which shall not exceed five years.

(4) The date the charter was initially granted and the date the charter or charter renewal will expire.

(5) For charter schools that operated in the prior fiscal year, all of the following:

(A) The school's total resources, including all federal revenue, with federal Public Charter School Grant Program start-up, implementation, and dissemination grants separately identified; all state revenue; all local revenue with in-lieu property taxes separately identified; other financing sources; and the ending balance from the prior fiscal year.

(B) The school's total expenditures for instruction and related services, by object of expenditure, which shall include all of the following:

1. Activities dealing with the interaction between teaching staff and students, without regard to the instructional location or medium.
2. Services that provide administrative, technical, and logistical support to facilitate and enhance instruction.
3. Services in direct support of students.
4. School-sponsored extra-curricular or co-curricular activities designed to provide motivation and enjoyment and improvement of skills.
5. Instructional materials, supplies, and equipment.

(C) The school's total expenditures for schoolsite and administrative site operations and facilities, by object of expenditure, which shall include all of the following:

1. Activities concerned with securing and keeping open and working the physical plants, grounds, and equipment necessary for the operation of the school.
2. Facility rents, leases, and utilities.
3. Facilities acquisition and construction.

(D) The school's total expenditures for administration and all other activities, by object of expenditure, which shall include all of the following:

1. Activities concerned with establishing and administering policy for operating the entire charter school, such as the governing board, director, and administrative staff.
2. Other general administration activities, such as payroll and accounting services, auditing and legal services, property and liability insurance, personnel, charter-wide telephone service, and data processing services.
3. Supervisorial oversight fees charged by the chartering authority.
4. Other expenditures not reported elsewhere, such as those for community services and enterprise activities and cumulative administrative overhead from related party transactions.

(E) Other outgo and other uses, including debt service payments and transfers.

(F) The excess (or deficiency) of revenues over expenditures calculated by subtracting the total of subparagraphs (B), (C), (D), and (E), from the total resources reported pursuant to subparagraph (A), and a list of the amount of reserves for: facilities acquisition or construction, economic uncertainties, the amount

required by the charter-authorizing entity, or other reserves. Reserves in excess of the greater of fifty-thousand dollars or five percent of total expenditures may be allowed for economic uncertainties or long-term expenditures such as capital projects if the excess reserves are satisfactorily explained pursuant to section 11963.4(b).

(6) For charter schools that did not operate in the prior fiscal year, the revenue and expenditure information required in paragraph (5) shall be provided using reasonable estimates of current-year annualized revenues and expenditures.

(b) In addition to the form or forms prescribed pursuant to subdivision (a), a complete determination of funding request shall also include the following information. Only a determination of funding request that is complete may be acted upon by the State Board of Education.

(1) A certification signed by the charter school's director, principal, or governing board chairperson of the following:

(A) That the information provided is true and correct to the best of the ability and knowledge of the individual authorized to do so by the charter school's governing board.

(B) That the charter school's nonclassroom-based instruction is conducted for and substantially dedicated to the instructional benefit of the school's students.

(C) That the governing board of the charter school has adopted and implements conflict of interest policies.

(D) That all of the charter school's transactions, contracts, and agreements are in the best interest of the school and reflect a reasonable market rate for all goods, services, and considerations rendered for or supplied to the school.

(2) The charter school's pupil-teacher ratio as calculated pursuant to title 5, section 11704 of the California Code of Regulations.

(3) A listing of entities that received in the previous fiscal year (or will receive in the current fiscal year) \$50,000 or more or 10 percent or more of the charter school's total expenditures identified pursuant to subparagraphs (B), (C), (D), and (E) of paragraph (5) of subdivision (a), the amount received by each entity; whether each of the contract payments is based on specific services rendered or upon an amount per unit of average daily attendance or some other percentage; and an identification of which entities, if any, have contract payments based on a per unit average daily attendance amount or some other percentage.

(4) An identification of the members comprising the charter school's governing board (i.e., parent, teacher, etc.) and a description of how those members were selected; whether the governing board has adopted and implemented conflict of interest policies and procedures; and whether any of the governing board members are affiliated in any way with any of the entities reported pursuant to paragraph (3) and if so, how.

(5) An explanation of all transfers reported pursuant to subparagraph (E) of paragraph (5) of subdivision (a).

(6) A list and the amount of each of the other reserves reported pursuant to subparagraph (F) of paragraph (5) of subdivision (a).

(7) To the extent that a charter school desires to have facility costs considered as an instructional cost, the total annual facility-related and operational cost, total facility square footage occupied by the charter school, total classroom-based average daily attendance (if applicable) as reported at the prior-year second principal apportionment, and the total student hours attended by nonclassroom-based pupils at the school site shall be provided.

(8) The number of full-time equivalent employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing and who work in the charter school in a position required to provide direct instruction or direct instructional support to students. For purposes of these regulations, "direct instructional support" includes, but is not limited to, activities that are directly related to student instruction that are performed by qualified certificated persons such as curriculum coordinators, individualized education plan coordinators, librarians, counselors, psychologists, and nurses.

(c) The California Department of Education shall perform the following using the resource and expenditure data provided pursuant to subdivision (a).

(1) A calculation showing the charter school's total expenditures for salaries and benefits for all employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing (and who work in the charter school in a position required to provide direct instruction or direct instructional support to students) as a percentage of the school's total public revenues. For the purposes of this subdivision:

(A) "Employees" shall include special education teachers who possess a valid teaching certificate, permit, or other document equivalent to that which special education teachers in non-charter public schools would be required to hold issued by the Commission on Teacher Credentialing, and who provide direct instruction or direct instructional support to pupils of the charter school pursuant to a contract with a public or private entity.

(B) "Employees" shall include individuals who possess a valid certificate, permit, or other document equivalent to that which the individuals would be required to possess in a non-charter public school, issued by the Commission on Teacher Credentialing, and who are employed by a local education agency (LEA), provided all of the following conditions are met: the LEA is the employer of all the charter school's staff; the governing board of the LEA is the governing authority for the charter school (i.e., the charter school is not a corporate entity separate from the LEA); and the LEA's employees are assigned exclusively to work at the charter school providing direct instruction or direct instructional support to students or, to the extent that the LEA's employees are assigned to work at the charter school on a part-time basis, the charter school pays for the services rendered by the employee providing direct instruction or direct instructional support to students on a documented, fee-for-service basis and not, for example, on the basis of a fixed annual amount, fixed percentage of average daily attendance revenue, or other basis that is not related to documented services actually rendered to the charter school. Under no circumstances shall certificated employees of an LEA be considered employees of a charter school for purposes of this subparagraph unless the charter school pays for the services rendered by the LEA's employees on a documented, fee-for-service basis.

(C) For purposes of this section, "employee" also means qualified persons that provide direct instruction or direct instructional support, that are hired directly by the charter school through an employment services contract based on a documented, fee-for-service basis.

(D) The school's total public revenue is based on the amounts reported pursuant to subparagraph (A) of paragraph (5) of subdivision (a) and equals the sum of: all federal revenue, less any Public Charter School Grant Program start-up, implementation, and dissemination grant funds; state revenue; and local revenue from in-lieu property taxes.

(2) A calculation showing the charter school's total expenditures on instruction and related services as a percentage of the school's total revenues. For the purposes of this subdivision, the school's total revenues do not include the ending balance from the prior fiscal year.

Note: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

#### HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to GovernmentCode section 11343.4 (Register 2003, No. 44).

2. Amendment of section and Note filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

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s 11963.5. Determination of Funding Requests for Nonclassroom-Based Virtual or On-Line Charter Schools.

A virtual or on-line charter school is one in which at least 80 percent of teaching and student interaction occurs via the Internet.

(a) A virtual or on-line nonclassroom-based charter school may receive approval of a funding determination with no maximum pupil-teacher ratio if the charter school has and maintains an 8 or above Academic Performance Index (API) rank in either its statewide or similar schools ranking and has no less than a 6 in the other of these two rankings.

(b) In order to be funded pursuant to (a) above, a virtual or on-line charter school, must demonstrate that:

(1) The school has met its overall and subgroup API growth targets.

(2) Instructional expenditures are at least 85 percent of the overall school budget. A substantial portion of these expenditures (at least 25 percent of the charter school's general purpose entitlement and categorical block grant as defined in Education Code section 47632), are spent on technology that directly benefits students and teachers and results in improved student achievement.

(3) Computer-based instruction and assessment is provided to each student and includes the use of an on-line instructional management program, which at a minimum includes standards-based guided lessons, lesson plans, initial testing of students, periodic assessment of student achievement, and the use of other measurements of student progress over a period of time.

(4) Teachers are provided with technology tools and print media, which at a minimum must include: standards-aligned instructional materials, computer, printer, monitor, Internet service, telephone, staff development that provides for the monitoring of student progress, and a means of electronic communication for frequent student contact.

(5) All students are provided an individualized learning plan that is based on initial testing of the students and

that is monitored either remotely or in person, by the teacher to evaluate student progress.

(6) All students are provided access to a computer, Internet service, printer, monitor, and standards-aligned materials based on State Board adopted academic content standards for each grade level and for each subject studied.

(7) All students eligible for special education supports and services receive those supports and services in accordance with their individualized education program.

(8) Charter school admission practices will not favor high performing students or recruit a student population that is of a higher socioeconomic group or lower racial or ethnic representation than the general population of the county or counties served. Admission practices not reflective of the county or counties served shall be cause for denial by the State Board of Education under this section.

Note: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47632, 47634.2, 51747.3, 52052 and 60640-60643, Education Code.

#### HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to GovernmentCode section 11343.4 (Register 2003, No. 44).

2. Renumbering of former section 11963.5 to section 11963.6 and new section 11963.5 filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

5 CCR s 11963.5, 5 CA ADC s 11963.5  
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s 11963.6. Submission and Action on Determination of Funding Requests Regarding Nonclassroom-Based Instruction.

(a) An approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years. Within 90 days after the end of its first fiscal year of operation, a charter school shall submit unaudited actual expense reports and a funding determination form based on the school's actual second-year budget. If the Advisory Commission on Charter Schools determines that the actual expenditures of the charter school or the second year funding determination form do not support the funding determination for the second year, the Advisory Commission on Charter Schools shall recommend that the State Board of Education revise the funding determination.

(b) For the 2005-06 fiscal year only, a determination of funding request approved by the State Board of Education for any nonclassroom-based charter school that is not in its first year of operation shall be for the 2005-06 fiscal year and additionally a minimum of one year but a maximum of four years prospectively (for a total funding determination of not more than five years).

(c) Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007-08 fiscal year, nonclassroom-based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year prior to the year the funding determination will be effective, when a new request is required under these regulations.

(d) A determination of funding shall be subject to review each time a material change is made in the school's charter with respect to nonclassroom-based instruction, and may be subject to review each time the school's charter is renewed, and/or in accordance with any conditions the State Board of Education may impose at the time of the determination of funding request approval. A material change in the school's charter with respect to nonclassroom-based instruction is any significant change that affects the level of resources devoted to nonclassroom-based instruction, the courses to be offered through nonclassroom-based instruction, and/or the delivery of educational services to pupils receiving nonclassroom-based instruction. The charter school shall notify the California Department of Education no later than thirty (30) days after the material change is made.

