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# California Charter School Laws and Regulations: An Annual Compilation of Selected Provisions

(Effective January 1, 2012)



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## WHAT'S NEW IN 2012?

A Message from Jed Wallace:

During 2011, the California Charter Schools Association ("CCSA") worked hard at the Capitol and the State Board of Education ("SBE") to further the interests of the charter school movement across the State. The brevity of the list of new provisions belies the results of our Sacramento team, who, along with the support of our member schools, halted many legislative attempts to encroach upon the flexibility afforded by the Charter Schools Act.

Along with our partners at Procopio Cory Hargreaves & Savitch, LLP, we have updated this booklet to reflect the most important changes in charter school laws and regulations adopted in 2011. These changes are found in italics in the text, and we summarize these changes briefly below.

### Revocation or Related Action by SBE

CCSA supported the SBE's effort to implement its authority under Education Code section 47605, subdivision (c), which allows the SBE to take action against any charter school in the state when the SBE finds that the charter school has engaged in substantial and sustained departure from measurably successful practices that jeopardize the educational development of a school's pupils. (See Cal. Code Regs., title 5, section 11968.5.) We included these proposed regulations in last year's edition as "draft." The SBE and the Office of Administrative Law approved them and they became effective on February 2, 2011.

### Charter Revocation and Revocation Appeal Processes

We also supported the SBE's efforts to ensure that charter schools are provided due process when facing a potential revocation or revocation appeals pursuant to Education Code sections 47604.5 and 47607. As explained by the SBE in its statement of reasons, the proposed regulations are intended to define and make specific the provisions of Education Code section 47607 regarding the criteria for revocation of a school's charter by a chartering authority, the process by which the SBE may revoke a charter based on the recommendation of the State Superintendent of Public Instruction, and the process by which a school may appeal a revocation decision to a county board of education and/or the SBE. These regulations were approved by the SBE and Office of Administrative Law and became effective on December 16, 2011.

### Charter Renewal and Renewal Appeals

Regulations guiding district action on charter renewal and appeals of denied renewals in accordance with Education Code Section 47607 were adopted by the SBE and became effective on November 23, 2011. CCSA worked closely with the California Department of Education ("CDE"), SBE and other stakeholders to ensure appropriate procedural protections for charter schools in the renewal process, including adherence to specific timelines for renewal action by authorizers.

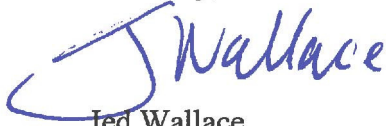
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Parent Empowerment

Education Code §§ 53300 et seq. (not included verbatim in this booklet but identified on the reference list) allows parents of certain low performing schools to petition the local educational agency to implement one of four school interventions, including conversion to a charter school. The SBE has adopted regulations to implement these provisions which became effective on November 26, 2011. (See Cal. Code Regs., tit. 5, §§ 4800-4808).

We at the Association are focused on improving the environment for charter schools in California, and on providing our members with essential information they need to start and operate successful schools. I hope you will find this booklet as helpful as the state and local advocacy, leadership on accountability, and a variety of operational and support services we provide.

