

**El Dorado County Office of Education**

**Charter Schools Petition**

**Review Process**

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*This document represents the Administrative Regulation to Board Policy 0100 – Charter Schools, with the exception of III. Sample District Charter Policy*

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## Foreword

1998

Changes to the California Education Code as a result of Assembly Bills AB 544 and AB 1115 have necessitated a more prescriptive process for County Offices of Education and the California State Board of Education. Education Code 47600 et. Seq., provides an update to the existing Charter School Act of 1992. Among the changes is Education Code 47605(j)(1), which states that:

“...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 either the County Board of Education or directly to the State Board of Education. The County Board or the State Board of Education, as the case may be, **shall** (emphasis added) review the petition pursuant to subdivision (b)...”

To assist with the administrative steps in addressing this “secondary application”<sup>1</sup>, to a county office, we present the following materials that have been developed by the El Dorado County Office of Education, Marin County Office of Education, and the Los Angeles County Office of Education.

While the statutes related to Charter School Education Code Sections define the legal steps, State Regulations and petition review practices are continuing to be developed and it may become necessary for supplemental information to be added.

2003

The passage of AB 1994 and AB 1137 continues the refining and defining of Charter law. This document as updated reflects those changes. Of particular interest is Education Code 47605.1(a) through (f) placing geographical restrictions on Charter schools.

Appreciation is extended to the law offices of Girard & Vinson and School Services of California, Inc. for materials that assisted in preparing this update.

<sup>1</sup> This process is technically interpreted as a secondary application and not an appeal of a district submitted charter in that 1) the charter application, if approved by the county board, is not referred back to the district that originally denied the charter, as would occur with an “appeal”, and 2) the county office of education whose board approved the charter is the sponsoring LEA for administration and oversight. The district denying the charter is sponsoring LEA as defined in the charter school funding model (AB 1115).

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# CALIFORNIA EDUCATION CODE

## Part I. The Charter Schools Act

### Chapter 1. General Provisions

#### Education Code Sections 47600-47604.5

##### Title of Act

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

##### Legislative intent for Charter Schools

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.

##### **Cap on statewide number, private school conversion prohibited, no funding if pupil pays tuition in a private school**

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.

### **Financial or other assistance allowed**

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.

### **Nonprofit public benefit corporation, board membership, liability**

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.

### **Responding to inquiries**

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 supervisory 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 supervisory oversight fees collected pursuant to Section 47613.

**Authority for County Superintendent to investigate complaints**

47604.4. (a) In addition to the authority granted by Section 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.

**State Board of Education may revoke**

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.

## **Chapter 2. Establishment of Charter Schools**

### **Education Code Sections 47605-47608**

#### **Petition Process: A through P requirements, teacher qualifications**

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district maybe 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) In the case of a petition for the establishment of a charter school through the conversion of an existing public school, that would not be eligible for a loan pursuant to subdivision (b) of Section 41365, the petition may be circulated by any one or more persons seeking to establish the converted 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 within the jurisdictional boundaries of the school district shall request a material revision to its charter and shall notify the governing board of the school district of those additional locations. The governing board of the school district shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved by the governing board of the school districts, 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 where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent of Public Instruction 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 such a facility or site 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 how 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 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.

(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.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall 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 cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the 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 State Department of Education 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 State Department of education, 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) of Section 47605 and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) of Section 47605 in a way that is consistent with the intent of the Charter Schools Act of 1992. 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 State Department of Education 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 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. 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 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.

## **Restriction on location of charter schools**

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.

### **Preferential admission policy for pupils in low-income areas**

47605.3. Notwithstanding subdivision (d) of Section 47605, a charter school with a schoolsite physically located in the attendance area of a public elementary school in which 50 percent or more of the pupil enrollment is eligible for free or reduced price meals may give a preference in admissions to pupils who are currently enrolled in that public elementary school, and to pupils who reside in the elementary school attendance area where the charter schoolsite is located. This section is not intended to effect 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.

### **Petition directly to County Board of Education for county-operated programs**

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.

### **Petition directly to County Board of Education for a countywide charter**

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) 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.

(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).

(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.

### **Denial for special education costs prohibited**

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.

### **Petition to State Board of Education for a statewide charter**

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.

## **All-charter district**

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.

## **Charter term, renewal, revision, revocation**

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 of Education, 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 shall be governed by the standards and criteria in Section 47605.

(b) Commencing 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 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 of Public Instruction copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent of Public Instruction shall review the

materials and make recommendations to the chartering authoring 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 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 cure 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.

### **Nonrenewal may appealed**

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.

### **Open Meetings Act (Brown Act) applies to governing board of LEA**

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).

## **Chapter 3. Charter School Operation**

### **Education Code Sections 47610-47615**

#### **Exempt from laws governing school districts, exceptions**

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.

## **STRS**

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.

## **Reports for PERS/STRS**

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.

## **Exclusive public school employer**

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.

#### **Charters are public schools – section effective until June 30, 2004**

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 Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

(d) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

#### **Charters are public schools – section effective July 1, 2004**

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## **Exemptions from geographic limitations**

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.

## **Minimum annual minutes, attendance records, independent study**

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) Offer, at a minimum, the same number of minutes of instruction set forth in paragraph (3) of subdivision (a) of Section 46201 for the appropriate grade levels.
- (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 of Public Instruction 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 (1) 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 (1) 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.

**1%/3% cap on charges for oversight**

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 shall 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.

**Apportionments to an all-charter school, district not funded under block grant funding model**

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.

**Requirement for LEAs to provide school facilities (added by Proposition 39)**

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.

## **Potential reimbursement of rent for charter school operating in low-income areas**

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 shall 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.

### **Legislative Findings**

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.

## **Chapter 4. Notice**

### **Education Code Sections 47616.5**

#### **LAO to evaluate effectiveness**

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.

### **Evaluation of effectiveness of nonclassroom-based instruction**

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.

## **Chapter 5. University Charter Schools**

### **Education Code Sections 47620-47625**

(Note: Text of this Chapter is not included.)

## **Chapter 6. Funding**

### **Education Code Sections 47630-47632.5**

#### **Article 1. General Provisions**

##### **Charter School Funding Model – legislative intent**

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.

### **Phase-in of funding model**

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.

### **County office charter schools**

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.

### **Definitions for Funding Model**

47632. For purposes of this chapter, the following terms shall be defined as follows:

(a) "General-purpose entitlement" means an amount computed by 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) "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.

(f) "Operational funding" means all funding except funding for capital outlay.

(g) "School district of a similar type" means a school district that is serving similar grade levels.

(h) "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

(i) "Sponsoring local educational agency" means the following:

(1) In the cases where a charter school is granted by a school district, the sponsoring local educational agency is the school district.

(2) In cases where 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) In cases where a charter is granted by the State Board of Education 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 of Education 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 such schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local education agencies means the pupils' school districts of residence.

### **Cap on funding for conversion schools**

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.

## **Article 2. Charter School Block Grant**

### **General purpose block grant**

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.

### **Categorical block grant**

47634. The Superintendent of Public Instruction shall annually compute a categorical block grant amount for each charter school as follows:

(a) The superintendent shall compute, as of June 30, 1999, the estimated statewide average amount of funding for other state categorical aid per unit of average daily attendance received by school districts in 1998-99, 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 this computation, other state categorical aid is limited to the following programs:

(1) The Agricultural Vocational Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Apprentice education established pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6.

(3) The Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25.

(4) College preparation programs as set forth in Chapter 8 (commencing with Section 60830) of Part 33, the Academic Improvement and Achievement Act as set forth in Chapter 12 (commencing with Section 11020) of Part 7, and the advanced placement program as set forth in Chapter 8.3 (commencing with Section 52240) of Part 28.

(5) Community day schools as set forth in Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(6) The Instructional Time and Staff Development Reform Program, as set forth in Article 7.5 (commencing with Section 44579) of Chapter 3 of Part 25.

(7) The School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act, as set forth in Article 7 (commencing with Section 54720) of Chapter 9 of Part 29.

(8) The Early Intervention for School Success Program, as set forth in Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

(9) Education Technology pursuant to Article 15 (commencing with Section 51870.5) of Chapter 5 of Part 28.

(10) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.

(11) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(12) The Healthy Start Support Services for Children Act, as set forth in Chapter 5 (commencing with Section 8800) of Part 6.

- (13) High-Risk First-Time Offenders program pursuant to Chapter 2 (commencing with Section 47760) of Part 26.95.
  - (14) The General Fund contribution to the State Instructional Material Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
  - (15) Intersegmental programs for kindergarten and grades 1 to 12, inclusive, funded by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.
  - (16) Proposition 98 educational programs pursuant to Item 6110-231-0001 of Section 2.00 of the Budget Act of 1998.
  - (17) The California Mentor Teacher Program, as set forth in Section 44253.6.
  - (18) The Miller-Unruh Basic Reading Act of 1965, as set forth in Chapter 2 (commencing with Section 54100) of Part 29.
  - (19) The Morgan-Hart Class Size Reduction Act of 1989, as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.
  - (20) Opportunity schools pursuant to Article 2 (commencing with Section 48630) of Chapter 4 of Part 27.
  - (21) Partnership academies pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29.
  - (22) Mathematics staff development pursuant to Chapter 3.25 (commencing with Section 44695) and Chapter 3.33 (commencing with Section 44720) of Part 25.
  - (23) Improvement of elementary and secondary education pursuant to Chapter 6 (commencing with Section 52000) of Part 28.
  - (24) The School Community Policing Partnership Act of 1998, as set forth in Article 6 (commencing with Section 32296) of Chapter 2.5 of Part 19.
  - (25) The School/Law Enforcement partnership funded by Item 6110-226-0001 of Section 2.00 of the Budget Act of 1998.
  - (26) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.
  - (27) School personnel staff development and resource centers pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.
  - (28) Supplemental grant funding, not otherwise included in the programs described above, provided by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.
  - (29) Academic progress and counseling review pursuant to Section 48431.6.
  - (30) The Schiff-Bustamante Standards-Based Instructional Materials Program as set forth in Chapter 3.5 (commencing with Section 60450) of Part 33.
  - (31) The Elementary School Intensive Reading Program, as set forth in Chapter 16 (commencing with Section 53025) of Part 28.
  - (32) The California Public School Library Protection Act, as set forth in Article 6 (commencing with Section 18175) of Chapter 2 of Part 11.
  - (33) The 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.
  - (34) The State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
  - (35) The Instructional Materials Funding Realignment Program, as set forth in Chapter 3.25 (commencing with Section 60420) of Part 33.
  - (36) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.
- Notwithstanding any other provision of law, charter schools that have received a block grant pursuant to this section are not eligible to receive separate funding for programs enumerated

in this subdivision or any other state categorical aid programs established on or after July 1, 1999, that are included in the calculation made pursuant to this subdivision and for which charter schools are not required to apply separately.

(b) For purposes of the computation prescribed by subdivision (a), other state categorical aid may not include any of the following:

- (1) Programs for which a charter school is required to apply separately.
- (2) Programs that support, or are provided in lieu of, capital expenses.
- (3) Funding for court-ordered or voluntary desegregation programs.
- (4) Special education programs.
- (5) Economic Impact Aid.
- (6) Lottery funds.

(c) The superintendent shall annually adjust each of the amounts computed pursuant to subdivision (a) to reflect programs that existed on or after July 1, 1999, or their successors, that are subsequently included in or deleted from the categorical block grant. The Director of Finance shall annually recalculate the cumulative percentage change required pursuant to subdivision (c) of Section 47634.5 by adjusting the base year and the budget year figures to reflect those program shifts.

(d) The superintendent shall annually adjust each of the resulting four amounts computed pursuant to subdivision (a) by the cumulative percentage change from the 1998-99 fiscal year, as annually calculated by the Director of Finance pursuant to Section 47634.5, in the total amount of state funding per unit of average daily attendance received by K-12 local educational agencies for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution, exclusive of funding for adult education, child development programs, special education, Economic Impact Aid, revenue limits for school districts and county offices of education, and programs for which a charter school is required to apply separately. Programs for which charter schools are required to apply separately are programs that expressly authorize or require a charter school to apply for funding.

(e) The superintendent shall multiply each of the four amounts computed in subdivision (d) by the charter school's average daily attendance in the corresponding grade level ranges.

(f) The superintendent shall compute the statewide average amount of funding per identified educationally disadvantaged pupil received by school districts in the current 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 may, if greater than zero, 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 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English language learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(g) The superintendent shall add the amounts computed in subdivisions (e) and (f). The resulting amount shall be the charter school's 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.

(h) Notwithstanding any other provision of law, a charter school is not eligible to apply for funding under any of the programs the funding of which is included in the computation of the categorical block grant. The Superintendent of Public Instruction shall annually provide each charter school with a list of these programs and shall ensure that a charter school receives timely notification of the opportunity to apply for programs administered by the State Department of Education that are excluded from the categorical block grant.

(i) It is the intent of the Legislature to fully fund the categorical block grant and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance in charter schools. In any fiscal year in which the department identifies a deficiency in the Charter School Categorical Block Grant, the department shall identify programs that are funded toward meeting the requirements of Section 8 of Article XVI of the California Constitution that will have unobligated funds for the year and the associated balances available. At the second principal apportionment, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency in the Charter School Categorical Block Grant. The Director of Finance shall verify the amount of the deficiency in the Charter School Categorical Block Grant and direct the Controller to transfer from those programs to the Charter School Categorical Block Grant an amount equal to the lesser of the amount available or the amount needed to fully fund the Charter School Categorical Block Grant. The Department of Finance shall request the transfer on or before July 1 and notify the Joint Legislative Budget Committee within 45 days of the transfer.

(j) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

### **Nonclassroom-based instruction; funding determinations and allocations**

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.

### **Computation of ADA for funding model rates**

47634.3. For purposes of Sections 47633 and 47634, 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.

### **Annual percentage change for categorical rates**

47634.5. (a) The Director of Finance shall compute and provide to the Superintendent of Public Instruction within 30 days of the enactment of the Budget Act of 1999 the percentage change calculated based on the Budget Act of 1999 and accompanying statutes in the following:

(1) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(2) The total amount of state funding per unit of average daily attendance appropriated in the Budget Act of 1999 and related implementing legislation for kindergarten and grades 1 to 12, inclusive, local educational agencies for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(b) Commencing in 2000, the Director of Finance shall annually compute and provide as part of the May revision to the Governor's Budget the percentage change in the following:

(1) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(2) The total amount of state funding per unit of average daily attendance proposed to be appropriated in the following year for kindergarten and grades 1 to 12, inclusive, local educational agencies in the budget year for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(c) (1) Notwithstanding subdivision (b), commencing in 2002, the Director of Finance shall annually compute and provide to the Superintendent of Public Instruction within 30 days of the enactment of the annual Budget Act the cumulative percentage change between the amounts calculated pursuant to subparagraphs (A) and (B).

(A) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes that count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(B) The total amount of state funding per unit of average daily attendance appropriated in the annual Budget Act and related implementing legislation for kindergarten and grades 1 to 12, inclusive, to local educational agencies for purposes that count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for that fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose

entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately. The Director of Finance shall not include in the calculation made to determine the amount required pursuant to this paragraph reappropriations of funding that previously counted toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year.

(2) As part of providing the calculation required pursuant to paragraph (1), the Department of Finance shall provide the State Department of Education with a comprehensive list of categorical programs that are included in the Charter School Categorical Block Grant.

### **Required payment in lieu of property taxes**

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.

### **Article 3. Other Operational Funding Available to Charter Schools**

#### **Application for federal or other state categorical programs; negotiation for other local revenues**

47636. (a) This chapter may not be construed to prevent charter schools from applying for, or receiving, operational funding under state or federal categorical programs, the funding of which is not included in the computation of the block grant entitlement. Unless specifically prohibited, a charter school shall only apply for federal or state categorical programs as follows:

(1) A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply for federal and state categorical programs individually. Except as otherwise provided in this chapter, for purposes of determining eligibility for, and allocations of federal or state categorical aid, a charter school that applies individually shall be deemed to be a school district.

(2) A charter school that does not elect to receive its funding directly may apply for federal and state categorical programs in cooperation with its authorizing local educational agency.

(b) This chapter may not be construed to 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.

### **Lottery funds**

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.

## **Article 4. Special Education Funding**

### **Definition of local educational agency (LEA)**

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.

### **Charter school as LEA or as public school within granting agency**

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).

### **State and federal funding**

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.

### **Change in allocation plan**

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.

### **Charter School part of SELPA funding**

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.

### **Request for LEA status within a SELPA**

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.

### **Charter school as public school with an LEA**

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 56200) 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 plan.

(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 56200) 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.

### **Charter school petition cannot be denied based on special education**

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.

## **Article 5. Apportionment of Funds**

### **Charter school deemed a school district, total amount certified**

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.

## **Direct payment or through chartering LEA**

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.