(e) A charter school may submit a request for funding determination up to one year prior to the fiscal year in which the request will initially be effective. The State Board may grant the request for up to five years following the effective date of the request.

(f) Not more than 120 days following the receipt of a complete determination of funding request, the California Department of Education shall present the request and the recommendation of the Advisory Commission on Charter Schools to the State



Board of Education in accordance with subdivision (a) of section 11963.4.

(g) If, during the effective period of a determination of funding, a charter school wishes to seek a higher or lower determination of funding, it shall do so by the filing of a new determination of funding request. During the effective period of a charter school's determination of funding, no more than one additional determination of funding request (which would replace the determination of funding then in effect) may be submitted by the charter school in the same fiscal year.

Note: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47634.2 and 51745.6, Education Code.

#### HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to GovernmentCode section 11343.4 (Register 2003, No. 44).

2. Renumbering of former section 11963.6 to section 11963.7 and renumbering of former section 11963.5 to section 11963.6, including amendment of section and Note filed 12-6-2005; operative 12-6-2005 pursuant to Government Codesection 11343.4 (Register 2005, No. 49).

5 CCR s 11963.6, 5 CA ADC s 11963.6  
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5 CA ADC s 11963.6

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5 CA ADC § 11965

5 CCR s 11965

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s 11965. Definitions.

(a) "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.

(b) 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 agency 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 U.S. Code, Title 20, 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.

Note: Authority cited: Sections 33031, 47602(b) and 47612(b), Education Code. Reference: Sections 47602(b) and 47612(b), Education Code; and Section 1414(d), Title 20, U.S. Code.

### 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).

5 CCR s 11965, 5 CA ADC s 11965  
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5 CA ADC s 11965

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5 CA ADC § 11966

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s 11966. Certification.

On each occasion that a charter school reports attendance to the California Department of Education for purposes of the calculation of state funding for the charter school, an official of the charter school who is responsible for reporting attendance shall specifically certify that all of the attendance then reported is for pupils whose attendance is eligible for public funding pursuant to Education Code section 47602(b). The Superintendent of Public Instruction shall not apportion state funds to any charter school that fails to make the certification required by this section.

Note: Authority cited: Sections 33031 and 47602(b), Education Code. Reference: Section 47602(b), 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).

5 CCR s 11966, 5 CA ADC s 11966  
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5 CA ADC s 11966

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## Welcome to the online source for California Code of Regulations

5 CA ADC § 11967

5 CCR s 11967

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s 11967. Appeals on Charter Petitions 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 not later than 180 calendar days after the denial. Any petition received by the county board of education or State Board of Education more than 180 days after denial shall not be acted upon by the county board of education or State Board of Education.

(b) When filing a petition with the county board of education or the State Board of Education 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 State Board of Education as the chartering entity as applicable.

(c) The county board of education or State Board of Education 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) Not later than 60 days after receiving a complete petition package, and following review of the petition at a duly noticed public meeting, a county board of education shall grant or deny the charter petition. This time period may be extended by an additional 30 days if the county board of education and the petitioner(s) agree to the extension.

(e) Not later than 90 days after receiving a complete petition package, the State Board of Education shall schedule, at its next regular board meeting, an action item to grant or deny the charter petition. This date may be extended by an additional 30 days if the State Board of Education and the petitioner(s) agree to the extension.

(f) In considering charter petitions that have been previously denied, the county board of education or State Board of Education 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(j)(5), Education Code. Reference: Section 47605(j), 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 CCR s 11967, 5 CA ADC s 11967  
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5 CA ADC s 11967

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s 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).

5 CCR s 11967.5, 5 CA ADC s 11967.5  
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5 CA ADC s 11967.5

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5 CCR s 11967.5.1

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s 11967.5.1. Criteria for the Review and Approval of Charter School Petitions by the State Board of Education.

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the State Board of Education'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 State Board of Education.

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

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

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

(c) For purposes of Education Code section 47605(b)(2), the State Board of Education 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 State Board of Education 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 State Board of Education'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 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 its submission to a school district pursuant to Education Code section 47605(a). The State Board of Education 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.

(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 State Board of Education 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 a 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, 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 State Board of Education 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 all 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 State Board of Education, California Department of Education, or other agency as the State Board of Education 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 education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.

(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 a local education agency to work in the charter school that the local education agency may specify.

(B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency 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 State Board of Education 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 State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.

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

(C) Recognize that, because it is not a local education agency, the State Board of Education may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education 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 State Board of Education'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 (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code), as required by Education Code section 47605(b)(5)(O), recognizes that the State Board of Education is not an exclusive public school employer

and that, 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 (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(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(j)(5), Education Code. Reference: Section 47605, Education Code.

#### HISTORY

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

5 CCR s 11967.5.1, 5 CA ADC s 11967.5.1  
1CAC

5 CA ADC s 11967.5.1

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5 CCR s 11967.6

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s 11967.6. Submission of Statewide Benefit Charter School Petitions 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 Individual 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.
- (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) Include an assurance that the school district and county superintendents where each school will be located will be notified at least 120 days prior to commencement of instruction.
- (11) Address all charter elements specified in Education Code section 47605 adapted appropriately for application at the statewide level.
- (12) Contain or address any provisions or conditions specified by the State Board of Education at the time of charter approval.
- (13) 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. 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.

(14) Provide a list of each school that will be operated by the statewide benefit charter school that includes:

- (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 State Board, 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 State Board of Education.

(e) Each statewide benefit charter school shall provide an annual report to the State Board of Education 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 GovernmentCode section 11343.4 (Register 2005, No. 25).

5 CCR s 11967.6, 5 CA ADC s 11967.6  
1CAC

5 CA ADC s 11967.6

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s 11967.7. Evaluation of Facilities for Statewide Benefit Charter Schools.

(a) The statewide benefit charter school shall notify the California Department of Education at least 60 days prior to proposed commencement of instruction at each individual school, including submission of all documentation required in section 11967.6(a) (14). Within 30 days of the receipt of a complete and documented notice pursuant to this section, the California Department of Education shall evaluate the facilities for the proposed educational program for compliance with local building permits and codes and notify the statewide benefit charter school and any affected local education agency of its determination. The charter school or any affected local education agency may appeal the Department's determination within 10 calendar days of the date of the determination, and the matter will be placed on the agenda of the next regularly scheduled meeting of the State Board of Education. If no action is taken by the State Board of Education, the California Department of Education's determination shall stand. A school may not open in a facility without a positive determination.

(b) A school in its first year of operation may only commence instruction between July 1 and September 30 of the year in which it proposes to commence operation.

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

**HISTORY**

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

5 CCR s 11967.7, 5 CA ADC s 11967.7  
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s 11967.8. Funding for Statewide Benefit Charter Schools.

(a) A statewide benefit charter school approved pursuant to Education Code section 47605.8 shall be direct-funded pursuant to Chapter 6 of Part 26.8 of the Education Code (commencing with section 47630), with the following exceptions:

(1) A statewide benefit charter school's general-purpose entitlement pursuant to Education Code section 47633 shall be funded entirely from state aid.

(2) A statewide benefit charter school does not have a "sponsoring local education agency" as defined in Education Code section 47632.

(b) The warrant for a statewide benefit charter school shall be drawn in favor of the State Superintendent of Public Instruction and a county office of education as follows:

(1) The State Board of Education may designate a county office of education as the office responsible for establishing the appropriate funds or accounts in the county treasury for the statewide benefit charter school and for making the necessary arrangements for the statewide benefit charter school's participation in the State Teachers' Retirement System and/or the Public Employees' Retirement System. The county office may charge the statewide benefit charter school for the actual cost of services.

(2) In designating a county office of education, the State Board shall give preference to the county office of education of the county that the statewide benefit charter school identifies as the principal location of its business records.

(3) If the county office of education in the county that the statewide benefit charter school identifies as the principal location of its business records declines to accept the responsibility for the statewide benefit charter school, the State Board of Education may designate another county office of education by mutual agreement.

Note: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605.8, 47632, 47633 and 47651, Education Code.

HISTORY

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

5 CCR s 11967.8, 5 CA ADC s 11967.8  
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5 CA ADC s 11967.8

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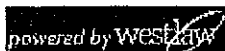
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s 11968. Maximum Number of Charters.

- (a) If a charter school, including a statewide benefit or countrywide charter school, ceases to operate by voluntary surrender, revocation, or non-renewal of its charter, the charter school's number will lapse and will not be reassigned.
- (b) On July 1, 1999, and on each succeeding July 1, the limit on the total number of charter schools authorized to operate in this state will be increased by 100.
- (c) Whenever the statutory limit on the permissible number of charter schools authorized to operate in this state is reached, requests for new numbers will be placed on a list in the order received by the State Board of Education.

Note: Authority cited: Sections 33031 and 47602(b), Education Code. Reference: Section 47602, 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 filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

5 CCR s 11968, 5 CA ADC s 11968  
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s 11969. Numbering of Charter School Petitions.

(a) In accordance with subdivision (a) of section 47602 of the Education Code, the California Department of Education, on behalf of the State Board of Education, shall establish and administer a numbering system to track the total number of charter schools authorized to operate in the state, based on the chronological order of the receipt of a complete charter petition and notification of charter approval by a local educational agency or, in the case of a charter petition approved by the State Board of Education, the date and time of the State Board's approval.

(b) When the State Board of Education approves a charter petition or receives notice that a charter petition has been approved by a local education agency, the State Board shall assign a number to that charter petition in accordance with section 47602(a)(1) of the Education Code.

Note: Authority cited: Section 33031, Education Code. Reference: Section 47602, Education Code.

**HISTORY**

1. New section filed 4-9-99 as an emergency; operative 4-9-99 (Register 99, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-9-99 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 4-9-99 order transmitted to OAL 6-30-99 and filed 8-11-99 (Register 99, No. 33).

3. Repealer and new section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

5 CCR s 11969, 5 CA ADC s 11969  
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s 11969.2. Definitions.

(a) Average Daily Classroom Attendance. As used in Education Code section 47614(b), "average daily classroom attendance," or "classroom ADA," is average daily attendance (ADA) for classroom-based apportionments as used in Education Code section 47612.5. "In-district classroom ADA" is classroom ADA attributable to in-district students.

(b) Operating in the School District. As used in Education Code section 47614(b), a charter school is "operating in the school district" if the charter school meets the requirements of Education Code section 47614(b)(5) regardless of whether the school district is or is proposed to be the authorizing entity for the charter school and whether the charter school has a facility inside the school district's boundaries.

(c) In-district Students. As used in Education Code section 47614(b), a student attending a charter school is an "in-district student" of a school district if he or she is entitled to attend the schools of the school district and could attend a school district-operated school, except that a student eligible to attend the schools of the school district based on interdistrict attendance pursuant to Education Code section 46600 et seq. or based on parental employment pursuant to Education Code section 48204(f) shall be considered a student of the school district where he or she resides.

(d) Contiguous. As used in Education Code section 47614(b), facilities are "contiguous" if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety.

(e) Furnished and Equipped. As used in Education Code section 47614(b), a facility is "furnished and equipped" if it includes all the furnishings and equipment necessary to conduct classroom-based instruction (i.e., at a minimum, desks, chairs, and blackboards).

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.2, 5 CA ADC s 11969.2

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**s 11969.3. Conditions Reasonably Equivalent.**

The following provisions shall be used to determine whether facilities provided to a charter school are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities, as required by Education Code section 47614(b).