Sincerely,



Jed Wallace  
President and CEO  
California Charter Schools Association

**CHARTER SCHOOLS ACT**

**Education Code**

Section 47600	Title of act .....	8
Section 47601	Legislative intent.....	8
Section 47602	Limit on number of schools.....	8
Section 47603	Private assistance allowed .....	8
Section 47604	Operating as or by a non-profit corporation.....	8
Section 47604.3	Response to reasonable inquiries .....	8
Section 47604.32	Oversight duties of chartering authority .....	9
Section 47604.33	Periodic financial reports .....	9
Section 47604.4	County Superintendent may investigate .....	9
Section 47604.5	Revocation by State Board of Education.....	9
Section 47605	Petition: required elements.....	9
Section 47605.1	Geographical limits on charters granted after July 1, 2002.....	12
Section 47605.2	Delta Charter High School.....	13
Section 47605.3	Admissions preference for certain elementary schools .....	13
Section 47605.5	County charters .....	14
Section 47605.6	County Board-approved petitions .....	14
Section 47605.7	No denial of petition for special education costs.....	16
Section 47605.8	State-approved petition .....	16
Section 47606	Charter districts .....	17
Section 47607	Charter term; renewal.....	17
Section 47607.5	Nonrenewal appeals.....	18
Section 47608	Compliance with Brown Act .....	18
Section 47610	Megawaiver; exceptions .....	18
Section 47610.5	Building code exemptions .....	18
Section 47611	STRS available.....	19
Section 47611.3	STRS and PERS reports .....	19
Section 47611.5	Exclusive public employer .....	19
Section 47612	Charter school under control of public school officers.....	19
Section 47612.1	Exemption from satisfactory progress requirement.....	19
Section 47612.5	Apportionment conditions .....	20
Section 47612.6	State Board instructional minutes waiver.....	21
Section 47612.7	Special funding for joint powers agreement.....	21
Section 47613	Supervisory oversight fees .....	21
Section 47613.1	Apportionments for converted districts.....	22
Section 47614	Prop 39: Public school facilities .....	22
Section 47614.5	Charter School Facility Grant Program.....	23
Section 47615	Legislative Findings.....	23
Section 47620	Elementary school at UCLA .....	24
Section 47621	School district may charter .....	24
Section 47622	State board may charter .....	24
Section 47624	UC liability.....	24
Section 47625	UCLA charter operative.....	24
Section 47626	UC as public employer.....	24

**FUNDING MODEL**

Section 47630	Operational funding equal to similar district.....	24
Section 47630.5	Operational funding .....	24
Section 47631	County-sponsored charter schools.....	24
Section 47632	Funding model definitions.....	25
Section 47632.5	Cap on funding for conversion charter schools.....	25
Section 47633	General purpose entitlement.....	25
Section 47634.1	Revised block grants for 2005-2008.....	26
Section 47634.2	SB740: Funding for non-classroom-based instruction .....	27
Section 47634.3	Statewide average ADA .....	28
Section 47634.4	Right to apply for program funding outside block grant .....	28
Section 47635	Amounts in lieu of property taxes .....	29
Section 47636	Application for funding sources not in block grant or apportionments .....	30
Section 47638	Charter school is a school district for lottery funds .....	30

**SPECIAL EDUCATION**

Section 47640	“LEA” for special education purposes.....	30
Section 47641	Charter school deemed a local educational agency.....	30
Section 47642	Charter student funding included in allocation plans.....	30