## **Charter school in first year of operation, advance apportionment**

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 of Education, estimated average daily attendance shall be approved by, and submitted directly to, and approved by, the State Department of Education. 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 of Education its actual average daily attendance for that first month, and the

Superintendent of Public Instruction shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

(b) 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.

## **Article 6. Computations Affecting Sponsoring Local Educational Agencies**

### **Enrollment and ADA of chartering LEA**

47660. (a) For purposes of computing eligibility for, and entitlements to, general-purpose funding and operational funding for categorical programs, a sponsoring local educational agency's enrollment and average daily attendance shall exclude all enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b) Notwithstanding subdivision (a), 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 attend charter schools for which the district is the sponsoring local educational agency and reside in, and would otherwise have been eligible to attend a noncharter school of, the district.

### **Adjustment to property taxes**

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.

### **70% backfill for a basic aid district for pupils from nonbasic aid districts**

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.

### **Funding for charter districts**

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.

## **Other Applicable Provisions of Code**

### **Article 3. Waiver Authority**

#### **Charter schools; waiver of provisions code**

33054. (a) The governing board of a charter school may request, and the State Board of Education may approve, a waiver of any otherwise applicable provisions of this code pursuant to this article. To be eligible to request a waiver, a charter school shall submit its application for a waiver to its chartering authority. The governing board of the chartering authority shall hold the public hearing on the waiver request no later than 90 days following receipt of the request. If the chartering authority fails to hold the public hearing within the 90 days, the charter school shall hold a public hearing prior to submitting the waiver request directly to the State Board of Education. If the chartering authority is a school district or county board of education, it shall prepare a summary of the public hearing to be forwarded with the waiver request to the State Board of Education. If the school district or county board of education 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 state board.

(b) For purposes of this article, a charter school shall be deemed to be a "school district" that is eligible to submit a waiver application pursuant to this section.

(c) A charter school shall meet the same criteria that a school district is required to meet when it requests a waiver, except that the chartering authority shall conduct the public hearing, as required pursuant to subdivision (a).

(d) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

### **Article 4. Loans and Advances**

#### **Charter School Revolving Loan Fund**

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act. (b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. Money loaned to a chartering authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars (\$250,000) over the lifetime of the charter school. A charter school may receive money obtained from multiple loans

made directly to the charter school or to the school's chartering authority from the Charter School Revolving Loan Fund, as long as the total amount received from the fund over the lifetime of the charter school does not exceed two hundred fifty thousand dollars (\$250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) The Superintendent of Public Instruction may consider all of the following when making a determination as to the approval of a charter school's loan application:

- (1) Soundness of the financial business plans of the applicant charter school.
- (2) Availability of the charter school of other sources of funding.
- (3) Geographic distribution of loans made from the Charter School Revolving Loan Fund.
- (4) The impact that receipt of funds received pursuant to this section will have on the charter school's receipt of other private and public financing.
- (5) Plans for creative uses of the funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.
- (6) The financial needs of the charter school.

(d) Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs.

(e) Commencing with the first fiscal year following the fiscal year the charter school receives the loan, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(f) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the charter school shall be solely liable for repayment of the loan.

41366.5. (a) Moneys in the Charter School Revolving Loan Fund shall be loaned at the interest rate earned by the money in the Pooled Money Investment Account as of the date of disbursement of the funds to the charter school.

(b) A charter school shall pay the interest on any loan from the fund in regular installments withdrawn from the annual apportionment the charter school receives.

(c) All interest payments shall be paid into the Charter School Security Fund established pursuant to Section 41367.

41366.7. The Director of Finance shall monitor the adequacy of the amount of funds in the Charter School Security Fund and report annually to the Legislature on the need, if any, to adjust the interest rate set forth in Section 41366.5 or to revise any other aspect of the default recovery plan.

41367. (a) The Charter School Security Fund is hereby created in the State Treasury.

(b) Moneys in the fund shall be available for deposit into the Charter School Revolving Loan Fund in case of default on any loan made from the Charter School Revolving Loan Fund.

# Sample School District Board Policy for Charter Schools

It is the objective of the Board of Education that teachers, parents, and guardians of pupils may petition the Board to approve a charter school in accordance with the following procedures:

## A. Petition

A petition to the Board of Education (Board) to approve any type of charter as outlined above shall include all information required by Education Code § 47605 et seq.

1. The name, address and phone number of each applicant, together with a statement signed by each of them, formally applying to the Board for approval of the charter school. If the proposed charter includes one or more grade levels not served by the District, it must also propose to include all of the grade levels that are served by the District.
2. A thorough description of the education, work experience, credentials, degrees and certifications of the individuals to comprise the directors, administrators and managers of the proposed charter school.
3. The applicable By-laws, articles of incorporation, and other management documents proposed to govern the charter school. The information in this section shall specify that the charter school will be subject to the Brown Act, the Public Records Act, and the Conflict of Interest requirements of common law Government Code § 1090 and the Fair Political Practices Act, Government Code §§ 83111 et seq.
4. A list of consultants whom the petitioners propose to engage for development, operation, and evaluation of the charter school, together with a thorough description of the qualifications of each consultant.
5. The names, addresses and telephone numbers of those persons endorsing the proposal, with original signatures of such petitioners and in the form provided in Education Code § 47605. The petition form must indicate that a copy of the charter school proposal was attached such that petitioners were able to review it prior to signing. Parents/guardians signing the petition must reside in the District, and must have one or more children who are age appropriate for the proposed charter school. Teachers signing the petition must be properly credentialed to teach one or more core academic classes in the proposed charter school.

6. Reasonably comprehensive descriptions of those elements of school philosophy, curriculum, and practice as called for in Education Code §§ 47605(b)(5)(A) through 47605(b)(5)(P) inclusive. The descriptions shall include information on whether the program is classroom based or uses any distance-learning instructional strategies.
7. A description of how the charter school shall meet all statewide standards and conduct the pupil assessments required pursuant to Education Code § 60605 and any other statewide standards required by statute or pupil assessments applicable to pupils in non-charter public schools. The description shall state whether the charter school intends to participate in the Alternative Schools Accountability Model (ASAM) or the main accountability system.
8. A signed statement affirming that the school shall be nonsectarian in its programs, admissions policies, employment practices, and all other operations, and that it shall not charge tuition, nor discriminate against any person on the basis of ethnicity, national origin, gender, or disability as set forth in section 47605(d)(1) of the Code.
9. The address and a description of the charter school facilities, located within the geographic boundaries of the District, together with documentation sufficient to provide reasonable evidence that the charter school facility is safe, habitable, and well-suited for its educational purpose, and that the applicant has secured, or has reasonable assurance of securing, the facilities for use by the charter school.
10. A description of the proposed charter school's building maintenance, replacement, and expansion policies, including related financial projections. Current financial statements for the charter school, including a detailed balance sheet and statements of income and expense, shall be included in cases of renewal applications. Additionally, a three to five year business plan shall be included.
11. A detailed, complete, and fully annotated operational budget with estimates of charter school revenues and expenditures, cash-flow, and reserve positions, for the first three years of operation, including startup costs and the precise salary and benefits paid and to be paid to the persons identified in paragraphs A(1), A(2), A(4), and A(13) of this policy.
12. A narrative from the charter school applicant providing a thorough description of the potential civil liability, if any, of the charter school and the district.

13. A summary of the administrative structure and organization of the school, including special education, the educational agency liaison, and other basic elements of school operation. This section should detail the proposed academic calendar including: days of instruction, hours of operation, expectations for pupil attendance, and annual instructional minutes for each grade level to be served.
14. The manner, form and content by which the charter school proposes to regularly report to the District or designee concerning charter implementation, measurable student progress, and the current and projected financial viability of the school, and School Accountability Report Card (SARC) performance.
15. Charter schools serving high school students shall include a description of how the school will inform parents about the transferability of courses to other public high schools, and the eligibility of courses to meet college entrance requirements.
16. A description of charter school admission procedures where applicable.
17. A complete description of how the charter school will serve special education students.
18. The augmented plans to ensure the health and safety of students and staff beyond those listed under Required Element F (E.C. § 47605(b)(5)(F), including any plans for additional tuberculosis screening, student supervision, safety training for staff, and immunization screening requirements.
19. A description of the procedures to be used if the charter school closes. These 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 the disposal of assets and for the maintenance and transfer of pupil records. The Board expresses a preference for procedures that include a provision whereby residual assets of the charter school will accrue to the benefit of the District.

B. Process

1. Upon receipt of a petition, a designated employee of the District shall date stamp the cover page of the submitted materials. A charter school petition shall include all of the information referenced in the Charter Schools Act by which the Board may evaluate the application. While a charter school petition may be submitted at any time during the year, applicants are encouraged not to submit a petition during a period when a regular Board meeting is not scheduled within the next 30 days. In addition, petitioners seeking approval to commence charter school operation at the start of the next school year shall initiate the process not

later than the prior December 15<sup>th</sup>. In the case of petitions received after that date, the Board reserves the right to consider approval on the basis of a one year delay in the commencement of charter school operation.

2. Not later than 30 days after receiving the charter school petition, the Board shall hold a public hearing on the provisions of the charter, at which time the level of support for the petition by teachers, other employees, parents and guardians shall be considered. Charter school applicants shall be provided an opportunity to appear and provide testimony to the Board.
3. Within 60 days of receipt of the petition, or 90 days based upon agreement between the applicant and the school district, the Board shall either grant or deny the petition. When approved, the District shall notify the Charter School Section of the State Department of Education, as well as all other required agencies.

C. Denial of Petition – Findings

It is the intent of the Board that charter schools with sound educational practice should be encouraged. The Board shall not deny a petition unless the Board 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.
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 § 47605(a) of the Code.
4. The petition does not contain an affirmation of each of the conditions as set forth in § 47605(d) of the Code.
5. The petition does not contain reasonably comprehensive descriptions of all the information required under paragraph A(6) of this policy.

The Board shall deny the charter petition if it makes any of the findings 1 through 5 above.

D. Supervisory Oversight

District oversight of the charter school shall be determined by the Board or its designee in the best interest of the public, as authorized by law.

1. The relationship between the District and the charter school, as well as any services to be provided by the District, will be described in the charter petition.
2. The charter school shall provide and certify to the Board or designee, not less often than annually, documents on file at the charter school which shall verify that all teachers at the school hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which teachers in other public schools would be required to hold, and that those teachers instructing students meet the requirements imposed under state and federal law on charter school teachers. (E.C. § 47605(1))
3. The charter school shall present and certify to the Board or designee the audit report of the charter school, and shall, not less than annually, comprehensively report in writing on the general operation of the charter school. In addition, any charter school operating within the District shall adhere to Education Code § 47605(m).
4. The charter school shall do all of the following:
  - (1) Identify at least one staff member as a contact person for the charter school.
  - (2) Meet with the Board or designee at least annually.
  - (3) Arrange and coordinate Board or designee annual visits to each charter school location.
  - (4) Ensure and provide written documentation and certification that the charter school has complied with all reports required by law.
  - (5) Monitor and report to the Board on its fiscal condition at any time there are any significant changes, issues or problems.
  - (6) Provide timely notification of any of the following:
    - (a) renewal of the charter will be sought
    - (b) conditions may exist which could cause the charter to be revoked
    - (c) the charter may cease operations for any reason.  
(E.C. § 47604.32)
5. The charter school shall annually prepare and submit the following reports to the Board:
  - (a) A preliminary budget (on or before July 1)

- (b) An interim financial report or changes through October 31 (on or before December 15)
  - (c) A second interim financial report on changes through January 31 (on or before March 15)
  - (d) A full year unaudited report (on or before September 15)  
(E. C. § 47604.33)
6. The charter school shall promptly report to the Board any instance in which the charter school has committed any of the violations listed in the Education Code § 47607(c) as follows:
- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.
  - (2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.
  - (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
  - (4) Violated any provision of law.
7. Upon a finding by the Board that the charter school committed any of the violations at Education Code §§ 47607(c)(1) through (4) inclusive, the Board may revoke the charter. The Board shall notify the charter school of any violation and give the school a reasonable opportunity to cure the violation (unless the Board determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of pupils).
8. The charter school shall pay the District for the actual costs of supervisory oversight not to exceed one percent of the revenue of the charter school except as otherwise provided by law. The District may charge for the actual costs of supervisory oversight of a charter school, not to exceed three percent of the charter school revenue, if the District provides substantially rent-free facilities to the charter school.

E. Charter Approval

An initial approval of a charter petition by the Board shall be for a period normally not to exceed three years. In no case shall the Board approve a charter for more than five years.

F. Charter Renewal or Material Modification of an Approved Charter

1. Any charter renewal or material modification is subject to the approval of the Board.
2. A material modification of an approved charter includes any change in the representations made to the Board under sections A(3), and/or A(6) through A(19) inclusive, of this policy.
3. Applications to renew or materially modify the charter shall include all statutory and regulatory information, and be subject to approval or denial as are proposals for new charter schools, except that any renewal approval shall be for a period of five years.
4. Applications to materially modify the charter may be submitted at any time during the life of the approved charter. Applications to renew the charter shall be submitted no earlier than nine months prior to the date of charter expiration.
5. Commencing on January 1, 2005, or after the charter school has been in operation for four years, whichever is later, the charter school shall meet at least on of the following criteria prior to receiving a charter renewal:
  - (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) 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 based on all of the following:
    - (a) Documented and clear and convincing data.
    - (b) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Education Code Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(c) Other information submitted by the charter school.

(5) Has qualified for an alternative accountability system pursuant to Education Code Section 52052(h). (E.C. § 47607(b))

G. Annual Certification

The charter shall provide annual certification in accordance with attached Exhibit A.

H. Miscellaneous

1. Should a charter school elect to operate as, or be operated by, a nonprofit public benefit corporation, the Board may appoint a representative to serve on the board of directors of that corporation.
2. A charter school shall promptly respond to all reasonable inquiries and/or requests for written information of any kind or sort from the district, without charge.
3. The Superintendent is charged with developing such administrative regulations as may be necessary or prudent to implement this policy.
4. Nothing contained in this policy shall be interpreted to mean that any charter school is not otherwise required to meet all legal regulatory standards and requirements, as well as comply with all generally accepted principles and practices of sound accounting, management, and education.

**EXHIBIT A**

**CHARTER SCHOOL ANNUAL CERTIFICATION**

Annual Certification for the \_\_\_\_\_ [name] Charter School "Charter School."

WHEREAS the \_\_\_\_\_ ("District") granted a charter to Charter School pursuant to the California Charter School Act (California Education Code §47600-47664) on \_\_\_\_\_ [date]; and

WHEREAS District has certain supervisory duties and responsibilities, pursuant to Education Code §§ 47607 and 47613, over Charter School operations and activities; and

WHEREAS District supervisory oversight is an important element in helping to assure that Charter School operations and activities are in accordance with the District granted Charter provisions, legal requirements and generally accepted accounting principles; and

Whereas Charter School desires to fully cooperate with and otherwise assist District in fulfilling District's supervisory oversight duties and responsibilities for the benefit of Charter School.

THEREFORE, upon conducting a thorough and comprehensive investigation and review of relevant Charter School records, activities, practices and procedures, Charter School certifies and warrants that for the period beginning July 1, \_\_\_\_ through June 30, \_\_\_\_, the Charter School:

1. Teacher Certification:

Has at all times only employed teachers who 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 and that such teachers at all times had all necessary education in core subjects as required by Education Code § 47605(e), except as follows:

[If none write "None"]

\_\_\_\_\_

[describe]

2. Accounts/Notes Payable:

Has fully made all payments due and owing of any kind in a timely manner without extension, penalty, dispute or other special circumstances, except as follows:

\_\_\_\_\_

[describe]

3. Brown Act:

Has at all times properly agendized, noticed and conducted all meetings, including committee meetings subject to the Brown Act, in accordance with the provisions of the Brown Act, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

4. Monetary Reserve:

Has at all times, adopted, implemented and maintained a monetary reserve in a restricted account equal to 3% of the Charter School's total budget, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

5. Sites:

Has not established operations at any additional sites other than \_\_\_\_\_, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

6. Grade Level:

Has not served or proposed to serve pupils in a grade level not served by the District, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

7. Program Implementation:

Has thoroughly and systematically evaluated the educational program as described in the Charter School petition and determined that it has been successfully implemented, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

8. Parent Information:

Has fully informed Charter School parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

9. Pupil Progress:

Has implemented and maintained methods by which pupil progress in meeting pupil outcomes is measured, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

10. Pupil Outcomes:

Has measured pupil outcomes (the extent to which pupils demonstrate that they have attained skills, knowledge and attitude), except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

11. Parental Involvement:

Has implemented and maintained a process to ensure parental involvement, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

12. Staff Qualifications:

Has established and maintained qualifications for all Charter School employees, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

13. Pupil and Staff Health and Safety:

Has implemented and maintained health and safety procedures for pupils and staff, including a criminal record summary, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

14. Racial and Ethnic Balance:

Has implemented means to achieve a racial balance among Charter School pupils reflective of the District's general population, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

15. Admission Requirements:

Has implemented and maintained pupil admission requirements which allow all pupils who wish to attend to attend, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

16. Financial Audits:

Has conducted an independent financial audit employing generally accepted accounting principles and practices, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

17. Audit Exceptions:

Has had no audit exceptions, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

18. Resolution of Audit Exceptions:

Has fully and satisfactorily resolved all audit exceptions, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

19. Pupil Suspension and Expulsion:

Has implemented and maintained pupil suspension/expulsion procedures which are in full compliance with Constitutional due process and equal protection standards, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

20. Employee PERS/STRS/Social Security Coverage:

Has fully complied with PERS/STRS/Social Security Reporting and Coverage and payment requirements, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

21. Employee Return Rights:

Has fully implemented and maintained procedures providing for Charter School employee return rights to District employment, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

22. Disputes:

Has implemented and maintained and adhered to Charter dispute resolution procedures between Charter School and District, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

23. Assets:

Has not disposed of any Charter School assets valued as more than \$1,000, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

24. Abstracts:

Has not entered into any contracts obligating the Charter School to pay more than \$5,000 annually, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

25. Pupil Assessments and Statewide Standards:

Is familiar with and has met all statewide academic content standards and conducted applicable pupil assessments, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

26. Parent/Teacher Consultation:

Has regularly consulted with pupils' parents and teachers regarding the schools educational programs.