(a) Comparison Group.

(1) The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of school district-operated schools with similar grade levels.

(2) The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

(3) For school districts whose students do not attend high school based on attendance areas, the comparison group shall be three schools in the school district with similar grade levels that the largest number of students of the charter school would otherwise attend. For school districts with fewer than three schools with similar grade levels, the comparison group shall be all schools in the school district with similar grade levels.

**(b) Capacity.**

(1) Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations to ADA as those provided to students in the school district attending comparison group schools. School district ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. Charter school ADA shall be determined using in-district classroom ADA projected for the fiscal year and grade levels for which facilities are requested. The number of teaching stations shall be determined using the classroom inventory prepared pursuant to Section 1859.30 of Title 2 of the California Code of Regulations, adjusted to exclude classrooms identified as interim housing portables.

(2) If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to subdivision (1) shall include a share of the specialized classroom space. The amount of specialized classroom space allocated shall be determined based on the grade levels of charter school students and shall be commensurate with the in-district classroom ADA of the charter school.

(3) School districts shall provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school. Non-teaching station space is all of the space that is not identified as teaching station space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space.

(4) Space allocated to a charter school may be shared with school district-operated programs. Sharing arrangements may involve use of a space by a charter school and a school district-operated program at the same time or at different times.

(c) Condition.

(1) All of the factors listed below shall be used by the school district and charter school to determine whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools.

(A) School site size.

(B) The condition of interior and exterior surfaces.

(C) The condition of mechanical, plumbing, electrical, and fire alarm systems.

(D) The conformity of mechanical, plumbing, electrical, and fire alarm systems to applicable codes.

(E) The availability and condition of technology infrastructure.

(F) The suitability of the facility as a learning environment including, but not limited to, lighting, noise mitigation, and size for intended use.

(G) The manner in which the facility is furnished and equipped.

(2) Notwithstanding subdivision (1), at charter schools established through the conversion from an existing public school as described in Education Code section 47605(a)(2), the condition of the facility previously used by the school district at the conversion site shall be considered to be reasonably equivalent to the condition of school district facilities for the first year the charter school uses the facility.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.3, 5 CA ADC s 11969.3  
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5 CA ADC s 11969.3

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s 11969.4. Operations and Maintenance.

(a) Facilities and furnishings and equipment provided to a charter school by a school district shall remain the property of the school district.

(b) The ongoing operations and maintenance of facilities and furnishings and equipment is the responsibility of the charter school. Projects eligible to be included in the school district deferred maintenance plan established pursuant to Education Code section 17582 and the replacement of furnishings and equipment supplied by the school district in accordance with school district schedules and practices, shall remain the responsibility of the school district. The school district may require that the charter school comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment. However, school districts may not require charter schools to comply with policies in cases where actual school district practice substantially differs from official policies.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.4, 5 CA ADC s 11969.4  
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s 11969.5. Availability.

The space allocated for use by the charter school, subject to sharing arrangements, shall be available for the charter school's entire school year regardless of the school district's instructional year or class schedule and may not be sublet or used for purposes other than those that are consistent with school district policies and practices for use of other public schools of the school district without permission of the school district.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.5, 5 CA ADC s 11969.5  
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s 11969.6. Location.

A school district may satisfy the requirements of Education Code section 47614 by providing facilities that are located outside the school district's boundaries, subject to other provisions of this article. No school district is required to provide facilities that are located outside the school district's boundaries to a charter school.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.6, 5 CA ADC s 11969.6  
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## Welcome to the online source for California Code of Regulations

5 CA ADC § 11969.7

5 CCR s 11969.7

Cal. Admin. Code tit. 5, s 11969.7

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
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ARTICLE 3. FACILITIES FOR CHARTER SCHOOLS.

This database is current through 02/09/07, Register 2007, No. 6

### s 11969.7. Charges for Facilities Costs.

The school district may charge the charter school a pro rata share of its facilities costs for the use of the facilities. The pro rata share amount shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted general fund revenues, as described on pages 203-1 and 305-1 of Part I of the 2001 edition of the California School Accounting Manual (at [www.cde.ca.gov/fiscal/sacs/csam](http://www.cde.ca.gov/fiscal/sacs/csam)), divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school.

(a) For purposes of this section, facilities costs includes those costs associated with facilities acquisition and construction and facilities rents and leases, as defined on page 81 of Part II of the 2001 edition of the California School Accounting Manual (at [www.cde.ca.gov/fiscal/sacs/csam](http://www.cde.ca.gov/fiscal/sacs/csam)). For purposes of this section, facilities costs also includes the contribution from unrestricted general fund revenues to the school district deferred maintenance fund, costs from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and costs from unrestricted general fund revenue for replacement of furnishings and equipment according to school district schedules and practices.

(b) For purposes of this section, the cost of facilities shall include debt service costs.

(c) "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space may include but is not limited to those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.

(d) The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.

(e) The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

#### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.7, 5 CA ADC s 11969.7  
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5 CA ADC s 11969.7

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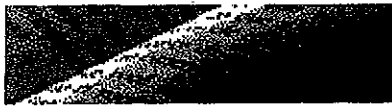
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This database is current through 02/09/07, Register 2007, No. 6

s 11969.8. Reimbursement Rates for Over-Allocated Space.

(a) Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater. The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA. For purposes of this subdivision, the actual in-district classroom ADA shall be determined using the report submitted pursuant to Section 11969.9(i) in conjunction with the second principal apportionment under Education Code section 41601.

(b) A charter school must notify the school district when it anticipates that it will have over-allocated space that could be used by the school district. Upon notification by a charter school that the charter school anticipates having over-allocated space, a school district may elect to use the space for school district programs. The school district must notify the charter school whether or not it intends to use the over-allocated space within 30 days of the notification by the charter school. If the school district notifies the charter school that it intends to use all or a portion of the over-allocated space, payments for over-allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the school district notification to use the space. If the school district notifies the charter school that it does not intend to use the space, the charter school must continue to make payments for over-allocated space and pro rata share payments. The school district may, at its sole discretion, reduce the amounts owed by the charter school.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.8, 5 CA ADC s 11969.8  
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(3) School districts may require the charter school to submit its facilities request containing the information specified in subdivisions (c)(1) and (2) on a form available from the California Department of Education and developed in consultation with the Advisory Commission on Charter Schools or another form specified by the school district. School districts may also require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review.

(d) The school district shall review the projections and provide the charter school a reasonable opportunity to respond to any concerns raised by the school district regarding the projections. The school district shall prepare a preliminary proposal regarding the space to be allocated to the charter school and the associated pro rata share amount and provide the charter school a reasonable opportunity to review and comment on the proposal.

(e) The school district must provide a final notification of the space offered to the charter school by April 1 preceding the fiscal year for which facilities are requested. The school district notification must specifically identify:

(1) the teaching station and non-teaching station space offered for the exclusive use of the charter school and the teaching station and non-teaching station space to be shared with district-operated programs;

(2) for shared space, the arrangements for sharing;

(3) the in-district classroom ADA assumptions for the charter school upon which the allocation is based and, if the assumptions are different than those submitted by the charter school, a written explanation of the reasons for the differences;

(4) the pro rata share amount; and

(5) the payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes.

(f) The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur by May 1 or 30 days after the school district notification, whichever is later. The charter school's notification can be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the school district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the school district by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in the following fiscal year.

(g) The space allocated by the school district must be furnished, equipped and available for occupancy by the charter school at least seven days prior to the first day of instruction of the charter school.

(h) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in the notification provided by the school district to the charter school pursuant to subdivision (e). In addition, if required by the school district, the agreement shall provide that the charter school shall:

(1) Maintain liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable; and/or

(2) Comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.



(i) The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

(j) The charter school and the school district may negotiate separate agreements and/or reimbursement arrangements for specific services not considered part of facilities costs as defined in Section 11969.7. Such services may include, but are not limited to, the use of additional space and operations, maintenance, and security services.

(k) Notwithstanding any of the other provisions of this section, a charter school and the school district may mutually establish different timelines and procedures than provided in this section. A school district may establish timelines as much as two months earlier than provided in this section provided that (1) it notify charter schools of the changes, (2) it does not change the dates for submission of facility requests, and (3) charter schools have the same amount of time to respond to the school district's offer of space.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

#### HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

5 CCR s 11969.9, 5 CA ADC s 11969.9  
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5 CA ADC § 11969.10

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ARTICLE 3. FACILITIES FOR CHARTER SCHOOLS.

This database is current through 02/09/07, Register 2007, No. 6

s 11969.10. Procedures and Timelines for Dispute Resolution Regarding Facilities for Charter Schools.

Note: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

### HISTORY

1. New section filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

2. On August 13, 2002, the Office of Administrative Law filed with the Secretary of State regulations proposed by the Board of Education, OAL file #02-0715-01S, adding CCR, Title 5, Section 11969.10 concerning dispute resolution. The Board of Education had estimated the regulations would impose no costs on governmental entities. Pursuant to Section 11357 of the Government Code, Section 6660 of the State Administrative Manual (SAM) requires a state agency to obtain the concurrence of the Department of Finance (DOF) in its estimate if the regulations will have a fiscal effect on governmental entities, including reimbursable local costs. A properly completed STD 399 would have provided an estimate of the costs to governmental entities and necessitated DOF concurrence under Section 6660 of the SAM. DOF formally advised OAL on September 11, 2002, that DOF does not agree with the Board's estimate of no costs. DOF further directed OAL to rescind its action that approved the proposed regulations and to return the regulations to the Board in accordance with subdivision (d) of Section 11349.1 of the Government Code.

Lacking the requisite concurrence of DOF, the approval and filing of these regulations, OAL file # 02-0715-01S, adding CCR Title 5, Section 11969.10, with the Secretary of State on August 13, 2002, was premature. Consequently, on September 11, 2002, OAL rescinded its action of August 13, 2002, and returned the regulations to the Board of Education pursuant to subdivision (d) of Section 11349.1 of the Government Code (Register 2002, No. 37).

5 CCR s 11969.10, 5 CA ADC s 11969.10

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5 CA ADC s 11969.10

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**EDUCATION CODE**  
**SECTION 47600-47604.5**

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

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.

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.

47603. 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.

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.

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.

47604.32. 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:

- (a) Identify at least one staff member as a contact person for the charter school.
- (b) Visit each charter school at least annually.
- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law.
- (d) Monitor the fiscal condition of each charter school under its authority.
- (e) 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:
  - (1) A renewal of the charter is granted or denied.
  - (2) The charter is revoked.
  - (3) The charter school will cease operation for any reason.
- (f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

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 December 15, an interim financial report. This report shall reflect changes through October 31.
  - (3) On or before March 15, a second interim financial report. This report shall reflect changes through January 31.
  - (4) 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 subdivision (d) of Section 47604.32.
- (c) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

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.

47604.5. The State Board of Education, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent of Public Instruction, take appropriate action, including, but not limited to, revocation of the school's charter, when the State Board of Education 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.