Section 47643	Change in SELPA allocation plan for charter school.....	30
Section 47644	Apportionment for special education .....	30
Section 47645	Request to participate in SELPA.....	31
Section 47646	Funding and services at charter school.....	31
Section 47647	No denials solely because school may enroll from other SELPA.....	31
<b>APPORTIONMENT OF FUNDS</b>		
Section 47650	Charter school deemed a school district .....	31
Section 47651	Receipt of state aid .....	31
Section 47652	Advance apportionment for first year of operation.....	32
<b>COMPUTATIONS AFFECTING SPONSORING LOCAL EDUCATIONAL AGENCIES</b>		
Section 47660	Enrollment and average daily attendance; general-purpose entitlement determination .....	32
Section 47662	Property tax revenues; reduction .....	33
Section 47663	Pupil eligible to attend school district other than basic aid school district.....	33
Section 47664	Election to use funding method provided for by this chapter .....	33
<b>REVOLVING LOAN FUND</b>		
Section 41365	Creation .....	34
Section 41366.5	Interest rate and payments.....	35
Section 41366.7	Adjustment of interest rate .....	35
Section 41367	Security fund .....	35
<b>SCHOOL DISTRICT FUNDS—EXPENDITURES &amp; APPROPRIATIONS</b>		
Section 42605	Funds provided in annual Budget Act .....	35
Section 42606	Supplemental categorical block grant for specified charter schools .....	36
<b>INDEPENDENT STUDY LAW &amp; REGULATIONS</b>		
<b>Education Code</b>		
Section 51745	Independent study authorized; curriculum; restrictions.....	37
Section 51745.6	Ratio of independent study pupils to certificated employees responsible for independent study .....	37
Section 51746	Services and resources .....	38
Section 51747	Apportionments for independent study require school policies.....	38
Section 51747.3	No apportionment when “things of value” provided .....	38
Section 51747.5	Coordination, evaluation and supervision of independent study; apportionment credit.....	39
Section 51748	Written records for apportionments .....	39
Section 51749	Statewide profile of independent study pupils .....	39
Section 51749.3	Rules and regulations .....	39
<b>California Code of Regulations Title 5</b>		
Section 11700	Definitions for independent study .....	39
Section 11700.1	Additional definitions for charter schools .....	40
Section 11701	Governing board responsibilities .....	40
Section 11701.5	Equitable access .....	40
Section 11702	Independent study agreements .....	40
Section 11703	Records to be kept .....	40
Section 11704	Charter school pupil-teacher ratio .....	41
Section 11705	Charter school considered alternative school.....	41
<b>SELECTED NONPROFIT CORPORATION LAWS</b>		
<b>Corporations Code</b>		
Section 5047	Directors.....	41
Section 5150	Bylaws.....	41
Section 5211	Board Meetings .....	41
Section 5220	Terms of office.....	42
Section 5231	Duties and liabilities of directors.....	43
Section 5233	Self-dealing.....	43
Section 5236	Loans to directors, officers .....	44
Section 5239	Immunities of volunteer officer or director .....	45
Section 5812	Amendment of articles of incorporation.....	45
Section 6320	Records of corporation .....	46
Section 6321	Annual report to member(s) .....	46
Section 6322	Transactions or indemnifications .....	46
<b>GOVERNMENT CODE</b>		
<b>Section 6528 Risk Pooling</b>		
Section 6528	Risk pooling joint powers authority .....	47
<b>NONPROFIT PUBLIC INTEGRITY ACT</b>		
<b>Compensation of Officers</b>		
Section 12586(g)	Compensation of Officers.....	47

**OTHER APPLICABLE EDUCATION CODE PROVISIONS**

**Charter Schools Facilities**

Section 17078.52 Charter schools facilities program .....47  
 Section 17078.53 Initial preliminary applications ..... 48  
 Section 17078.54 New construction or rehabilitation funding .....48  
 Section 17078.56 Approval of projects; criteria; preferences .....49  
 Section 17078.57 Adoption of regulations .....49  
 Section 17078.58 Maximum amount of funding; collection of local share equivalent in the form of lease payments ..... 50  
 Section 17078.62 Continued use of facility; effect of ceasing to utilize facility for charter school purposes..... 50  
 Section 17078.63 Documentary evidence; title .....51  
 Section 17078.64 School district election to include charter facilities .....51  
 Section 17078.66 Joint report by State Allocation Board and California School Finance Authority .....52

**Financial Reporting**

Section 42100 Annual financial statement ..... 52

**Fingerprinting and Criminal Background Statutes**

Section 44830.1 Certificated positions ..... 52  
 Section 45122.1 No person convicted of a violent or serious felony shall be employed ..... 53  
 Section 45125.1 Criminal background check required for contractors who may have contact with pupils..... 54  
 Section 48907 Charter schools; freedom of speech and of the press ..... 55  
 Section 48950 Freedom of speech; students’ remedies; attorney’s fees; retaliation prohibited ..... 55

**OTHER CHARTER SCHOOL REGULATIONS – TITLE 5**

**Parent Trigger**

*Section 4800 Intent..... 56*  
*Section 4800.1 Definitions..... 56*  
*Section 4800.3 Requirement to serve all pupils ..... 57*  
*Section 4800.5 Parental notice ..... 57*  
*Section 4801 Petition signatures ..... 57*  
*Section 4802 Content of the petition ..... 57*  
*Section 4802.05 Submission of petition ..... 58*  
*Section 4802.1 Verification of petition signatures and obligations of the LEA..... 58*  
*Section 4802.2 Restart requirements for parent empowerment petitions ..... 59*  
*Section 4803 Description of intervention—turnaround model ..... 60*  
*Section 4804 Description of intervention—restart model..... 61*  
*Section 4805 Description of intervention—school closure..... 61*  
*Section 4806 Description of intervention—transformation model..... 61*  
*Section 4807 Description of intervention—alternative governance arrangement..... 62*  
*Section 4808 Prospective effect of regulations..... 62*