27. Non Sectarian

Is non sectarian in its:

- programs
- admission policies
- employment practices
- all other operations

28. Tuition:

Has not charged any tuition or fees, except as follows:

---

---

[describe]

29. Discrimination:

Has not discriminated on the basis of:

- Ethnicity
- National Origin
- Gender
- Disability

30. Admission Based on Residence:

Has not determined pupil admission according to place of residence within the State, except as follows:

---

---

[describe]

31. Admission:

Has admitted all pupils who wish to attend, except as follows:

---

---

[describe]

32. Cashflow:

Has had no cashflow problems as determined in accordance with generally accepted accounting principles and practices, except as follows:

---

---

[describe]

33. Financial Projections:

Has made and updated a current year financial projection in accordance with generally accepted accounting principles and practices, except as follows:

---

---

[describe]

34. Certification of ADA:

Fully understands, upon a thorough review, all requirements necessary as a precondition certification of Charter School ADA (including the keeping and maintaining of contemporaneous and accurate attendance records) and has met such requirements, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

35. Debt:

Has not (and does not propose to) incurred any debt or borrowing of any kind at any time, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

36. One-Time Funds:

Has not (and does not propose to) utilize one-time nor recurring funds to fund ongoing operations, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

37. Capitalization:

Has carefully and continually evaluated and monitored capital needs and determined that its capital resources are adequate in accordance with generally accepted accounting principles and practices, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

38. Litigation:

Has carefully evaluated and determined that there is no potential or pending litigation, lawsuit, dispute, claim, or demand of any kind involving the Charter School or any of its officers, agents, employees or representatives in their official capacity which exceeds \$1,000 in potential damages to Charter School, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

39. Location and Adequacy of Facilities:

Has determined that its current facilities are adequate and no additional or alternative facilities are needed, except as follows:

---

---

[describe]

40. Access to Information and Documents:

Has had no requests for information, documents, records, writings, or other materials in any form, electronic or otherwise under the California Public Record Act or otherwise, which were either unusual or denied, except as follows:

---

---

[describe]

41. Charter Cooperation:

Has had no complaints, charges or criticisms against the Charter School from any individual, group or organization, including the District and parents, which reasonably could be interpreted or perceived as failure in whole or in part, of the Charter School to fully cooperate with such individual, group or organization, except as follows:

---

---

[describe]

42. Growth and Development Plans:

Has made no new or different plans for Charter School growth and development, except as follows:

---

---

[describe]

43. Religious Affiliation:

Has made no agreements, nor had any understanding with any religious group, organization or individual, either formally or informally, except as follows:

---

---

[describe]

44. Religious Indicia and Symbols:

Has neither placed, used, suffered, nor permitted any religious paraphernalia, symbols or other indicia to be used in any way, directly or indirectly, in connection with the Charter School, its programs or activities, except as follows:

---

---

[describe]

45. Conflicts of Interest:

Has had no conflicts of interest nor potential conflicts of interest in its contracting, human resource, financial and other activities and operations, by any of its officers, employees, staff, agents or representatives as determined by someone familiar with Charter School activities and operations and who has reviewed and is familiar with the basic requirements of Government Code § 1090, California Political Reform Act and common law standards, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

46. Nepotism:

Has not engaged in any activities which might be suspected of constituting nepotism of any kind, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

47. Board/Administrator Turnover or Reassignment:

Has had no board or administrative turnover or reassignment of any sort, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

48. Teacher or Staff Turnover or Reassignment:

Has had no unusual (by quantity or otherwise) teacher/staff turnover of any sort, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

49. Financial Errors:

Has made no financial error of any type, no matter if characterized as a mistake, transposition miscalculation or otherwise, as reflected in any written document, except work product, intended for public distribution or otherwise, in excess of \$5,000, except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
[describe]

50. Contact Person:

Identified and notified [name of staff member] that he/she is the designated contact person between the charter school and the District.

51. Meetings:

Has met with the Board or designee at least annually on the following dates:

52. Annual Visits:

Arranged and coordinated Board or designee annual visits to each charter school location as follows:

—

[list dates of visit and locations]

53. Legally Required Reports:

Complied with all legally mandated reporting requirements.

54. Monitoring:

Monitored all charter activities to assure the charter's ability to report to the District on the charter's fiscal condition at any time there are any significant changes, issues or problems.

55. Notification:

Has had no reason to notify the District that the charter:

1. has made or is contemplating any decision, even on a preliminary basis, that charter renewal will be sought
2. has been or is aware of any condition which could cause the charter to be revoked or
3. may cease operations for any reason except as follows:

—

[describe]

56. Financial Reports:

Has fully, accurately and timely submitted the following financial reports this current fiscal year:

- a. a preliminary budget on or before July 1
- b. an interim financial report on or before December 15
- c. a second interim financial report on or before March 15
- d. a full year unaudited report on or before September 15

except as follows:

—

[describe]

57. API:

Attained its Academic Performance Index (API) growth target except as follows:

—

[describe]

*[Note: If API growth target was not met, please explain decile ranking as compared with demographically comparable school.]*

58. API Comparability:

Based on clear and convincing pupil achievement data from assessments including Standardized Testing and reporting, has attained an API ranking at least equal to the public schools that charter school pupils would otherwise be required to attend, as well as the academic performance of the schools in the school district in which the charter school is located except as follows:

—

[describe]

I have personally conducted a careful and comprehensive review of documents and information supporting the statements contained herein and hereby certify and swear under penalty of perjury that the forgoing is true and correct.

\_\_\_\_\_  
Name and Title

Date

**PHILOSOPHY-GOALS-OBJECTIVES AND COMPREHENSIVE PLANS**

**BP 0100 Charter Schools**

The County Board of Education (County Board, Board) encourages the establishment of charter schools in El Dorado County as an integral part of the California educational system. The Board believes that charter schools provide an opportunity to implement school-level reform, and to support innovations that improve student learning while enabling students to become self-motivated, competent, lifelong learners. These schools shall operate under the provisions of their charters, specific state and/or federal laws, Title 5, the California Code of Regulations adopted by the State Board of Education, and the general oversight of the chartering authority.

Petitions for the establishment of charter schools shall be submitted to the County Board for approval, under the following provisions:

**County Program Charters**

1. County Program Charters serve students for whom the El Dorado County Office of Education would otherwise be responsible for providing direct education and related services. (Education Code § 47605.5)

**Countywide Charters**

2. Countywide Charters provide instructional services not generally provided by the El Dorado County Office of Education to a student 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. (Education Code § 47605.6(d))

**Secondary Applications**

3. A charter school petition denied by a district governing board of a school district within the County Board’s jurisdiction may be submitted to the County Board for approval within 180 calendar days of the denial. If, upon receipt of the petition, the Board fails to act within 120 days, the petitioner(s) may seek judicial review of the district board’s denial. (Education Code § 47605, 5 CCR 11967)

The following policy provisions shall pertain to all petitions received by the County Board, except where noted. The Board will only approve a petition if it finds, in addition to other requirements of law, that the educational services provided by the charter school will offer services benefiting a pupil population that cannot be served as well by a charter school operating in a single district.

It is the objective of the County Board that teachers, parents, and guardians of pupils may petition the Board to approve a charter school in accordance with the following procedures:

A. Petition

A petition to the County Board to approve any type of charter as outlined above shall include all information required by Education Code § 47605 et seq.

1. The name, address and phone number of each applicant, together with a statement signed by each of them, formally applying to the Board for approval of the charter school.
2. A thorough description of the education, work experience, credentials, degrees and certifications of the individuals to comprise the directors, administrators and managers of the proposed charter school.
3. The applicable By-laws, articles of incorporation, and other management documents proposed to govern the charter school. The information in this section shall specify that the charter school will be subject to the Brown Act, the Public Records Act, and the Conflict of Interest requirements of common law. (Government Code § 1090 and the Fair Political Practices Act, Government Code §§ 83111 et seq.)
4. A list of consultants whom the petitioners propose to engage for the development, operation, and evaluation of the charter school, together with a thorough description of the qualifications of each consultant.
5. The names, addresses and telephone numbers of those persons endorsing the proposal, with original signatures of such petitioners, and in the form provided in Education Code § 47605.6. The petition form must indicate that a copy of the charter school proposal was attached such that petitioners were able to review it prior to signing. Parents/guardians signing the petition must reside in El Dorado County and must have one or more children who are age appropriate for the proposed charter school. Teachers signing the petition must be properly credentialed to teach in the proposed charter school.
6. Countywide Charter School Proposals:

Shall include reasonably comprehensive descriptions of those elements of school philosophy, curriculum, and practice, as called for in Education Code §§ 47605.6(b)(5)(A) through 47605.6(b)(5)(M) inclusive.

Charter Secondary Applications and County Program Charters:

Shall include the descriptions called for in Education Code §§ 47605(b)(5)(A) through 47605(b)(5)(P) inclusive.

The descriptions for all charters shall include information on whether the program is classroom based or uses any distance-learning instructional strategies.

7. A description of how the charter school shall meet all statewide standards and conduct the pupil assessments required pursuant to Education Code § 60605 and any other statewide standards required by statute or pupil assessments as applicable to pupils in non-charter public schools. The description shall state whether the charter school intends to participate in the Alternative Schools Accountability Model (ASAM) or the main accountability system.
8. A signed statement affirming that the school shall be nonsectarian in its programs, admissions policies, employment practices, and all other operations, and that it shall not charge tuition, nor discriminate against any person on the basis of ethnicity, national origin, gender, or disability as set forth in Education Code § 47605.6(e)(1).
9. The address and a description of the charter school facilities, located within the geographic boundaries of the county, together with documentation sufficient to provide reasonable evidence that the charter school facility is safe, habitable, and well-suited for its educational purpose, and that the applicant has secured, or has reasonable assurance of securing, the facilities for use by the charter school.
10. A description of the proposed charter school's building maintenance, replacement, and expansion policies, including related financial projections. Current financial statements for the charter school, including a detailed balance sheet and statements of income and expense, shall be included in cases of renewal applications. Additionally, a three to five year business plan shall be included.
11. A detailed, complete, and fully annotated operational budget with estimates of charter school revenues and expenditures, cash-flows, and reserve positions for the first three years of operation, including startup costs and the precise salary and benefits paid and to be paid to the persons identified in paragraphs A(1), A(2), A(4), and A(13) of this policy.

12. A narrative from the charter school applicant providing a thorough description of the potential civil liability, if any, on the charter school, any school district where the charter school may operate, and the El Dorado County Office of Education.
13. A summary of the administrative structure and organization of the school, including special education, the educational agency liaison, and other basic elements of school operation. This section should detail the proposed academic calendar including: days of instruction, hours of operation, and expectations for pupil attendance and annual instructional minutes for each grade level to be served.
14. The manner, form and content by which the charter school proposes to regularly report to the County Board, or designee, concerning charter implementation, measurable student progress, current and projected financial viability of the school, and School Accountability Report Card (SARC) performance.
15. Description of how the school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements for charter schools serving high school students.
16. A description of charter school admission procedures where applicable.
17. A complete description of how the charter school will serve special education students.
18. The augmented plans to ensure the health and safety of students and staff beyond those listed as Required Elements (E.C. § 47605.6(b)(5)(G) for Countywide Charters, and § 47605(b)(5)(F) for Charter Appeals or County Program Charters), including any plans for additional tuberculosis screening, student supervision, safety training for staff, and immunization screening requirements.
19. A description of the procedures to be used if the charter school closes. These 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 the disposal of assets and for the maintenance and transfer of pupil records. The Board expresses a preference for procedures that include a provision whereby residual assets of the charter school will accrue to the benefit of the El Dorado County Office of Education.

20. The County Board and/or the County Superintendent may impose any additional requirements deemed necessary for the sound operation of a Countywide Charter petition. (E.C. § 47605.6(b)(6))

## B. Process

1. Upon receipt of a petition, a designated employee of the El Dorado County Office of Education (EDCOE) shall date stamp the cover page of the submitted materials. A charter school petition shall include all of the information referenced in the Charter Schools Act by which the County Board may evaluate the application. While a charter school petition may be submitted at any time during the year, applicants are encouraged to submit a petition during a period when a regular Board meeting is scheduled to occur within the next 30 days. In addition, petitioners seeking approval to commence charter school operation at the start of the next school year shall initiate the process not later than the prior December 15<sup>th</sup>. In the case of petitions received after that date, The Board reserves the right to consider approval on the basis of a one-year delay in the commencement of charter school operation.
2. Not later than 60 days after receiving the Countywide Charter School Petition, or 30 days after receiving a Charter Appeal or County Program Charter School Petition, the Board shall hold a public hearing on the provisions of the charter, at which time the level of support for the petition by teachers, other employees, parents and guardians, and the district or districts where the charter school applicants propose to place school facilities shall be considered. Charter school applicants shall be provided an opportunity to appear and provide testimony to the County Board.
3. In the case of a Countywide Charter School Petition, each school district where the charter school proposes to operate a facility must receive at least 30 days notice of the charter school proposal.
4. Countywide Charter Petitions:  
  
The Board shall either grant or deny a Countywide Charter Petition within 90 days of receipt or 120 days based upon agreement between the applicant and EDCOE. The Board shall either grant or deny the charter

Charter Appeal and County Program Charter Petitions:

The Board shall either grant or deny a Charter Appeal or a County Program charter petition within 60 days of receipt or 90 days based upon agreement between the applicant and EDCOE.

When any charter petition/appeal is approved, the County Office shall notify the Charter School Section of the State Department of Education, and all other legally required agencies, including the school districts within the county.

#### C. Denial of Petition – Findings

It is the intent of the Board that charter schools with sound educational practice should be encouraged. The Board shall not deny a direct or appeal petition unless the Board makes written factual findings, specific to the particular petitioner, 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.
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 Education Code §§ 47605(a), 47605.6(a).
4. The petition does not contain an affirmation of each of the conditions as set forth in Education Code § 47605.6(e)(1).
5. The petition does not contain reasonably comprehensive descriptions of all the information required under paragraph A(6) of this policy.

(In addition to 1-6 above, Countywide Charters have these provisions)

6. The petition does not provide reasonable justification for why it could not be established by petition to a school district as provided by law.
7. Any other basis that the Board finds justifies denial of the petition.

The Board shall deny the charter petition if it makes any of the findings 1 through 5 above.

#### D. Supervisorial Oversight

EDCOE oversight of the charter school shall be determined by the County Superintendent, or designee, in the best interest of the public as authorized by law.