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## **SECTION 47605-47608**

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any 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, as long as 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 are met:

(A) The petition has been signed by a number of parents or 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 has been 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 (b) of Section 41365 may be circulated by any 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 has been 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 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) Notwithstanding subdivision (a), 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 within which that school district is located, if the school district within whose jurisdiction 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 exist:

(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 district, other employees of the 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 establishment of charter schools should be encouraged. A school district governing board 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) A description of the educational program of the school, designed, among other things, to identify those whom the 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) If the proposed school will serve high school pupils, a description of 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.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

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

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

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school 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) A description of the rights of any 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) A declaration 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 (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(P) A description of 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 pupil records.

(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, guardians, and teachers regarding the 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 any pupil on the basis of ethnicity, national origin, gender, 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, except that any 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) However, 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, in no event, shall 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 any employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require any 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 school, including, but not limited to, the facilities to be utilized 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 cash flow 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 school district governing board 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.

(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 of Education.

(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 of Education, and the state board may approve the petition, in accordance with subdivision (b). Any charter school that receives approval of its petition from a county board of education or from the State Board of Education on appeal shall be subject to the same requirements concerning geographic location that it would otherwise be subject to if it receives approval from the entity to whom it originally submits its petition. A charter petition that is submitted to either a county board of education or to the State Board of Education 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 of Education shall develop criteria to be used for the review and approval of charter school petitions presented to the State Board of Education. 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 of Education 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 of Education 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 of Education 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, thereafter, be subject to judicial review.

(5) The State Board of Education 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 of Education.

(k) (1) The State Board of Education may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the State Board of Education to any local education 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 education 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 of Education.

(3) A charter school that has been granted its charter through an appeal to the State Board of Education and elects to seek renewal of its charter shall, prior to 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 school's petition for renewal, the school may petition the State Board of Education 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.

47605.1. (a) (1) Notwithstanding any other provision of 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 provision of law, a charter school that is granted a charter by the State Board of Education 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 of Education prior to July 1, 2002, but does not commence operations until after January 1, 2003, shall be subject to the geographic limitations of the part, in accordance with subdivision (e).

(b) Nothing in this section is intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other provision, 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 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 where 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 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 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 prior to July 1, 2002, and provided educational services to pupils before July 1, 2002, this section shall only apply to any 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 prior to July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section shall only apply 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 education services are provided to pupils prior to or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition prior to 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) Nothing in this section is 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 Sections 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 provision of 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 Investment Act of 1998 (29 U.S.C. Sec. 2801 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 (c) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

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.

47605.3. Notwithstanding subdivision (d) of Section 47605, a charter school with a school site 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 school site 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.



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.

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 only approve a countywide charter 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 are met:

(A) The petition has been 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 school pursuant to this section.

(B) The petition has been 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 school pursuant to this section.

(2) An existing public school may 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 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 the board 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 the board 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 (d).

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

(A) (i) A description of the educational program of the school, designed, among other things, to identify those pupils whom the 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) If the proposed charter school will enroll high school pupils, a description of 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.

(iii) 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 attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

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

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

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

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

(H) 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.

(I) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the State Board of Education, 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 schools 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) A declaration 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 (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(N) Admission requirements, of the charter school, if applicable.

(O) The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.

(P) A description of 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 a description of any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.

(Q) A description of 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) Any other basis that the board 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 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, 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 school.

(B) However, 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 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) No county board of education shall require any employee of the county or a school district to be employed in a charter school.

(g) No county board of education shall require any 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 school, including, but not limited to, the facilities to be utilized 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, 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 cash flow 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 State Department of Education under Section 54032.

(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 of Public Instruction and to the State Board of Education.

(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 of Education.

(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, State Controller and the State Department of Education by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

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.

47605.8. (a) A petition for the operation of a state charter school may be submitted directly to the State Board of Education, and the 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. Any 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 charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools.

(b) The State Board of Education may not approve a petition for the operation of a state charter school under this section unless the State Board of Education finds 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 board in this regard shall be made part of the public record of the board's proceedings and shall precede the approval of the charter.

(c) The State Board of Education may, as a condition of charter petition approval, 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 charter school. The State 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 State Board of Education.

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

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.

## **Section 47607**

47607. (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.

(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 prior to 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, or in the aggregate for the prior three years.

(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) 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) Has qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

(c) 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:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter. (2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

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

(4) Violated any provision of law.

(d) Prior to revocation, the authority that granted the charter shall notify the charter public 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) Prior to 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 may reverse the revocation decision if the county board 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 does not issue a decision on the appeal within 90 days of receipt, or the county board 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 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 paragraph (1) or (2) 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 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, and the department.

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.

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).

## **SECTION 47610-47615**

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.

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.

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.

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.

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.

## SECTION 47612

**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 limited to, appropriations made for the 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 of Education 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, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

47612.1. 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:

(a) The federal Workforce Investment Act of 1998 (Pub. L. No. 105-220; 29 U.S.C. Sec. 2801, et seq.).

(b) Federally affiliated Youth Build programs.

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

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

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).

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.

47613. (a) Except as set forth in subdivision (b), a chartering agency 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 agency 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 agency.

(c) A local 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 agency or any other source.

(e) For the purposes of this section, a chartering agency means a school district, county department of education, or the State Board of Education, that granted the charter to the charter school.

(f) For the purposes of this section, "revenue of the charter school" means the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of Section 47632.

47613.1. The Superintendent of Public Instruction 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, and that elects not to be funded pursuant to the block grant funding model set forth in Section 47633 in each fiscal year that the charter school so elects:

(a) 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, an amount for each unit of current fiscal year regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.

(b) 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.

(c) Funds for the programs described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

47613.2. Notwithstanding Sections 47613.1 and 47661, for the 2000-01 fiscal year, the revenue limit of an elementary school district may be determined using either the current or prior year second principal apportionment average daily attendance, whichever is greater, if all the schools in the district were converted to charter schools in the 2000-01 fiscal year and the district continued to be funded through the base revenue limit method.



## SECTION 47614

**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.

47614.5. (a) The Charter School Facility Grant Program is hereby established and shall be administered by the State Department of Education. This grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools.

(b) Subject to the annual Budget Act, eligible schools shall receive an amount of up to, but no more than, seven hundred fifty dollars (\$750) per unit of average daily attendance, as certified at the second principal apportionment, to reimburse an amount of up to, but no more than, 75 percent of the annual facilities rent and lease costs for the charter school. In any fiscal year, if the funds appropriated for the purposes of this section by the annual Budget Act are insufficient to fund the approved amounts fully, the Superintendent of Public Instruction shall apportion the available funds on a pro rata basis.

(c) The State Department of Education shall do all of the following:

(1) Inform charter schools of this 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 may not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. Charter schoolsites are 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 70 percent or more of the pupil enrollment is eligible for free or reduced priced meals and the 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) Seventy 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) Reimburse charter schools for eligible expenditures in a timely manner.

(5) No later than June 30, 2005, report to the Legislature on the number of charter schools that have participated in this grant program under the expanded eligibility prescribed in paragraph (2).

In addition, the report shall provide recommendations and suggestions on improving the program.

(d) Funding pursuant to this section may not be apportioned for the following:

(1) Units of average daily attendance generated through nonclassroom-based instruction as defined by paragraph (2) of subdivision (d) of Section 47612.5 or that

does not comply with conditions or limitations set forth in regulations adopted by the State Board of Education pursuant to this section.

(2) Charter schools occupying existing school district or county office of education facilities.

(3) Charter schools receiving reasonably equivalent facilities from their chartering authority pursuant to Section 47614.

(e) Funds made available pursuant to this section shall be used for costs associated with facilities rents and leases, consistent with the definitions used in the California School Accounting Manual. These funds may also 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.

(f) 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.

(g) For each fiscal year, the Superintendent of Public Instruction shall annually report to the State Board of Education regarding the use of any funds that have been made available to each charter school from the grant program established pursuant to this section.

(h) It is the intent of the Legislature that ten million dollars (\$10,000,000) be appropriated for the Charter School Facility Grant Program for the grants authorized under this section for the 2001-02, 2002-03, and 2003-04 fiscal years.

## **SECTION 47616.5-47616.7**

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.

47616.5. The Legislative Analyst shall contract for a neutral evaluator to conduct an evaluation of the effectiveness of the charter school approach authorized under this part. On or before July 1, 2003, the neutral evaluator shall report directly to the Legislature and the Governor with recommendations to modify, expand, or terminate the charter school approach. The evaluation of the effectiveness of the charter school approach shall include, but shall not be limited to, the following factors:

(a) If available, the pre- and post-charter school test scores of pupils attending charter schools and other pupil assessment tools.

(b) The level of parental satisfaction with the charter school approach compared with schools within the district in which the charter school is located.

(c) The impact of required parental involvement.

(d) The fiscal structures and practices of charter schools as well as the relationship of these structures and practices to school districts, including the amount of revenue received from various public and private sources.

(e) An assessment of whether or not the charter school approach has resulted in increased innovation and creativity.

(f) Opportunities for teachers under the charter school approach.

(g) Whether or not there is an increased focus on low-achieving and gifted pupils.

(h) Any discrimination and segregation in charter schools.

(i) If available, the number of charter school petitions submitted to governing boards of school districts and the number of those proposals that are denied, per year, since the enactment of the charter school law, including the reasons why the governing boards denied these petitions, and the reasons governing boards have revoked charters.

(j) The governance, fiscal liability and accountability practices and related issues between charter schools and the governing boards of the school districts approving their charters.

(k) The manner in which governing boards of school districts monitor the compliance of the conditions, standards, and procedures entered into under a charter.

(l) The extent of the employment of noncredentialed personnel in charter schools.

(m) An assessment of how the exemption from laws governing school districts allows charter schools to operate differently than schools operating under those laws.

(n) A comparison in each school district that has a charter school of the pupil dropout rate in the charter schools and in the noncharter schools.

(o) The role and impact of collective bargaining on charter schools.

47616.7. The evaluation provided for in Section 47616.5 shall include an analysis of the funding system for charter schools that offer nonclassroom-based instruction. The evaluation shall also examine the effectiveness of the State Board of Education's process, as provided for in Sections 47612.5 and 47634.2, for approving funding for charter schools offering nonclassroom-based instruction.

## **SECTION 47620-47625**

47620. An elementary school that has been operated by the University of California at the Los Angeles campus prior to January 1, 1994, may apply to become a charter school under this chapter. The school may apply under either Section 47621 or Section 47622. If a charter is granted under this chapter, the resulting charter school shall be part of the public school system.

47621. An elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the governing board of the local school district and otherwise following the procedures and requirements contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610).

47622. As an alternative to Section 47621, an elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the State Board of Education. Under this section, the petition shall be signed by not less than 50 percent of the school's currently employed teachers. All other procedures and requirements, other than those prescribed in subdivision (a) of Section 47605, that are contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610) are applicable to a petition filed pursuant to this section except that references to "governing board" shall mean the State Board of Education.

47623. If an elementary school petitions either the governing board of the local school district or the State Board of Education to become a charter school, as specified in Section 47621 or 47622, that school shall receive state apportionments equal to the statewide average revenue limit for elementary schools plus funding as specified in paragraphs (2) and (3) of subdivision (a) of Section 47612.

47624. If a charter is granted under this chapter, the University of California shall continue to own and be liable for the resulting charter school to the same extent as before the granting of the charter.