**Regular Average Daily Attendance**

Section 11960 Average daily attendance..... 62

**Closure Procedures**

Section 11962 Definition of procedures for school closure ..... 63  
 Section 11962.1 Definitions related to the duties of a chartering authority..... 63

**Classroom and Non-Classroom Based Instruction**

Section 11963 Definition of classroom-based instruction ..... 64  
 Section 11963.1 Non-classroom-based instruction in charter schools..... 64  
 Section 11963.2 SB740: Average daily attendance for non-classroom-based instruction in charter schools ..... 64  
 Section 11963.3 SB740: Determination of funding request forms and calculations..... 64  
 Section 11963.4 SB740: Evaluation of funding for non-classroom-based instruction ..... 66  
 Section 11963.5 SB740: Determination of funding requests for virtual or on-line schools ..... 68  
 Section 11963.6 Multiyear funding determinations for non-classroom-based instruction ..... 68  
 Section 11963.7 Termination of a determination of funding regarding non-classroom-based instruction ..... 69

**General Provisions**

Section 11965 Definitions..... 69  
 Section 11966 Certification..... 70

**Renewals, Appeals and Statewide Benefit Charter Chools**

*Section 11966.4 Submission of a charter school renewal petition to the governing board of a school district ..... 70*  
*Section 11966.5 Charter petitions that have not been renewed—submissions to county board of education ..... 70*  
*Section 11966.6 Charter petitions that have not been renewed locally—submission to State Board of Education (SBE)... 71*  
*Section 11966.7 Categorical funding for charter schools renewed by a different authorizer ..... 71*  
 Section 11967 Appeals of petitions for the establishment of a charter school that have been denied ..... 72  
 Section 11967.5 State board approval of charter school petition ..... 72  
 Section 11967.5.1 State board approval criteria ..... 72  
 Section 11967.6 Statewide benefit charter school petition ..... 76  
 Section 11967.6.1 Notification of statewide benefit charter school petitions and amendments..... 77

Section 11967.7	Evaluation of facilities for statewide benefit charter schools .....	78
Section 11967.8	Funding for statewide benefit charter schools.....	78
<b>Maximum Number of Charter Schools</b>		
Section 11968	Charter school numbering .....	78
<b>Establishment and Revocation</b>		
Section 11968.1	Numbering of charter school petitions .....	79
Section 11968.5	Revocation of a charter by the State Board of Education upon recommendation .....	79
<i>Section 11968.5.1</i>	<i>Revocation of, or other action related to, a charter by the SBE .....</i>	<i>80</i>
<i>Section 11968.5.2</i>	<i>Charter revocation .....</i>	<i>80</i>
<i>Section 11968.5.3</i>	<i>Charter revocation for severe and imminent threat .....</i>	<i>81</i>
<i>Section 11968.5.4</i>	<i>Appeal of a district charter revocation to a County Board of Education.....</i>	<i>82</i>
<i>Section 11968.5.5</i>	<i>Appeal of charter revocation to the SBE and submission of the administrative record.....</i>	<i>83</i>
<b>Implementation of Proposition 39</b>		
Section 11969.1	Prop. 39 purpose and stipulation .....	83
Section 11969.2	Definitions .....	84
Section 11969.3	Conditions reasonably equivalent.....	84
Section 11969.4	Operations and maintenance.....	86
Section 11969.5	Availability .....	86
Section 11969.6	Location .....	86
Section 11969.7	Charges for facilities costs.....	86
Section 11969.8	Reimbursement rates for over-allocated space .....	87
Section 11969.9	Procedures and timelines for the request for, reimbursement for, and provisions of, facilities .....	88
Section 11969.10	Mediation of disputes .....	89

**REFERENCE LIST OF OTHER PERTINENT LAWS 90**

**INDEX 91**

**Section 47600**  
**Title of Act**

**CHARTER SCHOOLS ACT, as amended**  
**Education Code Sections 47600 et seq.**

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

**Section 47601**  
**Legislative Intent**

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:

- Pupil learning
- Increased opportunities
- Innovative teaching methods
- New professional opportunities
- Expanded choices
- Accountability
- Competition and improvements

- (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.