1. The relationship between the EDCOE and the charter school, as well as any services to be provided by the EDCOE, will be described in the charter petition.
2. The charter school shall provide and certify to the County Superintendent or designee, not less often than annually, documents on file at the charter school which shall verify that all teachers at the school hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which teachers in other public schools would be required to hold, and that those teachers instructing students meet the requirements imposed under state and federal law on charter school teachers. (E.C. § 47605(l))
3. The charter school shall present and certify to the County Superintendent or designee, the audit report of the charter school, and shall, not less than annually, comprehensively report in writing on the general operation of the charter school. In addition, any charter school operating within El Dorado County shall adhere to Education Code § 47605(m).
4. The charter school shall do all of the following:
  - (1) Identify at least one staff member as a contact person for the charter school.
  - (2) Meet with the County Superintendent or designee at least annually.
  - (3) Arrange and coordinate County Superintendent or designee annual visits to each charter school location.
  - (4) Ensure and provide written documentation and certification that the charter school has complied with all reports required by law.
  - (5) Monitor and report to the County Superintendent on its fiscal condition at any time there are any significant changes, issues or problems.
  - (6) Provide timely notification of any of the following:
    - (a) renewal of the charter will be sought
    - (b) conditions may exist which could cause the charter to be revoked
    - (c) the charter may cease operations for any reason.  
(E.C. § 47604.32)

5. The charter school shall annually prepare and submit the following reports to the County Superintendent:
  - (a) A preliminary budget (on or before July 1)
  - (b) An interim financial report or changes through October 31 (on or before December 15)
  - (c) A second interim financial report on changes through January 31 (on or before March 15)
  - (d) A full year unaudited report (on or before September 15) (E. C. § 47604.33)
6. The charter school shall promptly report to the Board any instance in which the charter school has committed any of the violations listed in the Education Code § 47607(c) as follows:
  - (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.
  - (2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.
  - (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
  - (4) Violated any provision of law.
7. Upon a finding by the Board that the charter school committed any of the violations at Education Code §§ 47607(c)(1) through (4) inclusive, the Board may revoke the charter. The Board shall notify the charter school of any violation and give the school a reasonable opportunity to cure the violation (unless the Board determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of pupils).
8. The charter school shall pay EDCOE for the actual costs of supervisory oversight, not to exceed one percent of the revenue of the charter school, except as otherwise provided by law. EDCOE may charge for the actual costs of supervisory oversight of a charter school, not to exceed three percent of the charter school revenue if EDCOE provides substantially rent-free facilities to the charter school.

9. Countywide Charters:

In the case of Countywide Charters, the Board may, as a condition of 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 on the operations of the charter school. In this case, the Board may determine which of the charter school operations will be monitored by the third party, and may require the third party to report information concerning the operation of the charter school to the Board.

E. Charter Approval

An initial approval of a charter petition by the Board shall be for a period normally not to exceed three years. In no case shall the Board approve a charter for more than five years.

F. Charter Renewal or Material Modification of an Approved Charter

1. Any charter renewal or material modification is subject to the approval of the Board.
2. A material modification of an approved charter includes any change in the representations made to the Board under sections A(3), and/or A(6) through A(19) inclusive, of this policy.
3. Applications to renew or materially modify the charter shall include all statutory and regulatory information, and be subject to approval or denial as are proposals for new charter schools, except that any renewal approval shall be for a period of five years.
4. Applications to materially modify the charter may be submitted at any time during the life of the approved charter. Applications to renew the charter shall be submitted no earlier than nine months prior to the date of the charter expiration.
5. An approved Countywide Charter School that proposes to establish operations at additional sites within the county must apply to the County Board for a material revision. The charter school must notify the school districts where those additional sites will be located. The Board will consider whether to approve the additional locations at a public meeting held no sooner than 30 days after notification has been made to those school districts.
6. Commencing on January 1, 2005, or after the charter school has been in operation for four years, whichever is later, the charter school shall meet at least on of the following criteria prior to receiving a charter renewal:

- (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) 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 based on all of the following:
  - (a) Documented and clear and convincing data.
  - (b) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Education Code Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.
  - (c) Other information submitted by the charter school.
- (5) Has qualified for an alternative accountability system pursuant to Education Code Section 52052(h). (E.C. § 47607(b))

#### G. Annual Certification

The charter shall provide annual certification in accordance with attached Exhibit A.

#### H. Miscellaneous

1. Should a charter school elect to operate as, or be operated by, a nonprofit public benefit corporation, the County Board may appoint a representative to serve on the board of directors of that corporation.
2. A charter school shall promptly respond to all reasonable inquiries and/or requests for written information of any kind or sort from the EDCOE, without charge.

3. The County Superintendent is charged with developing such administrative regulations as may be necessary or prudent to implement this policy.
4. Nothing contained in this policy shall be interpreted to mean that any charter school is not otherwise required to meet all legal regulatory standards and requirements, as well as comply with all generally accepted principles and practices of sound accounting, management, and education.

Legal Reference: EDUCATION CODE 46700 et seq.

First Reading: January 13, 2004  
Second Reading: February 3, 2004  
Adopted: February 3, 2004  
Supercedes: Policy BP 0100 adopted September 9, 2003

## Charter School Petition Review Timeline

The life cycle of a charter school petition can be defined into several phases: 1) pre-petition development, 2) signature acquisition and validation, 3) petition submittal, review and approval by a district, county office of education or the State Board of Education, 4) charter school start-up and implementation if approved, and 5) supervisorial oversight. Of the phases, only phase 3, the petition submittal, review and a decision to approve or deny the charter is mandated for completion within a statutorily defined timeline.

The chart on the following page lays out the timeline and events. Similar to other public processes, which are defined in California code, this process begins with a submittal of a bona fide petition to establish a charter school, either as a conversion of an already existing school or as a “start-up” or new school to be created. Key events are prescribed such as public hearings held at board meetings and any action taken by the district board, county board or State Board of Education (SBE).

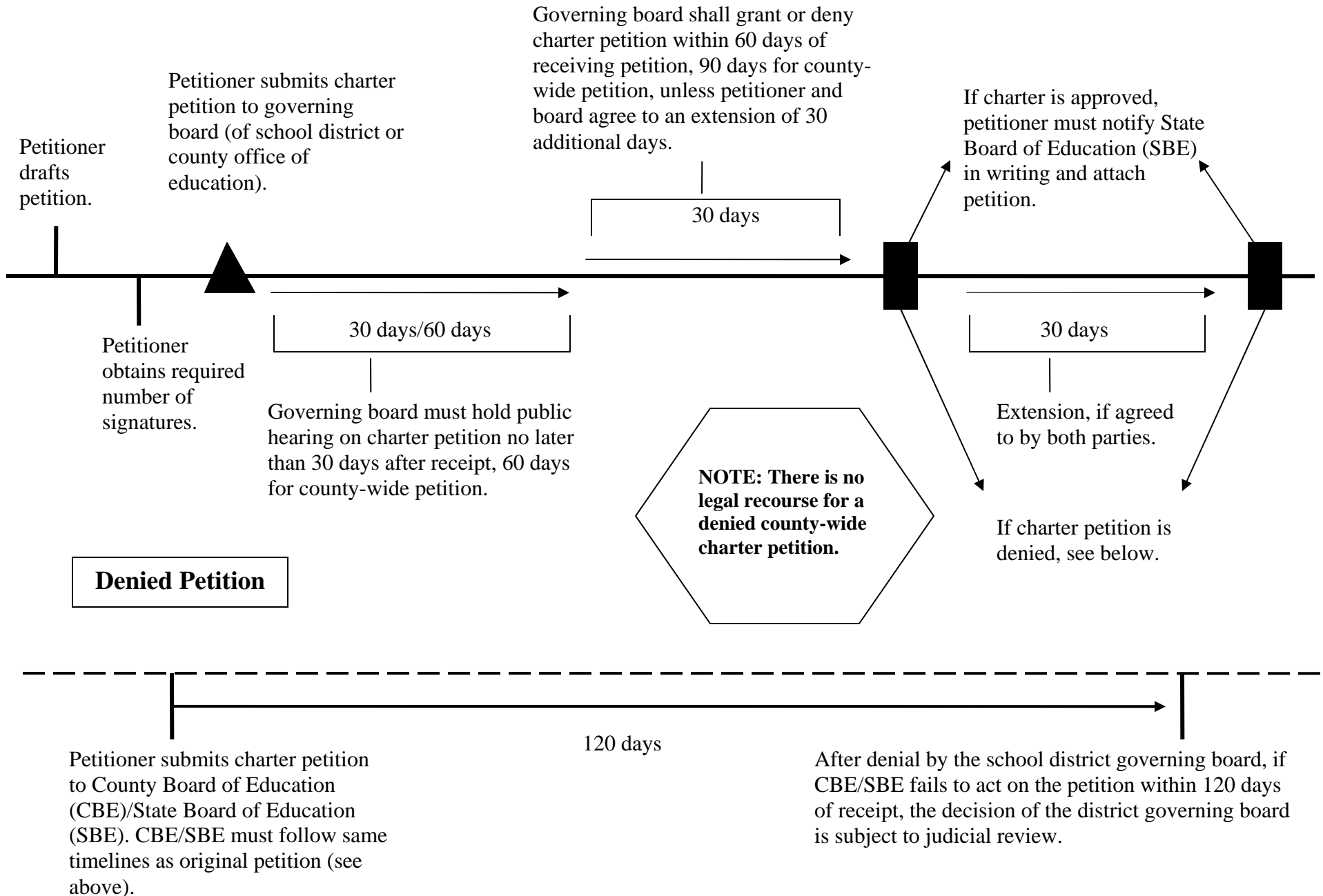
Charter petitions can be submitted directly to school districts or to county offices of education. Either of these types of charters is generally referred to as direct applications. A charter petition submitted as a direct application to a county board of education can establish a school to serve students “for which a county (program) would otherwise serve”, or the charter petition could be to serve students on a countywide basis as authorized by AB 1994 which became law in January, 2003.

### Conditions and Definitions

The following is presented to describe conditions and define terms of charter petitions. These conditions and terms are presented in the context of the processes for charter petition review and approval/denial.

- If a school district’s board denies a charter petition, the petitioners may submit the denied petition to the county board of education or directly to the State Board of Education.
- If a charter petition is submitted to a county office of education as a direct application or as a secondary application and is denied, the petitioners may submit the denied petition to the SBE.
- When a petition is processed after a denial, it is not an appeal in that the decision of the county board or the SBE does not and cannot reverse the denial. As such, charter petitions considered within this process are considered secondary applications. Moreover, if a county board grants a denied petition through the secondary process, that county office of education provides oversight and administration as the sponsoring local education agency (LEA).
- For secondary applications granted by the SBE, the school district or county office that provides the oversight of the charter is determined by mutual agreement between the SBE and that district or county office, unless the SBE provides such oversight directly.
- For purposes of implementing the charter schools funding model (as defined in AB1115), petitions initially denied and subsequently approved define the sponsoring LEA as the district that originally denied the petition for property tax revenues due to the charter school.

# Charter School Petition Review Timeline



# CHARTER SCHOOL MATRIX

Charter School Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_

Date: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX: \_\_\_\_\_  
 Please attach signed statement applying for Board approval or renewal of Charter School

**Initial Charter Petition**

**Annual Performance Audit**

**Charter Renewal**

<b>REQUIRED PETITION SIGNATURES IF CONVERSION OF EXISTING PUBLIC SCHOOL (Education Code 47605(a))</b>			
• 50% of permanent status teachers of school to be converted	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Petition includes prominent statement of meaningful interest	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>REQUIRED PETITION SIGNATURES IF NOT CONVERSION OF EXISTING PUBLIC SCHOOL (Education Code 47605(a))</b>			
• 50% of parents/guardians of number of students expected to attend charter school for its 1 <sup>st</sup> year of operation	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Identifies where and when the signatures were obtained, and includes original signature pages, if available	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Petition includes prominent statement of meaningful interest	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>OR</b>			
• 50% of the number of teachers expected to teach at the charter school during its 1 <sup>st</sup> year of operation	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Identifies whether teachers were given a copy of the petition before signing	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Petition includes prominent statement of meaningful interest	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>REQUIRED AFFIRMATIONS (Education Code 47605(d)(1))</b>			
Statement that school will be non-sectarian in its programs, admission policies, employment practices, and all other operations, will not charge tuition, and will not discriminate against any pupil on the basis of ethnicity, national origin, gender or disability.	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Assurance that school will not enroll pupils over 19 years of age unless continuously enrolled in public school and making satisfactory progress toward high school diploma requirements	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Assurance that school will not require any child to attend a charter school nor any employee to work at a charter school	<b>Yes</b>	<b>No</b>	<b>N/A</b>

Reasonably comprehensive,” as used herein, means that the given information: (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 of 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 implement provisions of 5 CCR§ 11967.5.1 (15)(g)(4). (5 CCR s 11967.5.1(g))

*Required to be included in charter petition and/or Memorandum of Understanding*

*All others are strongly suggested to ensure that charter elements are reasonably comprehensive*

**REQUIRED ELEMENTS (Education Code 47605(A)-(P))**

Note: A Countywide Petition does not require sections H. (Admission Requirements), L. (Attendance Alternatives), M. (Description of Employee Rights), or P. (Closure of Charter Schools), however, we strongly recommend that these be included in a review of any Countywide Petition.

<b>A. Educational Program</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
<b>1. Targeted School Populations</b>		
Age, grade levels and number of students		
<ul style="list-style-type: none"> <li>• Number of students per class room</li> </ul>		
<ul style="list-style-type: none"> <li>• Maximum enrollment predicted for school</li> </ul>		
Type of desired student populations		
<ul style="list-style-type: none"> <li>• States whether charter school will enroll students from outside the district</li> </ul>		
<ul style="list-style-type: none"> <li>• States whether charter school will enroll students from outside the county</li> </ul>		
<b>2. Attendance</b>		
<ul style="list-style-type: none"> <li>• Describes whether multiple sites will be included</li> </ul>		
<ul style="list-style-type: none"> <li>• Indicates proposed opening date(s)</li> </ul>		
Attendance Requirements		
<ul style="list-style-type: none"> <li>• Includes length of school day and year</li> </ul>		
<ul style="list-style-type: none"> <li>• Submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted.</li> </ul>		
<b>3. What it Means to be an Educated Person in the 21<sup>st</sup> Century</b>		
Objective of enabling pupils to become self-motivated, competent, lifelong learners		
Clear list of general academic skills and qualities important for an educated person		
Clear list of general non-academic skills and qualities important for an educated person		
<b>4. Description of How Learning Best Occurs</b>		
Persuasive instructional design		

<ul style="list-style-type: none"> <li>Broad outline (not entire scope and sequence) of the curriculum content</li> </ul>		
<ul style="list-style-type: none"> <li>Sample copy (if available) of enrollment and curriculum contracts</li> </ul>		
<ul style="list-style-type: none"> <li>List and qualifications of persons who have developed or who will develop the curricula</li> </ul>		
<ul style="list-style-type: none"> <li>Description of instructional approaches and strategies including the use of current technology</li> </ul>		
<ul style="list-style-type: none"> <li>Description of learning setting (e.g. traditional, home-based, distance learning, etc.)</li> </ul>		
Proposed program strongly aligns to charter school’s mission		
Affirmation that, or description of, how curriculum aligns to student performance standards		
Process by which curriculum, materials and instructional activities are to be selected		
Outlines a plan or strategy to support students not meeting pupil outcomes		
Instructional design or strategies based upon successful practice or research		
Describes instructional strategies for special education, limited English proficient students, etc.		
Specific goals for providing and ensuring equal access to academically low achieving students		
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 E. C. 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.		
Describes role of parents/guardians in student education		
Minimal instructional time		
Includes school calendar		
Describes whether charter school will provide computers or computer hardware to students or their parents/guardians		
<p>Note: If serving high school students, describes how district/charter school informs parents about:</p> <ul style="list-style-type: none"> <li>transferability of courses to other public high schools</li> <li>eligibility of courses to meet college entrance requirements</li> </ul> <p>(Courses 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.)</p>		
Describes how any federal dollars will be utilized as a component of the charter school’s program		

<b>Comments:</b>		
<b>B. Measurable Student Outcomes - "Exit Outcomes" or "Graduation Standards"</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Pupil outcomes are measurable, i.e. specific assessments listed for each exit outcome		
How pupil outcomes will address state content and performance standards in core academics		
Exit outcomes include acquisition of academic and non-academic skills		
Concise (one page) list of exit outcomes encompass specific skills, not too vague		
Affirmation that "benchmark" skills and specific classroom-level skills will be developed		
Affirmation/description that exit outcomes will align to mission, curriculum and assessments		
Affirmation that college-bound students wishing to attend California colleges or universities will have the opportunity to take courses that meet the "A-F" requirements		
Lists school-wide student performance goals students will make over a given period of time, projected attendance, dropout, or graduation rate goals, etc.		
Acknowledges that exit outcomes and performance goals may need to be modified over time		
If high school, graduation requirements defined		
If high school, WASC accreditation standards addressed		
<b>Comments:</b>		
<b>C. The Method by Which Pupil Progress in Meeting the Pupil Outcomes Will Be Measured</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
At least one assessment method or tool listed for each of the exit outcomes		
Assessments include multiple, valid and reliable measures using traditional/alternative tools		
Use of longitudinal, survey and other data in measuring pupil progress		
Assessment tools include all required state assessments (STAR, API/AYP, ASAM, CAHS EE, CAT 6, CELDT, Reference to NCLB)		