47625. A charter granted pursuant to Section 47620 shall not become operative before July 1, 1995.

## **SECTION 47630-47632.5**

47630. (a) It is the intent of the Legislature that each charter school be provided with operational funding that is equal to the total funding that would be available to a similar school district serving a similar pupil population, except that a charter school may not be funded as a necessary small school or a necessary small high school, nor receive revenue limit funding that exceeds the statewide average for a school district of a similar type.

(b) The Legislature finds and declares that the funding method established by this chapter provides for simple and, at the option of the charter school, local or direct allocation of funds to charter schools in a manner that is consistent with state and federal law.

47630.5. (a) This chapter applies to the calculation of operational funding for charter schools. Except as otherwise provided in this chapter, this chapter shall apply to all charter schools without regard to their sponsoring local education agency.

(b) For the 1999-2000, 2000-01, and 2001-02 fiscal years in the case of a charter school that was assigned a number by the State Board of Education prior to June 1, 1999, the use of the charter school funding method established by this chapter shall be at the discretion of that charter school. A charter school that elects to have its funding determined pursuant to the method established by this chapter shall notify the State Department of Education by June 1 prior to the affected fiscal year. An election to be funded pursuant to the method established by this chapter is irrevocable.

(c) Additional legal or fiscal responsibilities on the part of a county superintendent of schools are not imposed by this chapter, except as specifically provided in this chapter.

47631. (a) Article 2 (commencing with Section 47633) and Article 3 (commencing with Section 47636) may not apply to a charter granted pursuant to Section 47605.5.

(b) Notwithstanding subdivision (a), a pupil attending a county-sponsored charter school who is eligible to attend that school solely as a result of parental request pursuant to subdivision (b) of Section 1981 shall be funded pursuant to this chapter.

47632. For purposes of this chapter, the following terms shall be defined as follows:

(a) "General-purpose entitlement" means an amount computed by the

formula set forth in Section 47633 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of general-purpose funding from those state and local sources identified in Section 47633 received by school districts of similar type and serving similar pupil populations.

(b) "Categorical block grant" means an amount computed by the formula set forth in Section 47634 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of categorical aid from those sources identified in Section 47634 received by school districts of similar type and serving similar pupil populations.

(c) "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's revenue limit, pursuant to Section 42238.

(d) "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.

(e) "Economic impact aid-eligible pupils" means those pupils that are included in the economic impact aid-eligible pupil count pursuant to Section 54023. For purposes of applying Section 54023 to charter schools, "economically disadvantaged pupils" means the pupils described in paragraph (2) of subdivision (a) of Section 54026.

(f) "Educationally disadvantaged pupils" means those pupils who are eligible for subsidized meals pursuant to Section 49552 or are identified as English learners pursuant to subdivision (a) of Section 306, or both.

(g) "Operational funding" means all funding except funding for capital outlay.

(h) "School district of a similar type" means a school district that is serving similar grade levels.

(i) "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

(j) "Sponsoring local educational agency" means the following:

(1) If a charter school is granted by a school district, the sponsoring local educational agency is the school district.

(2) If a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.

(3) If a charter is granted by the state board after having been previously denied by a local educational agency, the sponsoring local educational agency means the local educational agency designated by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.

(4) For pupils attending county-sponsored charter schools who are eligible to attend those schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local educational agency means the pupils' school district of residence.



(5) For pupils attending countywide charter schools pursuant to Section 47605.6 who reside in a basic aid school district, the sponsoring local educational agency means the school district of residence of the pupil. For purposes of this paragraph, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238.

47632.5. A charter school that is established through the conversion of an existing public school where the charter is granted by a district other than the district in which the school is located may not generate or receive revenue limit funding in excess of the revenue limit of the school district in which the school was located prior to the conversion to charter status. This limitation shall apply whether the charter converts to charter status a single existing public school or multiple existing public schools.

## **SECTION 47633-47635**

47633. The Superintendent of Public Instruction shall annually compute a general-purpose entitlement, funded from a combination of state aid and local funds, for each charter school as follows:

(a) The superintendent shall annually compute the statewide average amount of general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and, grades 9 to 12, inclusive. For purposes of making these computations, both of the following conditions shall apply:

(1) Revenue limit funding attributable to pupils in kindergarten and grades 1 to 5, inclusive, shall equal the statewide average revenue limit funding per unit of average daily attendance received by elementary school districts; revenue limit funding attributable to pupils in grades 6, 7, and 8, shall equal the statewide average revenue limit funding per unit of average daily attendance received by unified school districts; and revenue limit funding attributable to pupils in grades 9 to 12, inclusive, shall equal the statewide average revenue limit funding per unit of average daily attendance received by high school districts.

(2) Revenue limit funding received by school districts shall exclude the value of any benefit attributable to the presence of necessary small schools or necessary small high schools within the school district.

(b) The superintendent shall multiply each of the four amounts computed in subdivision (a) by the charter school's average daily attendance in the corresponding grade level ranges. The resulting figure shall be the amount of the charter school's general-purpose entitlement, which shall be funded through a combination of state aid and local funds. From funds appropriated for this purpose pursuant to Section 14002, the superintendent shall apportion to each charter school this amount, less local funds allocated to the charter school pursuant to Section 47635.

(c) General-purpose entitlement funding may be used for any public school purpose determined by the governing body of the charter school.

47634.1. (a) Notwithstanding subdivision (a) of Section 47634, a categorical block grant for charter schools for the 2005-06 fiscal year shall be calculated as follows:

(1) The Superintendent shall divide the total amount of funding appropriated for the purpose of this block grant in the annual Budget Act or another statute, less the total amount calculated in paragraph (2), by the statewide total of charter school average daily attendance, as determined at the second principal apportionment for the 2005-06 fiscal year.

(2) The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current fiscal year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school.

The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(3) For each charter school, the Superintendent shall multiply the amount calculated in paragraph (1) by the school's average daily attendance as determined at the second principal apportionment for the 2005-06 fiscal year.

(4) The Superintendent shall add the amounts computed in paragraphs (2) and (3). The resulting amount shall be the charter school categorical block grant that the Superintendent shall apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute. The Superintendent shall allocate an advance payment of this grant as early as possible, but no later than October 31, 2005, based on prior year average daily attendance as determined at the second principal apportionment or, for a charter school in its first year of operation that commences instruction on or before September 30, 2005, on estimates of average daily attendance for the current fiscal year determined pursuant to Section 47652.

(b) (1) For the 2006-07 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be four hundred dollars (\$400) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2006-07 fiscal year. This amount shall be supplemented by the amount calculated in paragraph (2).

(2) The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current fiscal year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022.

(c) (1) For the 2007-08 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be five hundred dollars (\$500) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2007-08 fiscal year. For each fiscal year thereafter, this per unit amount shall be adjusted for the cost-of-living adjustment, as determined pursuant to Section 42238.1, for that fiscal year. This amount shall be supplemented in the 2007-08 fiscal year and each fiscal year thereafter by the amount calculated in paragraph (2).

(2) The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible

pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022.

(d) It is the intent of the Legislature to fully fund the categorical block grant for charter schools as specified in this section and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance and counts of economic impact aid-eligible pupils, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, in charter schools. In any fiscal year in which the department identifies a deficiency in the categorical block grant, the department shall identify the available balance for programs that count towards meeting the requirements of Section 8 of Article XVI of the California Constitution and have unobligated funds for the year. On or before July 1, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency, if any, in the categorical block grant. Within 45 days of the receipt of a notification of deficiency, the Director of Finance shall verify the amount of the deficiency in the categorical block grant and direct the Controller to transfer an amount, equal to the lesser of the amount available or the amount needed to fully fund the categorical block grant, from those programs to the categorical block grant. The Department of Finance shall notify the Joint Legislative Budget Committee within 30 days of any transfer made pursuant to this section.

(e) Commencing October 1, 2007, the Legislative Analyst's Office shall triennially convene a work group to review, commencing with appropriations proposed for the 2008-09 fiscal year, the appropriateness of the funding level provided by the categorical block grant established in this section.

(f) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

47634.2. (a) (1) Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction, as defined by paragraph (2) of subdivision (d) of Section 47612.5, including funding provided on the basis of average daily attendance pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, as

defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

(2) For the 2001-02 fiscal year only, the amount of funding determined by the State Board of Education pursuant to this section shall not be less than 90 percent of the unadjusted amount to which a charter school would otherwise be entitled on the basis of average daily attendance.

(3) For the 2002-03 fiscal year, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 80 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

(4) For the 2003-04 fiscal year and each fiscal year thereafter, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 70 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

(5) This section does not authorize the board to adjust the amount of funding a charter school receives on the basis of average daily attendance generated through classroom-based instruction, as defined for purposes of calculating average daily attendance for classroom-based instruction apportionments by paragraph (1) of subdivision (d) of Section 47612.5.

(b) (1) The State Board of Education shall appoint an advisory committee to recommend criteria to the board in accordance with this section if it has not done so by the effective date of the act adding this section. The advisory committee shall include, but is not limited to, representatives from school district superintendents, charter schools, teachers, parents, members of the governing boards of school districts, county superintendents of schools, and the Superintendent of Public Instruction.

(2) If a charter school submits a substantially complete request for a determination for funding by February 13, 2002, and the State Board of Education does not act on that request by March 19, 2002, full funding is automatically granted for the 2001-02 fiscal year, but the charter school shall reapply for a determination for funding for the 2002-03 fiscal year.

(3) The determination for funding shall be on a percentage basis and the superintendent shall implement the determination for funding by reducing the charter school's reported average daily attendance by the determination for funding percentage specified by the State Board of Education.

(4) If the State Board of Education denies request for a determination for funding or provides a reduction as authorized by subdivision (a), the board shall, in writing, give the reasons for its denial or reduction and, if appropriate, may describe how any deficiencies or problems may be addressed.

(c) Each charter school offering nonclassroom-based instruction shall, in each report provided to the Superintendent of Public Instruction for apportionment

purposes, identify the portion of its average daily attendance that is generated through nonclassroom-based instruction as defined in paragraph (2) of subdivision (d) of Section 47612.5.

(d) Notwithstanding any other provision of law, charter schools shall be subject, with regard to subdivisions (c) and (d) of Section 47612.5 and this section, to audits conducted pursuant to Section 41020.

47634.3. For purposes of Section 47633, the Superintendent shall compute average daily attendance in each of grades 1 through 12, respectively, as follows:

(a) Distribute statewide total ungraded enrollment and average daily attendance among kindergarten and each of grades 1 through 12, inclusive, in proportion to the amounts of graded enrollment and average daily attendance, respectively, in each of these grades.

(b) Multiply enrollment in each of grades 1 through 12, respectively, by the ratio of average daily attendance to enrollment in the applicable grade range: 1 through 3, inclusive; 4 through 6, inclusive; 7 and 8; and 9 through 12, inclusive.

47634.4. (a) A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply individually for federal and state categorical programs, not excluded in this section, but only to the extent it is eligible for funding and meets the provisions of the program. For purposes of determining eligibility for, and allocation of, state or federal categorical aid, a charter school that applies individually shall be deemed to be a school district, except as otherwise provided in this chapter.

(b) A charter school that does not elect to receive its funding directly, pursuant to Section 47651, may, in cooperation with its chartering authority, apply for federal and state categorical programs not specified in this section, but only to the extent it is eligible for funding and meets the provisions of the program.

(c) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, a charter school may not apply directly for categorical programs for which services are exclusively or almost exclusively provided by a county office of education.