**Section 47602**  
**Limit on number of schools**

**(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.

- Report on effectiveness
- No conversion of private schools; no funds for private school pupils; regulations

- (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.

**Section 47603**  
**Private assistance allowed**

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.

**Section 47604**  
**Operating as or by a nonprofit corporation**

- Representative on board
- No liability of charter-granting entity

- (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.

**Section 47604.3**  
**Response to reasonable inquiries**

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.

**Section 47604.3  
Response to reasonable inquiries (cont'd)**

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:

**Section 47604.32  
Oversight duties of chartering 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.

**Section 47604.33  
Periodic financial reports**

(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.

**Section 47604.4  
County Superintendent may investigate**

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

Notice to sites to County Superintendent

(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.

**Section 47604.5  
Revocation by State Board of Education**

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:

Financial mismanagement  
Illegal use of funds

- (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.

Departure from successful practices

**Section 47605  
Petition: required elements**

(a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, 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:

Signature of parents

(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.

**Section 47605**

**Petition: required elements (cont'd)**

Signature of teachers  
Conversion of existing public school

Signature indicates meaningful interest

Additional sites are material modification

Sites outside school district boundaries

Grade levels not served by school district

Public hearing; timelines

Written factual findings for denial

Unsound educational program

Unlikely to implement program

Signatures required  
No affirmation of conditions  
Reasonably comprehensive elements  
Description of educational program

High schools; transferability of courses

Measurable pupil outcomes

Method to measure pupil outcomes

**(B)** The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(B)** The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

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

<p><b>(D)</b> The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.</p> <p><b>(E)</b> The qualifications to be met by individuals to be employed by the school.</p> <p><b>(F)</b> 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.</p> <p><b>(G)</b> 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.</p> <p><b>(H)</b> Admission requirements, if applicable.</p> <p><b>(I)</b> 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.</p> <p><b>(J)</b> The procedures by which pupils can be suspended or expelled.</p> <p><b>(K)</b> 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.</p> <p><b>(L)</b> The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.</p> <p><b>(M)</b> 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.</p> <p><b>(N)</b> The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.</p> <p><b>(O)</b> 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 Chapter.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.</p> <p><b>(P)</b> 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.</p> <p><b>(c) (1)</b> Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.</p> <p><b>(2)</b> Charter schools shall, on a regular basis, consult with their parents, guardians, and teachers regarding the school's educational programs.</p> <p><b>(d) (1)</b> 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 the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.</p> <p><b>(2) (A)</b> A charter school shall admit all pupils who wish to attend the school.</p> <p><b>(B)</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.</p> <p><b>(C)</b> 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.</p> <p><b>(3)</b> If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.</p> <p><b>(e)</b> The governing board of a school district shall not require any employee of the school district to be employed in a charter school.</p> <p><b>(f)</b> The governing board of a school district shall not require any pupil enrolled in the school district to attend a charter school.</p> <p><b>(g)</b> 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</p>	<p><b>Section 47605</b>  <b>Petition: required elements (cont'd)</b>  Governance structure  Qualifications of employees  Health and safety procedures  Racial and ethnic balance    Admission requirements  Annual financial audits    STRS, PERS or Social Security  Attendance alternatives  Return rights of employees  Dispute resolution  Exclusive public employer    School closure procedures  Statewide standards for pupil assessment  Consultation with parents and teachers  Nonsectarian, no tuition, no discrimination    Admit all pupils  Public random drawing allowed; preferences  Efforts to accommodate growth    Notice of student expulsions    No charter school employment required  No charter school enrollment required  Information on civil liability; facilities; proposed budget</p>
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**Section 47605**

**Petition: required elements (cont'd)**

Preference to school for low achieving pupils

Notice of approval to County and State

District's denial of petition; submission to county board of education, State Board of Education

State Board is chartering agency

Funding if county, state sponsored

Judicial review if no action

State Board's designation of oversight agency

Renewal following grant on appeal

Certification of charter school teachers; noncore courses

Annual financial audit distribution

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 department under Section 54032, as it read prior to July, 2006.

**(i)** Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the State Board 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, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

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

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

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

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

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

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

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

**(3)** A charter school that has been granted its charter through an appeal to the state board 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 for renewal of its charter.