Chosen assessments are appropriate for standards and skills they seek to measure		
Affirmation/description of how assessments align to mission, exit outcomes, and curriculum		
Describes minimal required performance level necessary to attain each standard		
Process charter school will use to ensure that students meet the statewide performance standards and evidence of improved pupil learning		
Outlines a plan for collecting, analyzing and reporting student/school performance data		
<ul style="list-style-type: none"> <li>List and qualifications of persons deciding what tools will be used to measure pupil progress</li> </ul>		
<ul style="list-style-type: none"> <li>Process for conducting pupil assessments pursuant to E. C. 60602.5</li> </ul>		
<ul style="list-style-type: none"> <li>Identifies grading policy</li> </ul>		
<ul style="list-style-type: none"> <li>Describes how often progress will be measured</li> </ul>		
Evaluation Criteria (Requirements set forth in E.C. 47605(c)) <ul style="list-style-type: none"> <li>Meets all statewide standards and conducts pupil assessments required pursuant to E. C. 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools</li> <li>Statement of assurance and list of pupil assessments included in petition</li> </ul>		
Consults on a regular basis with parents and teachers regarding the district and/or charter school's educational programs		
Describes parental and teacher participation regarding the educational program		
<b>Comments:</b>		
<b>D. Governance Structure of Charter School Including, But Not Limited to, Parental Involvement</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Process which ensures staff, student and other stakeholder involvement		
Methods by which charter school consults with parents and teachers regarding school's educational programs		
Decision-making process and organizational chart		
Assurances that charter school will comply with all laws relating to public agencies in general, all federal laws and regulations and state codes		
What, if any relationships district/county will maintain with the charter school and how it will be accomplished		
Process for amendments to charter		

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		
The status of the charter school as a nonprofit public benefit corporation or public school		
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		
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 positive student achievement results by the company in comparable settings		
Describes what role parents have in the governance of the charter school		
Describes key features of governing structure (usually a board of directors) such as:		
<ul style="list-style-type: none"> <li>• Size/composition of board</li> </ul>		
<ul style="list-style-type: none"> <li>• Board committees or advisory councils</li> </ul>		
<ul style="list-style-type: none"> <li>• Board's scope of authority/responsibility</li> </ul>		
<ul style="list-style-type: none"> <li>• Method for selecting initial board members</li> </ul>		
<ul style="list-style-type: none"> <li>• Board election/appointment and turnover</li> </ul>		
Affirms future development of, or has set of, policies or similar documents		
Initial governing board members identified by name or the process used to select them		
Describes how the charter school will be run on a day-to-day basis, including descriptions of decision-making processes, financial permissions and restraints, and parental involvement		
Assurances that the charter school will regularly consult with parents/guardians and teachers regarding the school's educational program, as required by E. C. 47605		
Protocol for governing board meetings, such as the Brown Act and Robert's Rules of Order (the CDE has determined Brown Act is required)		
Clear description of charter school's legal status and determination of whether a board member from the charter-granting agency is on the board of the charter		
Outlines other important legal or operational relationships between charter school and granting agency		
Outlines whether the charter school will operate as an independent study program		

<ul style="list-style-type: none"> <li>If so, the petition demonstrates that the charter school will operate within the requirements of E. C. 51746</li> </ul>		
<p>If charter school will have a contract with a management company, describe fees paid by the district and/or the charter school and how those fees will be calculated</p>		
<p>Describes who will oversee the charter school staff and who will be responsible for the hiring/firing of employees</p>		
<p>Describes manner in which administrative services of the school are to be provided</p> <ul style="list-style-type: none"> <li>responsibility for evaluating employees</li> <li>criteria and procedures used in evaluation</li> <li>how hiring decisions are made</li> </ul>		
<p>The bylaws, articles of incorporation and other management documents, as applicable, governing or proposed to govern the charter school</p>		
<p><b>Comments:</b></p>		
<p><b>E. Qualifications to be Met by Individuals to be Employed by The Charter School</b></p>	<p><b>Reasonably Comprehensive</b></p>	<p><b>Not Reasonably Comprehensive</b></p>
<p>Process for staff selection</p>		
<p>Job descriptions for positions</p>		
<p>Salaries and benefits for all employees</p>		
<p>Identifies roles and functions of staff members</p>		
<p>Measures of assessment of performance</p>		
<p>Procedure for adequate background checks</p>		
<p>Identifies key staff positions with the charter school</p>		
<p>Describes specific key qualifications (knowledge, experience, education, certification, etc.)</p>		
<p>Defines “core, college preparatory” teachers/affirms they will hold appropriate credentials (Commission on Teacher Credentialing Certificate/Permit)</p>		
<ul style="list-style-type: none"> <li>Identifies whether these teachers will teach only within the restrictions of their credentials</li> </ul>		
<p>Verification that teachers and paraprofessionals who are required to be certified are “highly qualified” as required by the federal No Child Left Behind Act</p>		
<p>Identifies any non-core, non-college prep teaching positions staffed by non-certified teachers and their qualifications</p>		

The credentials/qualifications of other charter school staff (e.g., counselors, librarians, administrators, nurses and others)		
Statement of acknowledgment that all employees, even if not public, are subject to state and federal employment laws		
Explains how teachers will learn the curricula		
<b>Comments:</b>		
<b>F. Health and Safety Procedures</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Method for conducting criminal background checks on employee candidates, as required by E. C. 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		
Outlines specific health and safety practices addressing such key areas as:		
<ul style="list-style-type: none"> <li>• Seismic safety (structural integrity and earthquake preparedness)</li> </ul>		
<ul style="list-style-type: none"> <li>• Building codes and zoning restrictions</li> </ul>		
<ul style="list-style-type: none"> <li>• Natural disasters and emergencies</li> </ul>		
<ul style="list-style-type: none"> <li>• Federal requirements for school facilities, including the Americans with Disabilities Act</li> </ul>		
<ul style="list-style-type: none"> <li>• Immunizations, health screenings, administration of medications</li> </ul>		
<ul style="list-style-type: none"> <li>• Tolerance for use of drugs and/or tobacco</li> </ul>		
<ul style="list-style-type: none"> <li>• The use of instructional supplies</li> </ul>		
<ul style="list-style-type: none"> <li>• Staff training on emergency and first aid response</li> </ul>		
<ul style="list-style-type: none"> <li>• Implementation of federal environmental laws</li> </ul>		
<ul style="list-style-type: none"> <li>• Description of the charter school's safety plan and disaster preparedness plan</li> </ul>		
<ul style="list-style-type: none"> <li>• Role of staff as mandated or non-mandated child abuse reporters</li> </ul>		
<ul style="list-style-type: none"> <li>• Include the examination of faculty and staff for tuberculosis as described in E.C. § 49406</li> </ul>		
<ul style="list-style-type: none"> <li>• 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 school</li> </ul>		
References/accompanied by more detailed set of health and safety related policies/procedures		
Identifies that the facilities are Field Act compliant, as appropriate		

<b>Comments:</b>		
<b>G. Means to Achieve a Reflective Racial and Ethnic Balance</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Lists several specific practices/policies likely to lead to a diverse applicant pool/enrollment: practices and policies appear to be selected to target relevant racial and ethnic groups		
Describes how the charter school will provide English language learners or other supplemental language instruction for students with limited English proficiency		
<i>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 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.</i>		
<b>Comments:</b>		
<b>H. Admissions Requirements</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Mandatory assurances regarding non-discriminatory admission procedures		
No contradiction of admissions requirements re: conversion schools and public random drawings		
<ul style="list-style-type: none"> <li>Describes how random drawing will be conducted</li> </ul>		
Clearly describes admissions requirements, including any preferences		
<ul style="list-style-type: none"> <li>Identifies whether the charter school will give preference to pupils who reside in the district and how the charter school will employ this preference</li> </ul>		
Proposed admissions and enrollment process and timeline		
Outlines conditions under which a student will not be re-enrolled in the subsequent year		
Includes a copy of an annual parent/student contract, if available		

*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).*

**Comments:**

<b>I. Financial Audit</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Procedure to select and retain independent auditor		
Qualifications of independent auditor		
Audit will employ generally accepted accounting procedures		
Describes specific scope of audit		
Timing of audit and to whom it will be sent		
Describes manner in which the audit will be made public		
Describes 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)		
Describes services the charter intends to contract out to the district or another provider (if not included in a memorandum of understanding)		
Describes manner in which audit exceptions and deficiencies will be resolved to the satisfaction of the authorizing board.		

**Comments:**

<b>J. Pupil Suspension and Expulsion</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Student code of conduct and process by which this information is given to students and parents/guardians		

Procedure for involving parents, students and staff in designing and implementing a discipline policy		
Reference to a comprehensive set of student disciplinary policies OR detailed process by which student may be suspended or expelled		
Describes disciplinary steps to be taken prior to suspension or expulsion		
<b>Evaluation Criteria</b>		
(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 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 of 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.		
What educational alternative, if any, will be provided to students who were suspended or expelled		
Describes who or what body will be responsible for final suspension/expulsion decisions		
Describes appeal procedures		
Identifies 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		
Outlines or describes strong understanding of relevant laws protecting constitutional rights of students, generally, and of disabled and other protected classes of students		
Policies balance students' rights to due process with responsibility to maintain a safe learning environment		

Explains how resident school district or COE will be involved in disciplinary matters		
<b>Comments:</b>		
<b>K. Staff Retirement System</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Relationship between teachers and district/county bargaining unit		
Process by which salaries, benefits, working conditions and items, i.e., calendars, holidays, vacations, work day and year will be determined		
Labor procedures which will be applied to employees		
Process for resolving complaints/grievances		
Process for ensuring due process		
Manner by which staff members will be covered by STRS, PERS, Social Security or Medicare		
Process for staff recruitment, selection, evaluation and termination		
Procedure for processing and monitoring credentials if required		
<b>Comments:</b>		
<b>L. Attendance Alternatives</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
States that students may attend other district schools or pursue an inter-district transfer in accordance with existing enrollment and transfer policies of their district or county of residence or description of other attendance alternatives		
<b>Comments:</b>		
<b>M. Description of Employee Rights</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Acknowledgment whether collective bargaining contract in sponsor district will be controlling		
Whether and how charter school staff may resume employment within the district		
Sick/vacation leave (ability to carry it over to and from charter school)		

Whether charter school staff will continue to earn service credit (tenure) in district while at charter school		
How employees will be paid (e.g. salaried, hourly, etc.)		
Describes employee benefits		
Identifies whether charter school employees will be “at will” or if they will gain permanency		
Identifies whether the charter school will be responsible for the payment of social security and applicable taxes for charter school employees		
Describes how rights will be communicated to prospective employees		
<b>Comments:</b>		
<b>N. Dispute Resolution Process</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Outlines a simple process for charter and granting agency to settle disputes		
Process indicates whether it is binding on charter school or granting agency/fair process		
Step by step process for identifying/framing dispute points		
<ul style="list-style-type: none"> <li>• Whether internal charter disputes may be brought to granting agency</li> </ul>		
<ul style="list-style-type: none"> <li>• Identifies specific parties to be involved at each step</li> </ul>		
<ul style="list-style-type: none"> <li>• Basic rules at each step</li> </ul>		
<ul style="list-style-type: none"> <li>• Which results are binding</li> </ul>		
<ul style="list-style-type: none"> <li>• Relevant timelines for the dispute resolution</li> </ul>		
<b>Comments:</b>		
<b>O. Labor Relations</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Whether charter or local school district will be employer for EERA purposes		
If local district is the employer, includes provisions clarifying charter’s roles in collective bargaining		

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 country 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 the charter employees are not required to engage in collective bargaining, but they have that right if they choose as a group to do so.		
<b>Comments:</b>		
<b>P. Closure of Charter School</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Outlines an adequate process to be used if the charter school closes		
Process includes a final audit of the charter school that includes specific plans for disposition of any net assets and for the maintenance and transfer of pupil records		
What the employment status relative to the district/county of charter school employees is and what it will be in the event the charter school ceases or in the event employees seek employment in the district/county		
<b>Comments:</b>		
<i>Other Charter Elements</i>		
<b>1. Financial Plan</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Budget for the financial operation which is consistent with the requirements of any school district budget <ul style="list-style-type: none"> <li>• Proposed first year operational budget (including start-up costs)</li> <li>• Financial projections for first three years</li> <li>• Process for investment procedures and deposit of funds</li> <li>• Procedure for ensuring adequate cash flow</li> <li>• Cash flow and financial projections for the first three years</li> </ul>		
Plan identifies the number and types of students to be served, number of staff to be employed, and facility needs		
Whether the charter school will participate in the National School Lunch Program		
Assumptions regarding costs of all major items are identified and within reasonable prevailing/market ranges.		
Revenue assumptions are in line with state and federal funding guidelines.		

Revenue from “soft” sources is less than 10 percent of ongoing operational costs, and timeline allows window for grant applications to be submitted and funded.		
The plan clearly identifies all major start-up costs, including staffing, facilities, equipment, supplies, and professional services.		
Assumptions are identified and in line with overall school design plan.		
School developers are able to identify potential funding sources that could or would fund these costs, and timeline allows for grant/fund-raising.		
Assumed annual operating revenues are clearly identified by source, and expenditures are clearly identified by destination.		
Revenue assumptions are closely related to applicable state and federal funding formulas.		
Expenditure assumptions reflect school program design plan and reflect prevailing or market costs.		
Assumed “soft” revenues (e.g., fund-raisers and grants) are not critical to solvency.		
Budget includes a strong reserve or projected ending balance (CSDC recommends minimum two to five percent of expenditures).		
If first year operating budget is not in balance, the long-term plan identifies solvency in future years and identifies sources of capital sufficient to cover deficits until the year the budget is projected to balance.		
Budget clearly indicates restricted versus general operating/flexible funds.		
The cash flow analysis provides monthly projection of revenue receipts that are in line with state and federal funding disbursements.		
Expenditures are also projected by month and correspond with typical or reasonable schedules.		
Projection either shows positive fund balance each month and/or school can identify potential sources of working capital.		
The plan projects revenues and expenditures for at least three additional years (in addition to first year budget).		
Revenue assumptions for future years are based on likely growth in state and federal revenues and student growth projections		
Expenditure projections are inflated by reasonable cost-of-living and inflation assumptions and school growth assumptions.		
Projected annual fund balances are positive or likely sources of working capital are identified to cover projected deficits.		

2. Facilities/Transportation	Reasonably Comprehensive	Not Reasonably Comprehensive
Description of facilities to be used by the charter school		
Present a written agreement (a lease or similar document) indicating the charter school’s right to use the principal school site identified by the petitioners for at least the first year of the charter school’s operation and evidence that the facility will be adequate for the charter school’s needs. Not later than <b>June 1</b> , present a written agreement (or agreements) indicating the charter school’s right to use any ancillary facilities planned for use in the first year of operation.		
Present evidence that the facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities.		
Transportation arrangements, if any. <i>Note that 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.</i>		
3. Insurance Coverage	Reasonably Comprehensive	Not Reasonably Comprehensive
Not later than <b>June 1</b> , (or such earlier time as charter school may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.		
Liability of district/county to handle payments if charter school defaults: <ul style="list-style-type: none"> <li>• for schools organized pursuant to Non-Profit Benefit Corporation Law</li> <li>• for schools not covered by Non-Profit Benefit Corporation Law</li> <li>• AB 1994</li> <li>• General Assurances “Boiler Plate” Language</li> </ul>		
4. SELPA Membership	Reasonably Comprehensive	Not Reasonably Comprehensive
Submit written verification of having applied to a special education local plan area (SELPA) fo membership as a local education agency and, not later than <b>June 1</b> , submit either written verification that the charter school is (or will be at the time students are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and the charter school that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider the charter school’s students to be students of the school district in which the school is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA).		