(d) Consistent with subdivision (c), a charter school may not receive direct funding for any of the following county-administered categorical programs:

(1) American Indian Education Centers.

(2) The California Association of Student Councils.

(3) California Technology Assistance Project established pursuant to Article 15 (commencing with Section 51870) of Chapter 5 of Part 28.

(4) The Center for Civic Education.

(5) County Office Fiscal Crisis and Management Assistance Team.

(6) The K-12 High Speed Network.

(e) A charter school may apply separately for district-level or school-level grants associated with any of the categorical programs specified in subdivision (d).

(f) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, in addition to the programs listed in subdivision (d), a charter school may not apply for any of the following categorical programs:

(1) Agricultural Career Technical Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Bilingual Teacher Training Assistance Program, as set forth in Article 4 (commencing with Section 52180) of Chapter 7 of Part 28.

(3) California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.

(4) College preparation programs, as set forth in Chapter 12 (commencing with Section 11020) of Part 7, Chapter 8.3 (commencing with Section 52240) of Part 28, and Chapter 8 (commencing with Section 60830) of Part 33.

(5) English Language Acquisition Program, as set forth in Chapter 4 (commencing with Section 400) of Part 1.

(6) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.

(7) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(8) Home-to-school transportation programs, as set forth in Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 and Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.

(9) International Baccalaureate Diploma Program, as set forth in Chapter 12.5 (commencing with Section 52920) of Part 28. (10) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

(11) Principal Training Program, as set forth in Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(12) Professional Development Block Grant, as set forth in Article 5 (commencing with Section 41530) of Chapter 3.2 of Part 24.

(13) Program to Reduce Class Size in Two Courses in Grade 9 (formerly The Morgan-Hart Class Size Reduction Act of 1989), as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.

(14) Pupil Retention Block Grant, as set forth in Article 2 (commencing with Section 41505) of Chapter 3.2 of Part 24.

(15) Reader services for blind teachers, as set forth in Article 8.5 (commencing with Section 45370) of Chapter 5 of Part 25.

(16) School and Library Improvement Block Grant, as set forth in Article 7 (commencing with Section 41570) of Chapter 3.2 of Part 24.

(17) School Safety Consolidated Competitive Grant, as set forth in Article 3 (commencing with Section 41510) of Chapter 3.2 of Part 24.

(18) School safety programs, as set forth in Article 3.6 (commencing with Section 32228) and Article 3.8 (commencing with Section 32239.5) of Chapter 2 of Part 19.

(19) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.

(20) State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(21) Targeted Instructional Improvement Block Grant, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2 of Part 24.

(22) Teacher dismissal apportionment, as set forth in Section 44944.

(23) The deferred maintenance program, as set forth in Article 1 (commencing with Section 17565) of Chapter 5 of Part 10.5.

(24) The General Fund contribution to the State Instructional Materials Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(25) Year-Round School Grant Program, as set forth in Article 3 (commencing with Section 42260) of Chapter 7 of Part 24.

47635. (a) A sponsoring local educational agency shall annually transfer to each of its charter schools funding in lieu of property taxes equal to the lesser of the following two amounts:

(1) The average amount of property taxes per unit of average daily attendance, including average daily attendance attributable to charter schools, received by the local educational agency, multiplied by the charter school's average daily attendance.

(2) The statewide average general-purpose funding per unit of average daily attendance received by school districts, as determined by the State Department of Education, multiplied by the charter school's average daily attendance in each of the four corresponding grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and grades 9 to 12, inclusive.

(b) The sponsoring local educational agency shall transfer funding in lieu of property taxes to the charter school in monthly installments, by no later than the 15th of each month.

(1) For the months of August to February, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes received by the sponsoring local educational agency during the preceding fiscal year, as reported to the Superintendent of Public Instruction for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to the charter school the charter school's estimated annual entitlement to funding in lieu of property taxes as follows:

(A) Six percent in August.

(B) Twelve percent in September.

(C) Eight percent each month in October, November, December, January, and February.

(2) For the months of March to June, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the fiscal year, as reported to the Superintendent of Public Instruction for purposes of the first



principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to one-sixth of the difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraph (1). An additional one-sixth of this difference shall be included in the amount transferred in the month of March.

(3) For the month of July, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the prior fiscal year, as reported to the Superintendent of Public Instruction for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to the remaining difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraphs (1) and (2).

(4) Final adjustments to the amount of funding in lieu of property taxes allocated to a charter school shall be made in February, in conjunction with the final reconciliation of annual apportionments to schools.

(5) Subdivision (a) and paragraphs (1) to (4), inclusive, of subdivision (b) do not apply for pupils who reside in, and are otherwise eligible to attend a school in, a basic aid school district, but who attend a charter school in a nonbasic aid school district. With regard to these pupils, the sponsoring basic aid district shall transfer to the charter school an amount of funds equivalent to the revenue limit earned through average daily attendance by the charter school for each pupil's attendance, not to exceed the average property tax share per unit of average daily attendance for pupils residing and attending in the basic aid district. The transfer of funds shall be made in not fewer than two installments at the request of the charter school, the first occurring not later than February 1 and the second not later than June 1 of each school year. Payments shall reflect the average daily attendance certified for the time periods of the first and second principal apportionments, respectively. The Superintendent of Public Instruction may not apportion any funds for the attendance of pupils described in this subdivision unless the amount transferred by the basic aid district is less than the revenue limit earned by the charter school, in which event the Superintendent of Public Instruction shall apportion the difference to the charter school from state funds.

## **SECTION 47636-47638**

47636. (a) This chapter does not prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

(1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.

(2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(4) Ad valorem property taxes received by a school district which exceed its revenue limit entitlement.

(5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution.

(b) This section shall become operative July 1, 2006.

47638. For purposes of determining eligibility for, and allocations of, lottery funds, a charter school shall be deemed to be a school district. The State Department of Education shall determine each charter school's appropriate share of statewide total average daily attendance and include this information in its transmittals to the Controller for use in computing allocations of lottery funds.

## **SECTION 47640-47647**

47640. For the purposes of this article, "local educational agency" means a school district as defined in Section 41302.5 or a charter school that is deemed a local educational agency pursuant to Section 47641. As used in this article, "local educational agency" also means a charter school that is responsible for complying with all provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations as they relate to local educational agencies.

47641. (a) A charter school that includes in its petition for establishment or renewal, or that otherwise provides, verifiable, written assurances that the charter school will participate as a local educational agency in a special education plan approved by the State Board of Education shall be deemed a local educational agency for the purposes of compliance with federal law (Individuals with Disabilities Education Act; 20 U.S.C. Sec. 1400 et seq.) and for eligibility for federal and state special education funds. A charter school that is deemed a local educational agency for the purposes of special education pursuant to this article shall be permitted to participate in an approved special education local plan that is consistent with subdivision (a), (b), or (c) of Section 56195.1.

(b) A charter school that was granted a charter by a local educational agency that does not comply with subdivision (a) may not be deemed a local educational agency pursuant to this article, but shall be deemed a public school of the local educational agency that granted the charter.

(c) A charter school that has been granted a charter by the State Board of Education, and for which the board has delegated its supervisory and oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, and does not comply with subdivision (a), shall be deemed a public school of the local educational agency to which the board has delegated its supervisory and oversight responsibilities.

(d) A charter school that has been granted a charter by the State Board of Education, and for which the board has not delegated its supervisory and oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, may not be deemed a local educational agency unless the charter school complies with subdivision (a).

47642. Notwithstanding Section 47651, all state and federal funding for special education apportioned on behalf of pupils enrolled in a charter school shall be included in the allocation plan adopted pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, or both, by the special education local plan area that includes the charter school.

47643. If the approval of a petition for a charter school requires a change to the allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, the change shall be adopted pursuant to the policymaking process of the special education local plan area.

47644. For each charter school deemed a local educational agency for the purposes of special education, an amount equal to the amount computed pursuant to Section 56836.08 for the special education local plan area in which the charter school is included shall be apportioned by the Superintendent of Public Instruction pursuant to the local allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, or both. If the charter school is a participant in a local plan that only includes other charter schools pursuant to subdivision (f) of Section 56195.1, the amount computed pursuant to Section 56836.11, as adjusted pursuant to the incidence multiplier set forth in Section 56836.155, shall be apportioned by the superintendent for each unit of average daily attendance reported pursuant to subdivision (a) of Section 56836.06.

47645. An agency reviewing a request by a charter school to participate as a local educational agency in a special education local plan area may not treat the charter school differently from the manner in which it treats a similar request made by a school district. In reviewing and approving a request by a charter school to participate as a local educational agency in a special education local plan area, a local or state agency shall ensure all of the following:

(a) The special education local plan area complies with Section 56140.

(b) The charter school participates in state and federal funding for special education and the allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05 in the same manner as other local educational agencies of the special education local plan area.

(c) The charter school participates in governance of the special education local plan area and benefits from services provided throughout the special education local plan area, in the same manner as other local educational agencies of the special education local plan area.

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who

attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations.

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education program.

(2) Any necessary special education services, including administrative and support services and itinerant services, that is provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

47647. A local educational agency reviewing a petition for the establishment or renewal of a charter school may not refuse to grant the petition solely because the charter might enroll pupils with disabilities who reside in a special education local plan area other than the special education local plan area that includes the local educational agency reviewing the petition.

## **SECTION 47650-47652**

47650. A charter school shall be deemed to be a school district for purposes of determining the manner in which warrants are drawn on the State School Fund pursuant to Section 14041. For purposes of Section 14041, a charter school's "total amount certified" means the state aid portion of the charter school's total general-purpose entitlement and categorical block grant computed pursuant to Sections 47633 and 47634.

47651. (a) A charter school may receive the state aid portion of the charter school's total general-purpose entitlement and categorical block grant directly or through the local educational agency that either grants its charter or was designated by the State Board of Education.

(1) In the case of a charter school that elects to receive its funding directly, the warrant shall be drawn in favor of the superintendent of schools of the county in which the local educational agency that approved the charter or was designated by the State Board of Education as the oversight agency pursuant to paragraph (1) of subdivision (k) of Section 47605 is located, for deposit to the appropriate funds or accounts of the charter school in the county treasury. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(2) In the case of a charter school that does not elect to receive its funding directly pursuant to Section 47651, the warrant shall be drawn in favor of the superintendent of schools of the county in which the local educational agency that granted the charter is located or was designated the oversight agency by the board pursuant to paragraph (1) of subdivision (k) of Section 47605, for deposit to the appropriate funds or accounts of the local educational agency.

(3) In the case of a charter school, the charter of which was granted by the State Board of Education, but for which the board has not delegated oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, the warrant shall be drawn in favor of the superintendent of schools in the county where the local educational agency is located that initially denied the charter that was later approved by the board. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(b) On or before June 1 of each year, a charter school electing to receive its funding directly shall so notify the county superintendent of schools of the county in which the local educational agency that granted the charter is located or, in the case of charters for which the State Board of Education has designated an oversight agency pursuant to paragraph (1) of subdivision (k) of Section 47605, the county superintendent of schools of the county in which the designated oversight agency is located. An election to receive funding directly shall apply to all funding that the charter school is eligible to receive including, but not limited to, the charter general-

purpose entitlements and the categorical block grant computed pursuant to Sections 47633 and 47634, other state and federal categorical aid, and lottery funds.