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

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

**Section 47605.1  
Geographical limits on charters granted after July 1, 2002**

**(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.

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

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

**Section 47605.1  
Geographical limits on  
charters granted after  
July 1, 2002 (cont'd)**

Resource Centers

One site outside district

Limits for county-authorized  
charters

Exempt charters

**Section 47605.2  
Delta Charter High School**

**Section 47605.3  
Admissions preference for  
certain elementary schools**

**Section 47605.3**  
**Admissions preference for**  
**certain elementary schools**  
**(cont'd)**

**Section 47605.5**  
**County Charters**

**Section 47605.6**  
**County Board-approved**  
**petitions**

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.

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.

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

**(A)** The petition has been signed by a number of parents or guardians of pupils residing within the county that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 *days'* notice of the petitioner's intent to operate a school pursuant to this section.

**(B)** The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 *days'* notice of the petitioner's intent to operate a school pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

**(B)** The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and *aptitudes* specified as goals in the school's educational program.

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

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

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

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

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

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

**(I)** The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the State Board of Education, and the manner in which audit exceptions and deficiencies shall be resolved.

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

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

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

**(M)** A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

**(N)** Admission requirements of the charter school, if applicable.

**(O)** The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.

**(P)** A description of the rights of an employee of the county office of education, upon leaving the employment of the county office of education, to be employed by the charter school, and a description of any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.

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

**(6)** Any other basis that the board finds justifies the denial of the petition.

May deny on any basis  
May charge for oversight

**(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, *gender identity*, *gender expression*, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state.

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

**Section 47605.6  
County Board-approved  
petitions (cont'd)**

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 cashflow and financial projections for the first three years of operation.

**(i)** In reviewing petitions for the establishment of charter schools within the county, the county board of education shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low-achieving pursuant to the standards established by the 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 (l) 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.

No appeal to State Board

**Section 47605.7  
No denial of petition for  
special education costs**

**(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.

**Section 47605.8  
State-approved petition**

**(a)** A petition for the operation of a state charter school may be submitted directly to the State Board, and the State Board shall have the authority to approve a charter for the operation of a state charter school that may operate at multiple sites throughout the state. The State Board of Education shall adopt regulations, pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) for the implementation of this section. Regulations adopted pursuant to this section shall ensure that a charter school approved pursuant to this section meets all requirements otherwise imposed on charter schools pursuant to this part, except that a State charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools. The petitioner shall submit a copy of the petition, for notification purposes, to the county superintendent of schools of each county in which the petitioner proposes to operate the state charter school. The petitioner also shall ensure that the governing board of each school district in which a site is proposed to be located is notified no later than 120 days prior to the commencement of instruction at each site, as applicable.

Statewide benefit

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

Oversight agreement

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



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

**Section 47605.8**  
**State-approved petition**  
**(cont'd)**  
 Approval discretionary  
**Section 47606**  
**Charter Districts**

**(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.
- (1)** Fifty percent of the teachers within the school district sign the charter petition.
- (2)** The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who choose not to attend charter schools.
- (b)** Notwithstanding subdivision (b) of Section 47605, the districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education.

**Section 47607**  
**Charter term; renewal**

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

Material revisions

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

(AB 1137) Renewal minimum standards

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

- (1)** Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
- (2)** Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.
- (3)** Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.
- (4) (A)** The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.
- (B)** The determination made pursuant to this paragraph shall be based upon all of the following:
  - (i)** Documented and clear and convincing data.
  - (ii)** Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.
  - (iii)** Information submitted by the charter school.

**(C)** A chartering authority shall submit to the Superintendent copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent shall review the materials and make recommendations to the chartering authority based on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

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

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

Revocation

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

Material violations

- (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.

Failure to meet GAAP  
 Violation of law

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

Notice; opportunity to cure

**(e)** Prior to revoking a charter for failure to remedy a violation pursuant to subdivision (d), and after expiration of the school's reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke and notice of facts in support of revocation to the charter school. No later than 30 days after providing the notice of intent to revoke a

Due process in revocations

**Section 47607**  
**Charter term; renewal**  
**(cont'd)**

Appeal of revocations

charter, the chartering authority shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, the chartering authority shall issue a final decision to revoke or decline to revoke the charter, unless the chartering authority and the charter school agree to extend the issuance of the decision by an additional 30 days. The chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings.