5. Legal Issues	Reasonably Comprehensive	Not Reasonably Comprehensive
Records of claims or lawsuits against the charter school		
A description of the charter term (the specific date that the term begins and when it expires). A charter term cannot exceed 5 years (E.C. 47607(a)(1)). Charter schools must begin instruction within the first three months of the fiscal year (July 1 - September 30), or they are not eligible to receive funding (E.C. 47652(b)).		
A description of the process to amend the charter petition at any point in the charter's term or upon renewal. The charter-granting agency must approve any material revisions of the charter (E.C. 47607(a)(1)). CSDC recommends that the charter school and charter-granting agency mutually develop a charter amendment process and that amendments be made pursuant to the standards, criteria, and timelines in E.C. 47605.		
A severability clause. Severability clauses state that if one item of the charter is found to be invalid for any reason, all other elements remain in effect.		
A communications clause that designates how and to where correspondence should be sent between the charter school and charter-granting agency.		
<p><b>Comments:</b></p>		

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Charter Assurances

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*As part of the charter school petition, we agree to the following:*

- No employee is required to be employed in the charter school.
- No pupil is required to attend the charter school.
- The school will comply with all laws relating to public agencies in general (Brown Act, etc.) and all federal laws and regulations.
- Employee background checks will be completed as required by law.
- Pupil assessment and accountability requirements will be met (Section 60605). This includes providing a curriculum that is comparable to the State Board adopted content and performance standards and assessing students using the state STAR test.
- The school will produce an annual School Accountability Report Card.
- Regular education kindergarten students will be at least five years old by December 2 and regular education first grade students will be at least six years old by December 2.
- The school will notify students and parents about progress in meeting content and performance standards which are comparable with standards adopted by the State Board of Education. (Criteria C2)
- All core academic teachers meet credentialing requirements of the California Commission on Teacher Credentialing. (Criteria E2)
- Each employee will furnish the school with a criminal record summary as described in Education Code Section 44237. (Criteria F1)
- The school will follow TB testing requirements. (Criteria F5)
- As required by statutes, the charter school will admit all students who meet enrollment criteria and wish to attend. If the number of students wishing to enroll exceeds the school capacity, then state guidelines will be followed to determine the students who will attend. (Criteria H).
- An annual financial audit will be completed by an independent financial auditor in accordance with generally accepted accounting principles. Audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority. The Business Plan Analysis has been satisfactorily completed. (Criteria I).
- The school will complete an annual program review to evaluate the extent to which students are meeting state charter criteria.
- The charter school will be operated in accord with fair labor standards.
- The charter school will be operated in accord with California State Constitution.
- In order to be an enrolled student in the Charter School, any such student must reside within the boundaries of the chartering agency, or otherwise be entitled to be a student at the chartering agency.
- Any change to the management entity and/or the number of charter schools shall, at a minimum, require approval by the chartering agency board.
- Any significant change to the charter petition shall require approval by the authority that granted the charter. (Section 47607(a)(1)).

Signature of Petitioner

<b>REQUIRED SUPPLEMENTAL INFORMATION (Education Code 47605(g))</b>		
<b>Financial Plan</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
<input type="checkbox"/> First year operational budget		
• Start-up costs		
• Cash flow for first three years		
• Financial projections for first three years		
Planning Assumptions	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
• Number/types of students		
• Describes whether and what sort of instructional aids will be used		
• Number of staff		
• Teacher/student ratio		
• Facilities needs		
• States whether parents will be reimbursed for expenditures		
• Costs of all major items are identified and within reasonable market ranges		
• Revenue assumptions in line with state and federal funding guidelines		
• Revenue from “soft” sources less than 10% of ongoing operational costs		
• Timeline allows window for grant applications to be submitted and funded		
Start-Up Costs	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
• Clearly identifies most major start-up costs		
<input type="checkbox"/> Staffing		
<input type="checkbox"/> Facilities		
<input type="checkbox"/> Equipment and Supplies		
<input type="checkbox"/> Professional Services		
• Assumptions in line with overall school design plan		
• Identifies potential funding source		
• Identifies whether IASA dollars will be used		
• Timeline allows for grant and fundraising		

“Reasonably comprehensive,” as used herein, means that the given information: (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 of 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 implement provisions of 5 CCR § 11967.5.1 (15)(g)(4). (5 CCR s 11967.5.1(g))

*Required to be included in charter petition and/or Memorandum of Understanding.*  
*All others are strongly suggested to ensure that charter elements are reasonably comprehensive.*

Annual Operating Budget	Reasonably Comprehensive	Not Reasonably Comprehensive
<ul style="list-style-type: none"> <li>• Annual revenues and expenditures clearly identified by source</li> </ul>		
<ul style="list-style-type: none"> <li>• Revenue assumptions closely related to applicable state and federal funding formulas</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditure assumptions reflect school design plan</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditure assumptions reflect market costs</li> </ul>		
<ul style="list-style-type: none"> <li>• “Soft” revenues not critical to solvency</li> </ul>		
<ul style="list-style-type: none"> <li>• Strong reserve or projected ending balance (the larger of 2–3% of expenditure or \$25,000)</li> </ul>		
<ul style="list-style-type: none"> <li>• If first year is not in balance, identifies solvency in future years and sources of capital sufficient to cover deficits until year budget is projected to balance</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditure for sufficient insurance to name district as also insured/hold harmless agreement</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditure sufficient for reasonably expected legal services</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditure for Special Education excess costs consistent with current experience in county</li> </ul>		
<ul style="list-style-type: none"> <li>• Description of all insurance the charter school will purchase, complete with annual cost</li> </ul>		
Cash Flow Analysis	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
<ul style="list-style-type: none"> <li>• Monthly projection of revenue receipts in line with state/federal funding disbursements</li> </ul>		
<ul style="list-style-type: none"> <li>• Expenditures projected by month and correspond with typical/reasonable schedules</li> </ul>		
<ul style="list-style-type: none"> <li>• Show positive fund balance each month and/or identify sources of working capital</li> </ul>		
Long-term Plan	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
<ul style="list-style-type: none"> <li>• Projects revenues and expenditures for at least two additional years</li> </ul>		
<ul style="list-style-type: none"> <li>• Revenue assumptions based on reasonable potential growth in state and federal revenues</li> </ul>		
<ul style="list-style-type: none"> <li>• Revenue assumptions based on reasonable student growth projections</li> </ul>		
<ul style="list-style-type: none"> <li>• Reasonable cost-of-living and inflation assumptions</li> </ul>		
<ul style="list-style-type: none"> <li>• Annual fund balances are positive or likely sources of working capital are identified</li> </ul>		
Comments:		
<b>District Impact Statement</b>	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
Provides district with estimated numbers of students anticipated to enroll		
Identifies whether charter intends to purchase support services from district		
<ul style="list-style-type: none"> <li>• General terms are identified</li> </ul>		
Describes process and policies between charter and district		
Includes:		

• Process, activities and associated fees for oversight of charter			
• Content, processes, timelines, and evaluation criteria for annual review and site visits			
• Regular, ongoing fiscal and programmatic performance monitoring and reporting			
• Content, process, timelines and evaluation criteria for charter renewal			
• Statement allowing reasonable opportunity to correct deficiencies in charter performance			
Specific proposed support service needs and payments to district for services rendered			
• Clearly drafted contract or agreement			
Identify whether or not charter will request district-owned facilities			
• Reasonably detailed lease or occupation agreement			
Proposed legal status of school is identified			
Describes facilities agreements with charter-granting agency if appropriate			
Identify whether school intends to manage risk independently or secure it through district			
Addresses the increased civil liability exposure for the district			
Identifies whether the charter school will comply with the provisions of the Brown Act, Public Records Act, Public Bidding Laws, and the Political Reform Act			
Identifies whether the charter school will comply with Government Code § 1125 et seq.			
Describes how the charter school will ensure that it does not violate the conflict of interest laws			
<b>Special Education/SELPA (SELPA Charter School Policy)</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<input type="checkbox"/> Identifies whether or not in an independent LEA for special education purposes			
<input type="checkbox"/> Consulted with the SELPA Director			
• Discussed special education responsibilities of charter			
• Discussed application of SELPA policies			
<input type="checkbox"/> In writing explains how special education services will be provided consistent with SELPA plan and/or policies and procedures			
• Includes fiscal allocation plan			
<input type="checkbox"/> If charter not an independent LEA:			
• Clarifies in charter the responsibilities of each party for service delivery	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<input type="checkbox"/> Referral			
<input type="checkbox"/> Assessment			
<input type="checkbox"/> Instruction			
<input type="checkbox"/> Due Process			
<input type="checkbox"/> Agreements describing allocation of actual and excess costs			
<input type="checkbox"/> Charter fiscally responsible for fair share of any encroachment on general funds			
<input type="checkbox"/> If charter is LEA within County SELPA			
• Notifies SELPA Director of intent prior to February 1 <sup>st</sup> of the preceding school year			
• Located within SELPA geographical boundaries	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• Provides current operating budget in accordance with Ed Code 42130 and 42131			

• Provides assurances that all be instructed in safe environment			
• Provides copy of original charter petition and any amendments			
• Responsible for any legal fees relating to application and assurances process			
• Meets the terms of the “Agreement Regarding the Organization, Implementation, Administration and Operation of the SELPA			
• Meets the terms of all SELPA policies and procedures			
• Charter fiscally responsible for fair share of any encroachment on general funds			
<input type="checkbox"/> Petition includes the following assurances:			
• The charter will comply with all provisions of IDEA			
• No student will be denied admission based on disability of lack of available services			
• Will implement a Student Study Team process			
• Any student potentially in need of Section 504 services responsibility of charter school			
<input type="checkbox"/> Petition describes the process for notifying district of residence and chartering district when a special education student enrolls, becomes eligible, ineligible and/or leaves charter school			
Overview of how special education funding and services will be provided by:			
Charter School			
Charter Granting Agency			
SELPA			
<input type="checkbox"/> Petition describes the transition to or from a district when a student with an IEP enrolls in, or transfers out of, the charter school			
<b>Comments:</b>			
<b>Geographic and Site Limitations</b>			
Does the Petition demonstrate that it will operate a single charter school within the geographic jurisdiction of the school district	<b>Yes</b>	<b>No</b>	<b>N/A</b>
• If not, does the Petition demonstrate any basis for an exception			
Does the Petition identify where the school will operate			
<b>Note: Does Charter Petition identify location of each school in Countywide Petition</b>			
<b>Grade Level Limitations</b>			
Does the Petition demonstrate that it will not serve grade levels not served by this district unless it serves all of the grade levels			
<b>Comments:</b>			

## ANNUAL PERFORMANCE AUDITS

<input type="checkbox"/> Petition describes what will occur during audits, including:	<b>Reasonably Comprehensive</b>	<b>Not Reasonably Comprehensive</b>
• Review of each component of Initial Charter Petition for compliance		
• Analysis of whether goals are being met		
• Summary of major decisions and policies established by the board in each year		
• Data on level of parent involvement in governance of school		
• Summary data from annual student/parent satisfaction survey		
• Data regarding numbers of staff, their qualifications and verification of credentials		
• Copy of health/safety procedures and summary of any major changes		
• Determination of the suitability of the facility in terms of health and safety		
• Determination of the suitability of the facility in terms of educational utility		
• Making copies of all required documentation (e.g. leases, insurance, etc.)		
• Overview of admission practices		
<input type="checkbox"/> Number of actual students enrolled		
<input type="checkbox"/> Waiting lists		
<input type="checkbox"/> Expulsions and suspensions		
• Analysis of any internal/external dispute resolutions		
<input type="checkbox"/> Site visit by granting agency including observation of the instructional program		

**Comments:**

<b>EFFECTIVE DATE</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Does the Petition demonstrate that the charter school will commence operation by September 30 of a fiscal year			

<b>ANNUAL FINANCIAL REPORT</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Does the Petition demonstrate that the charter school shall provide the district with a copy of an annual financial report in a format prescribed by the State Superintendent of Public Education			

**Comments:**

**CHARTER RENEWAL**  
**Did the Charter School Do What It Said It Would Do?**

Questions to Address	Reasonably Comprehensive		Not Reasonably Comprehensive
<input type="checkbox"/> Terms of the Charter			
Are all the required terms of the charter in place?			
Are all the terms of the original/amended charter in place?			
Are the programs consistent with the terms of the charter?			
Are the operations consistent with the terms of the charter?			
<input type="checkbox"/> Academic Program			
Has the school made reasonable progress in meeting internally established goals?			
Is student performance significantly improved and/or persistently strong as indicated by test results?			
<input type="checkbox"/> Viability of School			
Financially solvent?			
Enrollment stable and near capacity?			
School governance sound?			
Professional staff competent?			
<input type="checkbox"/> Did the charter meet all annual certification requirements? (attached Annual Certification*)			
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<input type="checkbox"/> Submit written request for renewal for school board approval at least 90 days prior to renewal date			
<input type="checkbox"/> Board forwards approved charter renewal to California Department of Education			
<b>Comments:</b>			

\* See attached Exhibit A

## **LEGAL CONSIDERATIONS FOR GOVERNING BOARDS IN THE REVIEW OF CHARTER SCHOOL PETITIONS**

In addition to the requirements within the California Education Code that directly apply to charter schools, there are laws outside of the Education Code that should be considered in the review of charter school petitions. These considerations could be seen as a part of “due diligence,” or the reasonable care a governing board should take to ensure the charter school provides an appropriate education.

- Federal laws, including disability laws in terms of access and accommodations, must be followed by the charter school. The governing board/staff should consider these laws in reviewing the petition.
- The governing board/staff should request petitioner to provide a certified copy of the Articles of Incorporation from the Secretary of State’s office to be included with the petition. The governing board/staff should check to see whether a nonprofit petitioner has filed Articles of Incorporation with the California Secretary of State. If the Articles are listed as a “for profit on behalf of a nonprofit,” the governing board should request the petitioner to rectify this—the agency must be a nonprofit.
- The governing board/staff should verify teacher signatures on the petition, to the extent possible, to ensure that the teachers have the required credentials/certifications to sign as teachers and to help evaluate “meaningful interest” (for example, a teacher residing in Northern California who signs a petition for a charter school in Northern California as well as Southern California, or who expresses no intent to relocate and the charter proposes a Southern California site, would perhaps not meet the “meaningful interest” requirement). The petitioner may be asked to provide declarations or other similar documentation to substantiate “meaningful interest” if questions arise in evaluating the petition.
- Since the sponsoring local educational agency (LEA) must follow the Public Records Act, (Government Code section 6250 and following), and the sponsoring LEA’s must provide oversight to the charter school, the petition should include a reference to the Public Records Act in terms of how the charter school will facilitate the sponsoring LEA’s compliance with respect to the sponsoring LEA’s oversight obligations.
- The Brown Act (Government Code section 54950 and following) may also apply to charter schools, especially in light of Education Code requirements of charters to encourage and support parent involvement, etc. The charter petitioner must understand that the sponsoring LEA’s oversight obligations may put some dealings between the sponsoring LEA and the petitioner inside the Brown Act. The governing board/staff could provide some guidance to the petitioner in Brown Act compliance, such as a copy of the law and any supplementary materials the board deems helpful.

- The Conflict of Interest statute (Government Code section 1090) may prohibit self-dealing or non-competition clauses in a charter petition. The governing board/staff 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 nonprofit and contractor. The governing board/staff may want to review the nonprofit petitioner's bylaws to ensure the conflict of interest laws are followed.
- The Political Reform Act (Government Code section 81000 and following) likely applies to charter schools. The governing board/staff could provide a copy of the law to the petitioner and ask how the petitioner will incorporate its requirements in the petition.

*Other pragmatic considerations for potential inclusion in charter petitions:*

- If a lack of support is apparent from the required initial public hearing regarding the charter, the proposed sponsoring LEA could deny the petition on grounds of unlikelihood of success.
- A sponsoring LEA could prohibit “noncompetition” clauses in the petition.
- A sponsoring LEA could require a provision in the petition prohibiting self-dealing, pursuant to the nonprofit's Articles of Incorporation; citations to the Political Reform Act and Government Code section 1090 support this.
- The California Constitution; Article IX, provides for oversight responsibility by the sponsoring LEA. The sponsoring LEA could duly require petition provisions in line with that responsibility (for accounting, etc.). NOTE: this provision must not exceed what is required for (typical) district schools.
- Where appropriate, a sponsoring LEA could require adherence to the Field Act for facilities, under the rationale of school safety, or require essentially similar regulations in the petition.
- A sponsoring LEA could require instructional standards in the petition, or an exhibit thereof, that matches the district's. NOTE: these standards must match, not exceed, the district's standards.
- A sponsoring LEA may require a petition provision that clarifies the charter's relationship to the SELPA—this also goes to the charter being included in the local service plan (which special education programs/populations will the charter serve).
- Given the number of grants available to charter schools, if there appears to be likely budgetary constraints in the petition and the petitioner is open to other funding sources to maintain sustainability, a sponsoring LEA may consider requesting a petition provision stating the charter will use “best efforts” to apply for and receive grant money. This could become part of the fiscal oversight provisions.

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**MEMORANDUM**  
*Attorney/Client Privileged Communication*  
*Attorney Work Product*

TO: Vicki L. Barber, Ed.D., Superintendent  
El Dorado County Office of Education

FROM: David W. Girard, Esq.  
GIRARD & VINSON

RE: Charter School Petition Review

DATE: June 25, 2003

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**ISSUES:**

- I. What procedural steps should be taken prior to Governing Board review of a charter school petition in order to provide the Governing Board adequate opportunity to review the petition?
- II. What is the standard for charter petition approval review?
- III. What other approval standards must a charter petition be able to satisfy?
- IV. What are the charter granting school district's financial oversight responsibilities for a charter school?

**CONCLUSIONS AND RECOMMENDATION:**

- I. It is recommended that eight (8) procedural steps be taken prior to Governing Board review of a charter school petition in order to provide the Governing Board adequate opportunity to review the petition. (See Discussion below).
- II. Generally, the standard for charter petition approval review is to determine if the charter presents an "unsound educational program" or whether there is a "demonstratable likelihood of failure".
- III. Other approval standards a charter petition must be able to satisfy are the statutory legal criteria.
- IV. The charter granting school district has a general financial oversight responsibilities for a charter school.