47652. (a) Notwithstanding Section 41330, a charter school in its first year of operation shall be eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located. For charter schools approved by the state board, estimated average daily attendance shall be submitted directly to, and approved by, the department. Not later than five business days following the end of the first 20 schooldays, a charter school receiving funding pursuant to this section shall report to the department its actual average daily attendance for that first month, and the Superintendent shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

(b) In addition to funding received pursuant to Section 41330, a charter school in its second or later year of operation also shall be eligible to receive an advance apportionment pursuant to the process and conditions described in subdivision (a) in any year in which the charter school is adding at least one grade level. The average daily attendance funded for a new grade level shall not exceed the portion of the certified average daily attendance at the second principal apportionment for the prior year that was attributable to pupils in the highest grade served by the charter school.

(c) A charter school in its first year of operation may only commence instruction within the first three months of the fiscal year beginning July 1 of that year. A charter school shall not be eligible for an apportionment pursuant to subdivision (a), or any other apportionment for a fiscal year in which instruction commenced after September 30 of that fiscal year.

## **SECTION 47660-47664**

47660. (a) For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily attendance of a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b) (1) Notwithstanding subdivision (a), and commencing with the 2005-06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, or if the pupils reside in the unified school district and attended a charter school of that school district that converted to charter status on or after July 1, 2005. Only the attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(2) Notwithstanding subdivision (a), for the 2005-06 fiscal year only, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606 and is operating them as charter schools, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the unified school district if the pupils attended a charter school operating in the unified school district prior to July 1, 2005. Only the attendance of pupils described by this paragraph shall be included in the calculation made pursuant to Section 42241.3. The attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(c) Commencing with the 2005-06 fiscal year, for the attendance of pupils specified in subdivision (b), the general-purpose entitlement for a charter school that is established through the conversion of an existing public school within a unified school district on or after July 1, 2005, shall be determined using the following amount of general-purpose funding per unit of average daily attendance, in lieu of the amount calculated pursuant to subdivision (a) of Section 47633:

(1) The amount of the actual unrestricted revenues expended per unit of average daily attendance for that school in the year prior to its conversion to, and operation as, a charter school, adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also



adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in the year of conversion to, and operation as a charter school.

(2) For a subsequent fiscal year, the general-purpose entitlement shall be determined based on the amount per unit of average daily attendance allocated in the prior fiscal year adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in that fiscal year.

(d) Commencing with the 2005-06 fiscal year, the general-purpose funding per unit of average daily attendance specified for a unified school district for purposes of paragraph (7) of subdivision (h) of Section 42238 for a school within the unified school district that converted to charter status on or after July 1, 2005, shall be deemed to be the amount computed pursuant to subdivision (c).

(e) A unified school district that is the sponsoring local educational agency as defined in subdivision (i) of Section 47632 of a charter school that is subject to the provisions of subdivision (c) shall certify to the Superintendent the amount specified in paragraph (1) of subdivision (c) prior to the approval of the charter petition by the governing board of the school district. This amount may be based on estimates of the unrestricted revenues expended in the fiscal year prior to the school's conversion to charter status and the school's operation as a charter school, provided that the amount is recertified when the actual data becomes available.

(f) For the purposes of this section, "basic aid school district" means a school district that does not receive from the state an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(g) A school district may use the existing Standardized Account Code Structure and cost allocation methods, if appropriate, for an accounting of the actual unrestricted revenues expended in support of a school pursuant to subdivision (c).

(h) For purposes of this section and Section 42241.3, "operating" means that pupils are attending, and receiving instruction at the charter school.

47662. For purposes of Section 42238, the property tax revenues received by a sponsoring local educational agency pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code shall be reduced by the amount of funding in lieu of property taxes allocated to a charter school or schools pursuant to Section 47635.

47663. (a) For a pupil of a charter school sponsored by a basic aid school district who resides in, and is otherwise eligible to attend, a school district other than a basic aid school district, the Superintendent of Public Instruction shall apportion to the sponsoring school district an amount equal to 70 percent of the revenue limit

per unit of average daily attendance that would have been apportioned to the school district that the pupil resides in and would otherwise have been eligible to attend.

(b) A district that loses basic aid status as a result of transferring property taxes to a charter school or schools pursuant to Section 47635 shall be eligible to receive a pro rata share of funding provided by subdivision (a), with the proration factor calculated as the ratio of the following:

(1) The amount of property taxes that the district receives in excess of its total revenue limit guarantee, prior to any transfers made pursuant to Section 47635.

(2) The total amount of property taxes transferred pursuant to Section 47635 to the charter school or schools that it sponsors.

(c) The Superintendent of Public Instruction may not apportion funds for the attendance of a pupil in a charter school of a nonbasic aid school district who resides in, and is otherwise eligible to attend school in, a basic aid school district unless the pupil is subject to the exception set forth in paragraph (5) of subdivision (b) of Section 47635.

(d) For purposes of this section, "basic aid school district" means a school district that does not receive from the state, for any fiscal year in which the subdivision is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

47664. (a) A school district in which all schools have been converted to charter schools pursuant to Section 47606, at the school district's discretion, may use the funding method provided for by this chapter. A school district that elects to have its funding determined pursuant to the method provided for by this chapter shall so notify the Superintendent of Public Instruction by June 1 prior to the affected fiscal year. Once made, an election to be funded pursuant to the method provided for by this chapter is irrevocable.

(b) In the case of a school district in which all schools have been converted to charter schools pursuant to Section 47606, and that has not elected to be funded pursuant to the method provided for by this chapter, any increase in district average daily attendance attributable to pupils who reside in, and would otherwise be eligible to attend, a district other than the district sponsoring the charter school shall be funded at the lesser of the following:

(1) The sponsoring district's own base revenue limit per unit of average daily attendance.

(2) The statewide average base revenue limit per unit of average daily attendance for districts of a similar type. For purposes of this paragraph, increases in average daily attendance shall be measured relative to the 1998-99 fiscal year or the fiscal year in which all schools in the district were converted to charter schools pursuant to Section 47606, whichever fiscal year is later.

(c) A school district in which all schools have been converted to charter schools pursuant to Section 47606 and that is the sponsoring entity for a charter school or

) schools that were previously funded pursuant to the method provided pursuant to this chapter shall have its base revenue limit computed as follows:

(1) The average daily attendance of the charter school or schools for the fiscal year prior to the fiscal year in which the conversion is effective shall be multiplied by the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the fiscal year in which the conversion is effective.

(2) The school district's remaining average daily attendance for the fiscal year prior to the fiscal year in which the conversion is effective shall be multiplied by the school district's base revenue limit per unit of average daily attendance for the fiscal year in which the conversion is effective.

(3) The amounts computed in paragraphs (1) and (2) shall be added and this total shall be divided by the district's total average daily attendance, including average daily attendance in charter schools for which it is the sponsoring entity, for the fiscal year prior to the fiscal year in which the conversion is effective.

**CHARTER SCHOOLS**

The Board of Education believes that charter schools may provide an opportunity to implement school-level reform and to support innovations, which improve student learning. These schools shall operate under the provisions of their charters, federal laws and general oversight of the Board.

As needed, the Superintendent or designee may work with charter school petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

**Criteria for Granting Charters**

In determining whether to grant or deny a charter, the Board shall determine whether the proposed charter adequately addresses all the provisions required by law and administrative regulations.

The Board also shall assess community support for the charter school and the ability of the school to provide opportunities not currently available at district schools. The charter school petitioner shall provide the Board with information about:

1. How its program will serve low-achieving and other special needs students
2. The facilities to be used by the school
3. The financial relationship between the charter school and the district
4. The way in which the school's administrative services and other non-instructional services will be provided
5. Potential civil liability effects upon the school and the district
6. Any additional information required by the Board regarding proposed operations and potential effects which may result from granting the charter

The Board shall ensure that the proposed charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include fiscal accountability systems as well as clear performance standards and multiple measures by which the charter school will be held accountable for meeting its educational and other goals for students. To assist the Board in its general oversight responsibility, charters shall provide for regular reports to the Board.

In granting charter petitions, the Board shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education. (Education Code 47605)

**Charter Renewals and Revocations**

When the term of a charter is due to expire, the Board shall evaluate the charter school's performance and determine whether to renew the charter for an additional term. Renewal shall be subject to the school's ability to demonstrate reasonable progress toward the goals specified in its charter, including but not limited to evidence of student achievement and other student

outcomes; compliance with legal requirements; fiscal management; parent/guardian, student and staff satisfaction with the program; and the ability of the school's governance structure to provide access and accountability to the public. The Board may require that the school amend its charter to address new issues before granting renewal.

During the term of any charter, the Board may offer assistance as warranted and/or may revoke the charter if deemed necessary in accordance with state law and administrative regulations.

Legal Reference:

**EDUCATION CODE**

17280-17317 *Field Act*

17365-17374 *Field Act, fitness for occupancy*

41365 *Charter school revolving loan fund*

42100 *Annual statement of receipts and expenditures*

42238.51-42238.53 *Funding for charter districts*

44237 *Criminal record summary*

44830.1 *Certificated employees, conviction of a violent or serious felony*

45122.1 *Classified employees, conviction of a violent or serious felony*

46201 *Instructional minutes*

47600-47616.7 *Charter Schools Act of 1992, as amended*

47640-47647 *Special education funding for charter schools*

47652 *Funding of first-year charter schools*

48000 *Minimum age of admission (kindergarten)*

48010 *Minimum age of admission (first grade)*

48011 *Minimum age of admission from kindergarten or other school*

51745-51749.3 *Independent study*

52052 *Alternative accountability system*

54032 *Limited English or low-achieving pupils*

56026 *Special education*

56145-56146 *Special education services in charter schools*

60600-60649 *Assessment of academic achievement, including:*

60605 *Academic content and performance standards; assessments*

60640-60649 *Standardized Testing and Reporting Program*

60850-60859 *High school exit examination*

**GOVERNMENT CODE**

3540-3549.3 *Educational Employment Relations Act*

54950-54963 *The Ralph M. Brown Act*

**PENAL CODE**

667.5 *Definition of violent felony*

1192.7 *Definition of serious felony*

**CODE OF REGULATIONS, TITLE 5**

11700.1-11705 *Independent study*

11960-11969 *Charter schools*

**CODE OF REGULATIONS, TITLE 24**

101 et seq. *California Building Standards Code*

**UNITED STATES CODE, TITLE 20**

6311 *Adequate yearly progress*

6319 *Qualifications of teachers and paraprofessionals*

7223-7225 *Charter schools*

**CODE OF FEDERAL REGULATIONS, TITLE 34**

200.1-200.78 *Accountability*

300.18 *Highly qualified special education teachers*

**COURT DECISIONS**

*Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986*

**ATTORNEY GENERAL OPINIONS**

89 Ops.Cal.Atty.Gen. 166 (2006)

80 Ops.Cal.Atty.Gen. 52 (1997)

78 Ops.Cal.Atty.Gen. 297 (1995)

Management Resources:

CSBA PUBLICATIONS

*Charter Schools: A Manual for Governance Teams*, rev. 2005

CSBA ADVISORIES

*Charter School Facilities and Proposition 39: Legal Implications for School Districts*, September 2005

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Special Education and Charter Schools: Questions and Answers*, September 10, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Charter Schools Program*, July 2004

*The Impact of the New Title I Requirements on Charter Schools*, July 2004

WEB SITES

CSBA: <http://www.csba.org>

California Building Standards Commission: <http://www.bsc.ca.gov>

California Charter Schools Association: <http://www.charterassociation.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

Education Commission of the States: <http://www.ecs.org>

National Association of Charter School Authorizers: <http://www.charterauthorizers.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education: <http://www.ed.gov>

**Policy SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT  
adopted: August 19, 2009 Santa Monica, California**

**CHARTER SCHOOLS****Petition Signatures**

To be considered by the Board of Education, a petition for the establishment of a charter school within the district must be signed by one of the following: (Education Code 47605)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the charter school for its first year of operation
2. A number of teachers 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

If the charter petition calls for an existing public school to be converted to a charter school, the petition must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

In circulating a petition, the petitioners shall include a prominent statement explaining that a signature means that the parent/guardian is meaningfully interested in having his/her child attend the charter school or, in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. (Education Code 47605)

**Components of Charter Petition**

A charter petition shall include affirmations of the conditions described in Education Code 47605(d) as well as descriptions of all of the following: (Education Code 47605, 47611.5)

1. The educational program of the school, designed, among other things, to identify those whom the 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 students to become self-motivated, competent, and lifelong learners.