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

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

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

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

Revocation by county

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

**(2)** The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence.

**(h)** If the revocation decision of the chartering authority is reversed on appeal, the agency that granted the charter shall continue to be regarded as the chartering authority.

Funding during appeal

**(i)** During the pendency of an appeal filed under this section, a charter school, whose revocation proceedings are based on paragraph (1) or (2) of subdivision (c), shall continue to qualify as a charter school for funding and for all other purposes of this part, and may continue to hold all existing grants, resources, and facilities, in order to ensure that the education of pupils enrolled in the school is not disrupted.

**(j)** Immediately following the decision of a county board to reverse a decision of a school district to revoke a charter, the following shall apply:

**(1)** The charter school shall qualify as a charter school for funding and for all other purposes of this part.

**(2)** The charter school may continue to hold all existing grants, resources, and facilities.

**(3)** Any funding, grants, resources, and facilities that had been withheld from the charter school, or that the charter school had otherwise been deprived of use, as a result of the revocation of the charter shall be immediately reinstated or returned.

**(k)** A final decision of a revocation or appeal of a revocation pursuant to subdivision (c) shall be reported to the chartering authority, the county board, and the department.

**Section 47607.5**  
**Nonrenewal appeals**

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.

**Section 47608**  
**Compliance with Brown Act**

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

**Section 47610**  
**Megawaiver; exceptions**  
 Exemption from school district laws

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

**(a)** As specified in Section 47611.

**(b)** As specified in Section 41365.

**(c)** All laws establishing minimum age for public school attendance.

**(d)** The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.

**(e)** Charter school facilities shall comply with subdivision (d) by January 1, 2007.

Must comply with building codes

**Section 47610.5**  
**Building code exemptions**  
 Field Act

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

**(a)** The charter school facility complies with Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.

**(b)** The charter school facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

Federal facilities

**(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.

**Section 47611  
STRS available**

**(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.

PERS available

**(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.

**(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.

**Section 47611.3  
STRS and PERS reports**

**(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.

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

**Section 47611.5  
Exclusive public employer**

**(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.

Declaration of public school employer

**(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.

Tenure or civil service school employer

**(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.

PERB

**(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.

Approval of petition not controlled by collective bargaining agreements or PERB

**(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.

**(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.

**Section 47612  
Charter school under control of public school officers**

**(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."

No ADA for non-California resident, pupils over 19

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

Charter school deemed district for funding purposes

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:

**Section 47612.1  
Exemption from satisfactory progress requirement**

**(a)** The federal Workforce Investment Act of 1998 (Pub. L. No. 105-220; 29 U.S.C. Sec. 2801, et seq.).

**Section 47612.1  
Exemption from  
satisfactory progress  
requirement (cont'd)**

- (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.

**Section 47612.5  
Apportionment conditions**  
Instructional minutes

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

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

- (A) To pupils in kindergarten, 36,000 minutes.
- (B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.
- (C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.
- (D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.

Pupil attendance records

(2) Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.

Certification of testing programs

(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.

Independent study

(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.

Independent study reduction (SB 740)

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

Funding determination

(d) (1) Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e).

Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

Revisions of funding determination

(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.

Nonclassroom instruction

(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.

Classroom-based instruction

(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

**Section 47612.5  
Apportionment conditions  
(cont'd)**

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

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

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

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

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

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

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

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

**(a)** Notwithstanding Section 47612.5 or any other law, the Center for Advanced Research and Technology, operating pursuant to a joint powers agreement between the Clovis Unified School District and the Fresno Unified School District, is eligible to receive general-purpose funding, as calculated pursuant to Section 47633, for the 2005-06 and 2006-07 fiscal years for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2005-06 and 2006-07 fiscal years, respectively, and for the 2007-08 fiscal year for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2006-07 fiscal year.

**(b)** Commencing with the 2008-09 fiscal year, the Center for Advanced Research and Technology, as described in subdivision (a), is not eligible to receive funding pursuant to Chapter 6 (commencing with Section 47630).