**DISCUSSION:**

- I. IT IS RECOMMENDED THAT EIGHT (8) PROCEDURAL STEPS BE TAKEN PRIOR TO GOVERNING BOARD REVIEW OF A CHARTER SCHOOL PETITION IN ORDER TO PROVIDE THE GOVERNING BOARD ADEQUATE OPPORTUNITY TO REVIEW THE PETITION.
  - A. It is recommended that the following eight (8) procedural steps be taken prior to Governing Board review:
    1. Circulate the charter petition among the District's various departments and divisions.
    2. Advise and discuss with District department and division heads potential programmatic, fiscal and operational charter requirements and implications as they may affect the particular department or division. Consider adopting policies and procedures for charter school petition review.
    3. Require a written analysis, report and recommendation from each department or division on:
      - a) the affect of charter operations on the department or division;
      - b) whether the charter is consistent with sound educational practice;
      - c) whether the petitioners are unlikely to successfully implement the program; and
      - d) whether additional information is needed to adequately review the petition.
    4. Require a legal analysis and recommendation regarding charter petition statutory compliance.
    5. Compile the individual department, division and legal reports into an overall draft report.
    6. Meet with charter proponents regarding any reported charter deficiencies and seek voluntary revisions where appropriate. (This is an optional requirement — there is no legal requirement to assist the charter petitioners in drafting the

- charter).
7. Prepare final report for Board incorporating charter proponent's position on charter deficiencies. (You may want to seek an outside consultant to assist in preparing the final report. This would provide another perspective and act as a check and balance on internal analysis.)
  8. Present staff report to Board at public charter review meeting in a format that can be adopted as a factual finding if the Board chooses to deny the charter school petition (see SBE example attached hereto).

B. Departmental/Division Input:

Generally it is advisable that the District receive input from all its departments and divisions regarding three aspects of the charter as follows:

1. Impact on the District

This is not a statutory criteria by which to refuse to grant a charter under the California Charter Schools Act (Education Code sections 47600 - 47664). Nevertheless, it is imperative for District fiscal, operational and programmatic planning.

2. Sound Educational Practice

This is a statutory basis by which the Board may deny a charter petition provided:

"The charter school presents an unsound educational program. . ." EC section 47605(b)(1).

The Board is required to:

a) Make specific findings that have three (3) components:

- written
- factual
- specific

Such educational program elements to be considered may include:

- b) existence of defects or shortcomings
- c) existence of errors or inaccuracies
- d) logic of the supporting reasoning
- e) validity of premises or assumptions
- f) the thoroughness or completeness of detail
- g) the potential for stability or the ability to endure over time
- h) consistency with generally accepted educational principles

3. Likelihood of Success on Implementation

The Board may also deny the charter petition if:

"The petitioners are demonstrably unlikely to successfully implement the program . . ."

Here the burden is on the Board to show or prove clearly by reasoning or evidence that it is improbable or unpromising that the program goals and objectives are capable of being fulfilled by the concrete means proposed by the petitioners.

Such things to be considered are:

- a) What reasoning or evidence is available?
- b) What is the probability, grounds or reasons to expect success or lack thereof?
- c) What are the program's goals and objectives?
- d) What are the concrete means chosen to achieve the program goals and objectives?
- e) Is the relationship between the program goals and objectives and the means and methods chosen to achieve them valid?

II. GENERALLY, THE STANDARD FOR CHARTER PETITION APPROVAL REVIEW IS TO DETERMINE IF THE CHARTER PRESENTS AN "UN SOUND EDUCATIONAL

PROGRAM” OR WHETHER THERE IS A “DEMONSTRATABLE LIKELIHOOD OF FAILURE”.

In order for the Board to be able to determine if the charter school presents an “unsound educational program” and whether there exists a “demonstratable likelihood of failure” the following questions, among any others the District might have, should be answered by petitioner:

A. Element I — Educational Program

1. Will the charter school enroll pupils from outside the school district?
2. Will distance learning be used as a vehicle for delivery of instruction? How will distance learning be provided via current technology? What role does the parent/guardian play in the students’ education?
3. Is there any sample copy of any enrollment and curriculum contract? What will occur to the student if a contract is breached or not fulfilled?
4. Are there any copies of the designed curricula?
5. How are teachers taught the curricula? What provision is made for staff development?
6. What level of parent participation is expected? What types of activities are parents expected to engage in?
7. Who will be recommending or proposing curricula? Who is responsible for tailoring the curriculum to the individual student’s learning style?
8. Which positions/classifications working directly with students will hold a California Teaching Credential? Which classifications/positions working with the students will not hold a California Teaching Credential?
9. Are there copies of job specifications (i.e., job descriptions)?
10. Is there any empirical evidence available to support the charter school’s program objectives and how learning best occurs?

B. Element IV — Expected Pupil Outcomes:

1. What are the educational “goals” of the charter school?

2. How will educational objectives be defined?
3. What criteria will be used to move pupils from grade to grade?
4. Will all core subjects be taught? What alternative classes will be available?
5. Beyond the outcomes listed in the proposal, what specific criteria will be used to determine whether students have achieved the "outcome?"

C. Element V — Assessing Student Progress:

1. Does the charter school intend to meet all statewide standards and conduct the pupil assessments required pursuant to §60605 and any other statewide standards authorized in statutes or pupil assessments applicable to pupils in non charter schools? If so, how does it intend to administer the assessments?
2. Who decides which tools will be used to measure a pupils achievement? How will the charter school prevent allegations of discrimination based upon disparate application of the tools?

D. Element VI — Governance Structure:

1. When will the non-profit's Articles of Incorporation, current Bylaws, Minutes of the Corporate Meetings of the Board of Directors (including any resolutions), a list of the Director's names and their qualifications, a copy of the last Statement of Officers, and copies of state and federal tax exempt status be available?
2. How will the board of directors be selected? What will be their terms? What accommodations will be made for the representative of the District on the board of directors?
3. Will the charter school have a contract with the management company? What fees, if any, will be paid from the District and/or the charter school to the management company and how will they be calculated?
4. How many other charter schools will the management company operate? How many petitions has the management company submitted to other districts?
5. Are there any governance functions that will be handled by any management company? Will any governance functions not be handled by the management company?

6. Will the charter school employ people? Who? If so, who will oversee their work? Who is responsible for hiring and firing charter school employees? Will personnel policies be developed?
7. Will the employees of the management company be responsible for governing the charter school also be working with other charter schools or any other entity?
8. Will the charter school require criminal background checks for all of its employees working with the charter school? What health checks will the charter school employees be required to clear before employment (e.g., tuberculosis)?
9. Is the charter school willing to execute a comprehensive hold harmless and indemnification provision so that the District or County Office will not be liable for any actions taken by the management company or the charter school?
10. What mechanisms will be put in place to ensure parental involvement in the governance of the school? What processes will be put in place to ensure that the charter school consults with parents and teachers regarding the school's educational program. (Education Code §47605(c)(2))?
11. Will the charter school purchase any administrative services from the District or County Office? What will be the oversight fee the District or County Office is entitled to, if any?
12. Will the charter school or the management company provide directors and officers insurance?
13. Will the charter school or the management company purchase general liability insurance? Fire insurance? Workers' Comp. insurance?
14. Will the charter school or the management company be responsible for the payment of social security and applicable taxes for charter school employees?

E. Element VII — Qualifications to Be Employed:

1. Will employees be provided benefits? If so, what kind?

2. Will employees of the charter school be “at will” or will they gain permanency?
3. Who will be responsible for the hiring, firing and discipline of charter school employees?
4. Will charter school teachers teach within the restrictions of their credential?
5. Will administrators of the charter school be credentialed?
6. Who will hire employees for the charter school?
7. Where will the charter school be located?
8. Under what terms and conditions of employment are employees employed by the management company to work at the charter school?

F. Element VIII — Health and Safety Procedures:

1. Will the charter school comply with all applicable building codes and zoning restrictions for any facilities that it uses?
2. Will the charter school facilities, if any, meet federal requirements including the American with Disabilities Act?

G. Element X — Admission Requirements:

1. Under what conditions will a student not be re-enrolled in the subsequent year?
2. Will the charter school employ any “preferences”?
3. Education Code §47605(d)(2)(b) requires a preference for pupils who reside in the District. How will the charter school employ this preference?
4. Is a copy of any annual parent/student contract available?
5. How will the charter school conduct a public random drawing if the number of pupils who wish to attend the charter school exceeds the school’s capacity?
6. What is the application and enrollment process?

H. Element XII — Suspension/Expulsion:

1. Is a copy of a suspension/expulsion processes which “complies with constitutional due process” available?
2. Will students be allowed an appeal of their suspension or expulsion? Who or what body will be responsible for the final suspension/expulsion decisions? Will due process be provided pre-deprivation or post-deprivation?
3. What process will be used for suspension/expulsion of special education students? Is a copy of this process available?
4. What educational alternative, if any, will be provided to students who are suspended or expelled?

I. Element XII — Finance

1. In what manner will annual independent financial audits be conducted?
2. To what extent and in what manner will the employment of generally accepted accounting principles and practices be employed and monitored?
3. In what manner will audit exceptions and deficiencies be resolved?
4. Are first year proposed financial statements available (operational budget, start up costs, cash flow and a three-year financial projection)? Who developed the statements? What assumptions were relied upon? What standards and criteria were used?

J. Element XIII — Charter Closure:

1. What procedures are to be used if the charter school closes?
2. What procedures will be employed to assure:
  - C a final audit;
  - C disposition of all assets and liabilities;
  - C maintenance and transfer of pupil records?

K. General Questions — Questions and Information Requests:

1. Will any students attending the charter school also be attending another school?
2. Will the facilities of the charter school be Field Act compliant?
3. Will the charter school comply with the provisions of the Brown Act, Public Records Act, Public Bidding laws?
4. Will the charter school comply with Conflict of Interest requirements (Government Code § 1090) and the Political Reform Act (Government Code §87100, et seq.)?
5. Will the charter school provide any food services to its students? If so, how and what kind of services?
6. Will any transportation services be provided to charter school students? If so, how and what kind of services?
7. Where will student records be maintained? How will the confidentiality of student records be maintained? Will the charter school comply with FERPA in regard to student records?
8. Who will be responsible for developing charter school policy and administrative regulations?
9. Who will be responsible for developing charter school policy in regard to charter school employees?
10. What provisions are being made in terms of instructional resources to meet the needs of special needs populations (i.e., ELL and special education)?
11. Will the charter school comply with Education Code regulations on instructional supplies? The Code is quite specific on what students can and cannot be exposed to (e.g., glues, paints, etc.).
12. What is the plan for addressing students below grade level?
13. How will the State and federal environmental laws be implemented?
14. How will the charter school provide for full inclusion?

15. Will the charter comply with local Building Codes?

16. Will the charter comply with Labor Codes?

III. OTHER APPROVAL STANDARDS A CHARTER PETITION MUST BE ABLE TO SATISFY ARE THE STATUTORY LEGAL CRITERIA.

In addition to the dual requirements of "unsound educational program" and "demonstrable likelihood of failure" the charter must also satisfy some twenty-one (21) other criterion as follows:

- A. Signatures
- B. Non-discrimination and non-sectarianism
- C. Educational program description (e.g., who is to be educated)
- D. Measurable pupil outcomes
- E. Method of measuring pupil progress
- F. Governance structure
- G. Qualifications of employees
- H. Health and safety procedures
- I. Racial and ethnic balance
- J. Admission requirements
- K. Financial audits
- L. Discipline procedures
- M. Retirement plans
- N. Attendance alternative
- O. Employment and return rights
- P. Dispute resolution procedures
- Q. Declaration of collective bargaining employer status
- R. Proposed operation and potential effects of the school:
  - C manner in which administrative services are to be provided
  - C potential civil liability effects on the charter and district
- S. Facility adequacy and location
- T. Adequacy of financial statements
- U. Special education status as LEA

IV. THE CHARTER GRANTING SCHOOL DISTRICT'S HAS GENERAL FINANCIAL OVERSIGHT RESPONSIBILITIES FOR A CHARTER SCHOOL.

A. Supervisorial Oversight:

The charter granting district, seemingly, has an affirmative duty to supervise and

oversee a charter school by monitoring whether the charter:

1. committed a material violation of any of the conditions, standards of procedures set forth in the Charter School Act (Education Code §§ 47600 et seq.);
2. failed to meet or pursue any of the pupil outcomes identified in the Act;
3. failed to meet generally accepted accounting principles or engaged in fiscal mismanagement; or
4. violated any provisions of law.

The exact nature and scope of a school district's supervisory and oversight responsibilities are not clear as a matter of statute. Moreover, there is no guidance currently provided by case law. (Note: Apple Valley Unified School District in San Bernardino County has had some experience in this regard, but it does not serve as legal precedent.) It would seem, however, that a charter granting school district's duty is likely affirmative. That is, a district probably will not be able to simply sit passively back and wait for information of charter failures or impropriety to come to it. Rather, a charter granting school district will likely be charged with the duty of taking reasonable steps to continually monitor a charter's activities. See also Education Code § 47613 allowing a chartering school district to charge the charter school up to 1% for supervisory oversight services.

B. AB 1200 Implications:

1. County Superintendents Have No Direct AB 1200 Responsibilities for Charter Schools
  - a) Charter schools are exempt from "laws governing school districts" within the meaning of Education Code § 47610.
  - b) County Superintendent AB 1200 responsibilities (E. C. §§ 1240 et seq.) clearly are laws governing school districts within the meaning of Education Code § 47610. Consequently, it necessarily follows that County Superintendents have no direct AB 1200 responsibilities over charter schools.
2. Implications of AB 1200 For School Districts

County Superintendents do, however, have AB 1200 responsibilities over school districts. Consequently, to the extent a charter school's activities have an impact on a school district's financial health, County Superintendents have an interest in charter school activities. The exact nature and extent of such County Superintendent responsibilities have yet to be defined by the courts and legislature. However, it would seem prudent for school districts to keep reasonably well informed on any charter activities that could affect their financial health as it may relate to a County Superintendent's AB 1200 jurisdiction.

3. School Districts May Have General Duties and Responsibilities Over Charter Schools As Public Trustees

In City of Atascadero v. Merrill Lynch (1998) 68 Cal. App. 4<sup>th</sup> 445, 80 CR2d 329, the Court began its discussion saying:

“This appeal arises from the wreckage of the Orange County bankruptcy.”

Such a statement emphasizes that when a public agency gets into financial trouble, there is, indeed, “wreckage” which affects even those peripherally involved. Consequently, great care must always be taken by those entrusted with public funds no matter how marginally involved.

The Court in City of Atascadero then went on to discuss, among other things, what duties a public trustee may have. The Court pointed out that a public trustee's duties include:

“... the duty of loyalty, the duty to avoid conflicts of interest, the duty to preserve the trust property, the duty to make trust property productive, the duty to dispose of improper investments, and the duty to report and account.”

Such a duty may arise because of a school district's role in drawing or approving a warrant for a charter school, for example. See Education Code §§ 42630 et seq.

The Court in City of Atascadero cited Bogert on Trusts in footnote 17 as follows:

“A person who in good faith aids the trustee in an act which is a breach of trust may be held liable to the beneficiary for

his conduct when he should have known that the act was wrongful.”

Simply put, a school district must always act prudently. If a school district acts or fails to act in a fiscal matter involving a charter school when it knew or should have known the existence of an improper activity or purpose, then a school district, indeed, perhaps may be made to suffer the unforeseen consequences of an Orange County.

It should readily be noted that since charter schools are exempt from “laws governing school districts” an instance where a school district has a specific duty to assure that a charter school’s financial procedures and practice conform to statutory criteria may not arise. That is, charter schools have the latitude to adopt an implement their own methods of transacting financial affairs. Such methods do not necessarily directly involve school districts. However, given that a district does have a general oversight role, at the very least the Trust concerns addressed above would seem germane.

Consequently, it would seem that sound practice would require that a charter school board should always be specifically advised to correct any deficiencies or improprieties the district may discover in its oversight role. Some questions that may be asked a charter school by a district, in its fiscal oversight and charter review role might include the following:

1. Are there any charter employees also employed by any charter management services organization?
2. Are there any charter procedures for processing accounts, services, or other business activities?
3. Is there a charter business organizational structure?
4. What contract relationships exist or are contemplated?
5. What are the names of the top five charter officers?
6. What is the total number of charter employees: Full-time and Part-time?
7. Are there any facilities owned or leased by the charter?
8. Who are the owners of any owned facilities?

To: *Vicki L. Barber, Superintendent*  
Re: *Charter School Petition Review*  
Page: *15*

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DG/sr  
galt.charter school petition review

## **Memorandum of Understanding, “MOU”**

The charter and chartering agency may desire to further define the relationship between the chartering agency and the charter school with an “MOU”.