If the proposed school will serve high school students, the petition shall describe the manner in which the charter school will inform parents/guardians 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-G" admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.
3. The method by which student progress in meeting those student outcomes is to be measured.
4. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.

5. The qualifications to be met by individuals to be employed by the school.
6. The procedures that the school will follow to ensure the health and safety of students and staff. These procedures shall include the requirement that each school employee furnish the school with a criminal record summary as described in Education Code 44237.
7. The means by which the school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction.
8. Admission requirements, if applicable.
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 Board.
10. The procedures by which students can be suspended or expelled.
11. 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.
12. The public school attendance alternatives for students residing within the district who choose not to attend charter schools.
13. A description of the rights of any district employee upon leaving district employment to work in a charter school and of any rights of return to the district after employment at a charter school.
14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.
15. A declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.
16. 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 school, including plans for disposing of any net assets and for the maintenance and transfer of student records.

Charter school petitioners shall provide information to the Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605)

1. The facilities to be used by the school, including where the school intends to locate
2. The manner in which administrative services of the school are to be provided
3. Potential civil liability effects, if any, upon the school and district
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation



## **Location of Charter School**

Unless otherwise exempted by law, any charter petition submitted to the Board on or after July 1, 2002, shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

A charter school that is unable to locate within the district's jurisdictional boundaries may establish one site outside district boundaries but within the county, provided that: (Education Code 47605, 47605.1)

1. The district is notified prior to approval of the petition.
2. The County Superintendent of Schools and Superintendent of Public Instruction (SPI) are notified before the charter school begins operations.
3. The 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 school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

A charter school may establish a resource center, meeting space, or other satellite facility located in an adjacent county if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students 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 students it serves are residents of, the county in which the school is authorized.

All charter schools shall be subject to these requirements by June 30, 2005, or upon the expiration of a charter that was in existence on January 1, 2003, whichever is later. Until the later of these dates, any charter school that provided educational services before July 1, 2002, shall be subject to these requirements only for new educational services or school sites it establishes or acquires. (Education Code 47605.1)

## **Charter Approval/Denial**

Within 30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

Within 60 days of receiving a petition, or within 90 days with the consent of the petitioners and the Board, the Board shall either grant or deny the request to establish a charter school. (Education Code 47605)

The Board shall grant the charter if doing so is consistent with sound educational practice. A charter shall be denied only if the Board presents written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program for the students 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.
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b) listed in "Components of Charter Petition" above.

The Board shall not grant any charter that authorizes the conversion of a private school to a charter school. (Education Code 47602)

The Board shall not approve any charter petition that proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code 47605)

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll disabled students who reside outside the special education local plan area (SELPA) in which the district participates. (Education Code 47605.7, 47647)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

In granting charter petitions, the Board shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education (CDE) under Education Code 54032. (Education Code 47605)

The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

It shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent, the CDE, and the State Board of Education (SBE). (Education Code 47605)

### **Material Revisions**

Material revisions to a charter may be made only with Board approval. Material revisions shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 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. (Education Code 47607)

If, after receiving approval of its petition, a charter school proposes to establish operations at one or more additional sites within the district's boundaries, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations. The Board shall consider approval of the additional locations at an open meeting. (Education Code 47605)

## **Renewals**

A charter school seeking renewal of its charter shall submit a written request to the Board at least 120 days before the term of the charter is due to expire.

At least 90 days before the term of the charter is due to expire, the Board shall conduct a public hearing to receive input on whether or not to extend the charter. At least 60 days before the expiration date, the Board shall either grant or deny the request for renewal.

Renewals shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 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. (Education Code 47607)

In addition, beginning on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal: (Education Code 47607)

1. The charter school attains its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
2. The charter school ranks in deciles 4-10 on the API in the prior year or in two of the last three years.
3. The charter school ranks in deciles 4-10 on the API for a demographically comparable school in the prior year or in two of the last three years.
4. The Board 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 students would otherwise have been required to attend, as well as the academic performance of district schools, taking into account the composition of the student population that is served at the charter school.

The Board's determination shall be based on documented, clear, and convincing data; student achievement data from the Standardized Testing and Reporting Program, and any other available assessments, for demographically similar student populations in comparison schools; and information submitted by the charter school. The Board shall submit to the SPI copies of supporting documentation and a written summary of the basis for its determination.

A charter renewal may not be granted to a charter school prior to 30 days after the school submits related materials.

5. The charter school qualifies for an alternative accountability system pursuant to Education Code 52052(h).

Each renewal shall be for a period of five years. (Education Code 47607)

## **Revocations**

The Board may revoke a charter whenever it finds, through a showing of substantial evidence, that the charter school has done any of the following: (Education Code 47607)

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

2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

Prior to revocation, the Board shall notify the charter school of any violation(s) listed in items #1-4 above and give the school a reasonable opportunity to remedy the violation(s) unless the Board determines, in writing, that the violation(s) constitutes a severe and imminent threat to the health or safety of the students. (Education Code 47607)

If the charter school does not successfully remedy the above violation(s), the Board shall provide the charter school with a written notice of intent to revoke the charter and notice of facts in support of revocation. No later than 30 days after providing the notice of intent to revoke the charter, the Board 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, unless the Board and the charter school agree to a 30-day extension, the Board shall issue its final decision as to whether or not to revoke the charter. The Board shall not revoke a charter unless the action is supported by written factual findings supported by substantial evidence specific to the charter school. A decision to revoke a charter shall be reported to the County Board of Education and the CDE. (Education Code 47607)

### **Requirements for Charter Schools**

In providing general oversight of a charter school, the Board shall determine whether the school meets the legal requirements applicable to charter schools. Each charter school shall:

1. Be nonsectarian in its programs, admission policies, employment practices, and all other operations (Education Code 47605)
2. Not charge tuition (Education Code 47605)
3. Not discriminate against any student on the basis of ethnicity, national origin, gender, or disability (Education Code 47605)
4. Adhere to all laws establishing minimum age for public school attendance (Education Code 47610)
5. Serve students who are California residents and who, if over 19 years of age, are continuously enrolled in a public school and making "satisfactory progress" toward a high school diploma as defined in 5 CCR 11965 (Education Code 47612)
6. Serve students with disabilities in the same manner as such students are served in other public schools (Education Code 47646, 56145)
7. Admit all students who wish to attend the school, according to the following criteria and procedures:

- a. Admission to the charter school shall not be determined according to the student's place of residence, or that of his/her parents/guardians, within this state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within the school's former attendance area. (Education Code 47605)

However, if a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admissions preference for students who are currently enrolled in the public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)

- b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, except that preferences shall be extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. In the event of a drawing, the Board 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 student demand. (Education Code 47605)
  - c. Other admissions preferences may be permitted by the Board on an individual school basis as consistent with law.
8. Require its teachers 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 (Education Code 47605)
  9. Require its teachers of core academic subjects to satisfy requirements for "highly qualified teachers" as defined by the SBE (20 USC 6319; 34 CFR 300.18)
  10. Not hire any person, in either a certificated or classified position, who has been convicted of a violent or serious felony except as otherwise provided by law (Education Code 44830.1, 45122.1)
  11. Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)
  12. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)
  13. If applicable, meet federal requirements for qualifications of paraprofessionals working in programs supported by Title I funds (20 USC 6319)
  14. Meet all statewide standards and conduct the student assessments required by Education Code 60605 and 60851 and any other statewide standards or student assessments applicable to noncharter public schools (Education Code 47605, 47612.5)
  15. Offer at least the number of instructional minutes set forth in Education Code 47612.5 for the grade levels provided by the charter school (Education Code 47612.5)
  16. Meet the requirements of Education Code 51745-51749.3 if it provides independent study, except that it may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)

17. Identify and report to the SPI any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2)
18. On a regular basis, consult with parents/guardians and teachers regarding the school's educational programs (Education Code 47605)
19. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)
20. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)
21. By January 1, 2007, comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.5)
  - a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
  - b. The 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.
22. Promptly respond to all reasonable inquiries from the district, the county office of education, or the SPI, including, but not limited to, inquiries regarding its financial records (Education Code 47604.3)
23. Annually prepare and submit financial reports to the district Board and the County Superintendent in accordance with the following reporting cycle:
  - a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)
  - b. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)
  - c. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)
  - d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)
  - e. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the state Controller and the CDE. (Education Code 47605)

## **Administrative and Other District Services**

The district may charge for the actual costs of supervisory oversight of a charter school not to exceed one percent of the charter school's revenue. If the district is able to provide substantially rent-free facilities to the charter school, the district may charge actual costs up to three percent of the charter school's revenue for supervisory oversight. (Education Code 47613)

The charter school may separately purchase administrative or other services from the district or any other source. (Education Code 47613)

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System on behalf of the charter school. The charter school may be charged for the actual costs of the reporting services, but shall not be required to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

## **Waivers**

If a charter school submits to the district an application for a waiver of any state Education Code provisions, the Board shall hold a public hearing on the waiver request no later than 90 days following receipt of the request. (Education Code 33054)

The Superintendent or designee shall subsequently prepare a summary of the public hearing to be forwarded with the waiver request to the SBE. If the Board recommends against approval of the waiver request, it shall set forth the reasons for its disapproval in written documentation that shall be forwarded to the SBE. (Education Code 33054)

## **District Oversight**

For each charter school under the Board's authority, the Superintendent shall: (Education Code 47604.32, 47604.33)

1. Identify at least one staff member as a contact person for the charter school
2. Visit the charter school at least annually
3. Ensure that the charter school complies with all reports required of charter schools by law
4. Monitor the fiscal condition of the charter school based on any financial information obtained from the charter school, including, but not limited to, the reports listed above in "Requirements for Charter Schools"
5. Provide timely notification to the CDE if a renewal of the charter is granted or denied, the charter is revoked, or the charter school will cease operation for any reason

The Board and the Superintendent or designee may inspect or observe any part of the charter school at any time. (Education Code 47607)

**Regulation SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT**  
**approved: August 19, 2009 Santa Monica, California**