The following “MOU” guidelines are recommended for consideration:

1. The MOU should not serve as substitute for any element(s) required for charter approval. The charter should be complete, evaluated and stand on its own merits without reference to an MOU at the time of charter approval.
2. A charter should not be approved, conditionally, based on an MOU to be developed at a later time.
3. Typically, the MOU should address subject matter which is related to but not a condition of charter approval. Examples of related subject matter include: use of facilities (EC § 47614); purchase of administrative and other services from the chartering agency (EC § 47613(d)); charges for supervisory oversight (EC § 47613(a)); and means, manner and methods of implementing special education procedures and funding (EC § 47646).
4. The MOU should clearly define the obligations of each party in specific, objectively definable terms whenever possible.
5. The MOU should define which party has final authority where objective standards are not feasible e.g. “equitable” (EC § 47646).
6. Breach of an MOU in and of itself should not necessarily be depended upon as sufficient justification for charter revocation.

...because we believe  
in the future of our  
schools, our teachers  
and our students.

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS



MEMBERSHIP FOR *My School!*

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

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

...because providing a high-quality education is my priority.

## INTRODUCTION

The mission of the California Charter Schools Association is to *increase student achievement by strengthening and expanding public charter schools throughout California.*

From the moment a charter school petition is approved, its leaders enter into a pact, providing accountability for high student achievement in exchange for autonomy from onerous state regulations and requirements. Our ability as individuals and as a movement to live up to that bargain will determine the strength and sustainability of the charter school movement. It is not enough for charter schools to be merely as good (or as bad) as non-charter public schools, we must be better. We owe it to the students to be better. Moreover, all across the state, charter schools are proving that there is no excuse for schools that fail our students. When high expectations, strong teaching practices, supportive learning environments, and fiscal accountability are aligned, students achieve. We can and must be that beacon of hope and proof that democracy must not give up on public education—that all students will achieve if we teach them.

## BACKGROUND

The Charter Schools Act of 1992 provided 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: 1) improve pupil learning, 2) increase learning opportunities for all pupils, 3) encourage the use of different and innovative teaching methods, 4) create professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site, 5) provide expanded choices in the types of opportunities that are available within the public school system, and 6) hold schools accountable for meeting measurable pupil outcomes.

The underlying intent of the law was the creation of a school-centered, performance-based accountability system that would provide competition within the public school system and stimulate continual improvement in *all* public schools. The “license to dream” provided by the charter law led to the creation of hundreds of charter schools in the state.

Today, over a decade later, California’s charter schools reflect a variety of educational visions, pedagogical approaches, student populations, and organizational designs, which make them uniquely varied and complex. The California Charter Schools Association values all types of charter school programs focused on helping students succeed in learning and in life. Diversity enriches the educational landscape.

We believe, in addition, that all charter schools in this state are bound by the commitment to improve educational opportunities for California’s children. Our schools do not merely provide educational options, they must provide better options. By starting or operating a charter school, charter leaders have chosen to be accountable to their students and communities. Indeed, the success of charter schools in this state will depend upon the actions and choices for which individuals in the charter movement bear ethical, as well as professional responsibility. We believe that by conducting themselves in the manner characterized below, charter school leaders will capture the vision of quality educational opportunity, accountability for student learning, and the spirit of educational renewal embodied in the original charter law.

The California Charter Schools Association is committed to supporting all charter schools in reaching excellence through meeting quality standards. The Member Council pledges to work with all charter school leaders to meet these standards.

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

...because providing a high-quality education is my priority.

## QUALITY STATEMENT 1: STUDENT ACADEMIC ACHIEVEMENT FIRST

A charter school promotes student learning through a clear vision and high expectations. It achieves clear, measurable program goals and student learning objectives, including meeting its stated performance standards and closing achievement gaps of students.

### 1.1 Achieves clear, measurable program goals and student learning objectives, including meeting its stated performance standards

1.1A: Program goals are clear and measurable

1.1B: The school is meeting its stated performance standards

1.1C: The school clearly articulates its curricular content standards and performance standards, including the minimum student performance required for advancement or graduation

1.1D: The school is making adequate yearly progress in meeting academic goals as defined by NCLB

### 1.2 Demonstrates high expectations for student achievement

1.2A: Learning materials have rich content and strong vocabulary

1.2B: The curriculum clearly identifies essential and enduring knowledge, and assessments effectively support students' long-term mastery of essential knowledge

1.2C: The curriculum is structured in a coherent grade-by-grade sequence

1.2D: The curriculum prepares students for life-long learning, careers, and active citizenship

### 1.3 Provides a challenging and coherent curriculum for each individual student

1.3A: The school has strategies in place to meet the needs of students who are not reading at grade level

1.3B: The school has strategies in place to meet the needs of English Language Learners

1.3C: The school has effective strategies in place to meet the needs of students with Special Education plans (504s)

1.3D: The school is closing achievement gaps among student sub-groups

1.3E: Strategies designed to ensure that all students are making progress towards meeting academic goals are evaluated regularly and modified to improve student achievement

### 1.4 Implements and directs learning experiences (consistent with the school's purpose and charter) that actively engage students

1.4A: Students report a high level of enthusiasm for learning across the curriculum based on valid and reliable survey data

1.4B: Students and teachers use resources for learning experiences beyond the limits of the textbook and classroom—such as effective use of technology and community resources

### 1.5 Allocates appropriate resources in the way of instructional materials, staffing and facilities to promote high levels of student achievement

1.5A: Available resources are allocated appropriately (among materials, equipment, staff, and facilities) to optimize student learning

### 1.6 Supports students in a safe, healthy and nurturing environment characterized by trust, caring and professionalism

1.6A: The school environment is free of violence, the threat of violence, and bullying

1.6B: Adequate safety procedures and crisis plans are in place

1.6C: The school environment is healthy, and processes are in place to promote student health and wellness

1.6D: The learning environment is clean, attractive, functional, and comfortable

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

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1.6E: Students feel supported and respected by teachers and staff

1.6F: The school has a comprehensive student discipline policy (including due process procedures for suspension and expulsion) that is distributed to parents and students annually

1.7 Productively engages parental and community involvement as a part of the school's support system

1.7A: Students, parents, and community members are involved as part of the school's support system

1.8 Shares its vision among the school community and demonstrates its mission in daily action and practice

1.8A: The mission and vision of the school is clearly articulated, well-known by school stakeholders, and implemented in daily practice

## QUALITY STATEMENT 2: ETHICAL LEADERSHIP

The leaders of a charter school are stewards of the charter's mission and vision and carry out their duties in a professional, responsible and ethical manner. Charter school leaders use their influence and authority for the primary purpose of achieving student success.

2.1 Effectively communicates and engages stakeholders in the vision and mission of the school

2.1A: The board and school leadership clearly and effectively communicate the mission and goals of the school with all relevant stakeholder groups

2.2 Consistently puts into practice the educational program outlined in its charter

2.2A: The school leadership implements its academic program in alignment with its charter

2.3 Generates and sustains a school culture conducive to student learning and staff professional growth

2.3A: School leadership provides professional development opportunities that advance the effectiveness of teaching and learning

2.3B: There is open and clear communication between students, staff, and administration

2.4 Regularly monitors and evaluates the success of the school's program

2.4A: The school leadership collects student achievement data to inform a continuous cycle of school improvement

2.4B: The school seeks input from stakeholders in the monitoring and evaluation of the school's program

2.5 Provides regular, public reports on the school's progress towards achieving its goals to the school community and to the school's authorizer

2.5A: School leadership participates in the development of a school accountability report card as required by law

2.5B: Leadership provides regular school progress reports and student achievement data to all stakeholders

2.6 Makes management decisions with the goal of optimizing successful teaching and learning experiences

2.6A: Students and staff report that leadership is working effectively to create an optimal teaching and learning environment

2.7 Treats all individuals with fairness, dignity and respect

2.7A: School leaders ensure that school policies regarding equal opportunity and unlawful harassment are effectively implemented

2.7B: School stakeholders report that they are treated with fairness, dignity, and respect

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

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## 2.8 Has a cogent understanding of the laws that govern charter schools and monitors the trends, issues and potential changes in the environment in which charter schools operate

2.8A: School leadership has developed policies and training practices that clarify the responsibilities and relationships among key leaders, governing board members, staff, students and parents

2.8B: School leadership participates regularly in professional development opportunities which provide insight into the trends, issues and potential changes in the environment in which charter schools operates

## 2.9 Uses his/her influence and authority for the primary purpose of achieving student success

2.9A: School leaders make decisions that reflect high standards and ethics

2.9B: Leaders allocate resources based primarily on their impact on student achievement and well-being

2.9C: Leaders implement business policies and procedures that promote school sustainability, operational integrity, and a focus on student learning results

## 2.10 Abstains from any decision involving a potential or actual conflict of interest

2.10A: Leadership does not engage in actions that present a conflict of interest

2.10B: Board members and employees formally declare any conflicts of interest or potential conflicts of interest he or she may have in relationship to the fiscal policies and operation of the charter school

## 2.11 Respects diversity and implements practices that are inclusive of all types of learners consistent with the school charter

2.11A: The leadership implements programs and policies that enable all students to be effectively served, including special education and second language learners

## 2.12 Engages community involvement in the school

2.12A: The board and school leadership develop and implement an effective communications plan that engages community support

2.12B: The school actively engages board members, parents, students and staff in the communications plan

## QUALITY STATEMENT 3: CONTINUOUS FOCUS ON INCREASING QUALITY

A charter school engages in a process of continuous self-improvement in order to increase the effectiveness of its educational program. The school regularly assesses and evaluates student learning based on stated goals.

## 3.1 Uses information sources, data collection and data analysis strategies for self-examination and improvement

3.1A: The school implements a quality assurance process that systematically analyzes and advances the effectiveness of teaching and learning strategies in relationship to student performance results

3.1B: The school's continuous improvement process focuses on closing learning gaps for individual students and student subgroups

3.1C: The school has processes for the management of student information and student assessment data used in a self-improvement process targeting student achievement

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

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## 3.2 Establishes benchmarks and a variety of accountability tools for monitoring student progress

3.2A: The school has well-defined benchmarks for student achievement that are clearly communicated to students and parents

3.2B: A variety of tools are in place for monitoring student progress

## 3.3 Establishes both long and short term goals and plans for accomplishing the school's mission as stated in its charter

3.3A: The school has well-defined long and short-term goals that are clearly linked to its mission and vision

## 3.4 Uses student assessment results to improve curriculum and instruction

3.4A: The school administers mandated assessments

3.4B: Student achievement is measured utilizing meaningful, reliable and valid performance benchmarks

## 3.5 Uses the results of evaluation and assessment as the basis for the allocation of resources for programmatic improvement

3.5A: The school deploys resources for programmatic improvement using the results of program evaluation and student assessment data

## 3.6 Involves staff, students, parents and other stakeholders in its accountability for student learning and in the school's program evaluation process

3.6A: The school provides evidence of parent/guardian satisfaction

3.6B: The school provides evidence of student satisfaction

## QUALITY STATEMENT 4: RESPONSIBLE GOVERNANCE

A charter school board and administration establish and implement policies that are transparent and focused on student achievement. Charter school board members and administrators have a cogent understanding of and comply with the laws that govern charter schools.

### 4.1 Ensure that policies are implemented in a fair and consistent manner

4.1A: The charter school governance follows a fully adopted set of bylaws that include policies which include: conflicts of interest policies, meeting protocols and procedures, and formal delineations of roles and authorities within the charter school

4.1B: Conflicts of interest policies are comprehensive and address the disqualification of a board member or employees to act upon matters which may materially affect his/her assets and income

4.1C: The school's governance policies are organized and/or may be made easily accessible to the public and may be made readily available to the public

4.1D: The charter school has clearly defined complaint and conflict resolution procedures which are communicated to all stakeholders

### 4.2 Monitor the trends, issues and potential changes in the environment in which charter schools operate

4.2A: The school administration and governing board includes individuals who are experienced in managing organizations and well-versed in charter law

4.2B: New board members are given a formal orientation on the purpose and educational vision of the school and on their roles and legal responsibilities

4.2C: School administrators and board members actively seek information and professional development related to charter operations and laws

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

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4.2D: Schools with multiple sites have comprehensive monitoring systems established for ensuring that those sites meet the charter's mission and goals

## 4.3 Seek input from impacted stakeholders

4.3A: The school establishes regular opportunities for stakeholders to address the administration and board (i.e. parent meetings, surveys, staff meetings, student forums, etc...)

4.3B: The board conducts its meetings regularly (at least quarterly) and in an organized and effective manner to encourage public comment and participation

4.3C: Board meeting agendas and meeting minutes are posted in a timely manner for broad public review

## 4.4 Enact policies that respect diversity and implements practices that are inclusive of all types of learners consistent with the school charter

4.4A: The school's recruitment strategies focus on the targeted population stated in its charter and are inclusive of a diverse range of learners.

4.4B: The school has clear open enrollment procedures and (if over-subscribed) an adopted public lottery policy for enrollment

## 4.5 Actively engage the school's authorizer in monitoring the school's educational program and its fiscal status

4.5A: The school provides regular reports of student performance, academic progress and the school's fiscal health to the authorizer

4.5B: The school's legal and financial structures are clearly delineated with the authorizing agency

4.5C: Operational agreements, contracts and MOU's have been established with the authorizing agency in key areas such as liability, special education, and facilities

4.5D: The charter authorizing agency regularly reviews the adopted budget and interim reports

## QUALITY STATEMENT 5: FISCAL ACCOUNTABILITY

A charter school fulfills its fiduciary responsibility for public funds and maintains publicly accessible fiscal records. The school conducts an annual financial audit which is made public.

## 5.1 Creates and monitors immediate and long-range financial plans to effectively implement the school's educational program and ensure financial stability

5.1A: Comprehensive budget assumptions are prepared during the budget process.

5.1B: The working budget is monitored against actuals at least monthly, including a review of ADA assumptions, and adjusted accordingly

5.1C: Accounts payable obligations are up-to-date, appropriately described, and disclosed in financial statements

5.1D: The budget considers any long-term debt schedules and multi-year contracts, and capital projects are tracked and monitored on a regular basis

5.1E: There is an annual review of the status of all significant operating costs, including employee salary and benefit discussions, negotiations, any changes in health benefit costs, and any other significant costs

## 5.2 Conducts an annual financial audit which is made public

5.2A: The charter school is audited by a certified public accountant (CPA) or public accountant (PA) licensed by the California State Board of Accountancy (and not declared ineligible to conduct audits by the State Controller's Office)

# QUALITY STATEMENTS FOR CHARTER SCHOOL OPERATIONS

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- 5.2B: The charter school's audit is performed in accordance with generally accepted auditing standards to ensure that the school's finances are being managed in accordance with generally accepted accounting principles and practices
- 5.2C: The audit tests the validity of the charter school's ADA and reports these findings in the audit report
- 5.2D: The charter school receives a school-specific audit report that includes financial statements and audit findings/conclusions specific to the charter school (unless completely dependent on the district)
- 5.2E: The audit report includes a management letter commenting on areas of possible improvements (if any) in structures, procedures, and management practices of the school, as well as any factors that would prevent them from issuing an unqualified opinion on the financial statements
- 5.2F: The charter school board reviews the audit report and responds to any audit findings and designs a corrective action plan to address these findings
- 5.2G: A copy of the audit is sent by the charter school to the authorizing agency, the COE and CDE by legally mandated deadlines, and the authorizing agency reviews the charter school's corrective action in response to any audit exceptions

## 5.3 Establishes clear fiscal policies to ensure that public funds are used appropriately and wisely

- 5.3A: The school adheres to an adopted fiscal policy and procedures manual
- 5.3B: Fiscal policies include procedures for the authorization of purchases and release of funds, including signatories for checks or purchase orders over a specified threshold, and procedures related to credit cards and revolving cash funds
- 5.3C: Bank reconciliations for all school-affiliated bank accounts are completed and reviewed on a monthly basis (person empowered to sign the check is not the same person (or related to the person) who reconciles the account)
- 5.3D: The charter governing board adopts a budget at least 30 days prior to the new fiscal year

## 5.4 Ensures financial resources are directly related to the school's purpose: student achievement of learning goals

- 5.4A: The school's physical space, materials and supplies are conducive to accomplishing the charter's schoolwide learning goals
- 5.4B: Policies are established to ensure that contracts reflect fair market value
- 5.4C: Compensation levels for employees are appropriate for the positions and responsibilities and are consistent with industry norms
- 5.4D: There is an inventory of fixed assets and other resources over an established amount

## RESOURCES

California Charter Schools Association Quality Statements are adopted and modified from WASC/Charter Schools Focus on Learning (2004), the Interstate School Leaders Licensure Consortium Standards for School Leadership (1996), and the California Charter Schools Association Membership Council (2004).

The California Charter Schools Association also acknowledges the work done by the former California Network of Educational Charters in defining exemplary charter school operations.