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

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

**(b)** A chartering authority may charge for the actual costs of supervisory oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering authority.

**(c)** A local agency that is given the responsibility for supervisory oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the actual costs of supervisory oversight, and administrative costs necessary to secure charter school funding. A charter school that is charged for costs under this subdivision may not be charged pursuant to subdivision (a) or (b).

**(d)** This section does not prevent the charter school from separately purchasing administrative or other services from the chartering authority or any other source.

**(e)** For purposes of this section, a chartering authority means a school district, county board of education, or the State Board, that granted the charter to the charter school.

**(f)** For purposes of this section, "revenue of the charter school" means the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of Section 47632.

**Section 47612.6  
State Board instructional  
minutes waiver**
**Section 47612.7  
Special funding for joint  
powers agreement**
**Section 47613  
Supervisory oversight fees  
1% or 3% fee**

"Revenue of charter school"  
defined

**Section 47613  
Supervisory oversight fees  
(cont'd)**

**(g) (1)** The California Research Bureau of the California State Library shall prepare and submit to the Legislature on or before January 8, 2009, a report on the key elements and actual costs of charter school oversight. For purposes of the report, the bureau shall define fiscal and academic oversight and shall include any financial relationship between a charter school and its chartering authority that has the effect of furthering the operations of the charter school and that may provide opportunities to oversee the charter school. The report, at a minimum, shall address all of the following issues:

**(A)** The range of annual activities that entities providing supervisory oversight of charter schools are expected to perform.

**(B)** Staff time spent on reviewing charter petitions measured by the size of school districts and the number of charter petitions reviewed.

**(C)** Staff time spent on oversight responsibilities measured by the size of school districts and the number of charter schools.

**(D)** Best practices for charter school oversight measured by efficiency and effectiveness. A cost analysis of those best practices after being measured by efficiency and effectiveness.

**(E)** Comparison of school district costs and revenues attributable to charter school oversight.

**(F)** Administrative services provided to a charter school by a chartering authority, such as human resources, that may be useful in the oversight of the charter school and chartering authority revenues attributable to those services.

**(G)** Length of time required to review a single charter petition.

**(H)** Recommendations for structuring charter school oversight and accountability in California, including an assessment of whether or not the associated costs specified in subdivisions (a) and (b) and subparagraph (F) are adequate to support appropriate supervisory oversight.

**(2)** In preparing its report, the California Research Bureau shall consult with an advisory panel to ensure technical accuracy.

**Section 47613.1  
Apportionments for  
converted districts**

ADA equal to base revenue  
limit

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.

**Section 47614  
Prop 39: Public school  
facilities**

Basic obligations of district

**(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.

Charge for facilities

**(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.

Annual ADA projection

**(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.

Schools operating in district

**(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.

**(a)** The Charter School Facility Grant Program is hereby established and shall be administered by the department. The 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 not more than, seven hundred fifty dollars (\$750) per unit of average daily attendance, as certified at the second principal apportionment, to provide an amount of up to, but not 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 shall apportion the available funds on a pro rata basis.

**(c)** For purposes of this section, the department shall do all of the following:

**(1)** Inform charter schools of the grant program.

**(2)** Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced price meals, and a preference in admissions, as appropriate. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. 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)** Allocate funding to 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 the grant program pursuant to the expanded eligibility prescribed in paragraph (2). In addition, the report shall provide recommendations and suggestions on improving the grant program.

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

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

**(2)** Charter schools occupying existing school district or county office of education facilities.

**(3)** Charter schools receiving reasonably equivalent facilities from their chartering authority pursuant to Section 47614.

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

**(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)** The Superintendent annually shall report to the state board regarding the use of funds that have been made available during the fiscal year to each charter school pursuant to the grant program.

**(h)** It is the intent of the Legislature that not less than eighteen million dollars (\$18,000,000) annually be appropriated for purposes of the grant program on the same basis as other elementary and secondary education categorical programs.

**(i)** The Superintendent shall annually allocate the facilities grants to eligible charter schools no later than October 1 of each fiscal year or 90 days after enactment of the annual Budget Act, whichever is later, for the current school year rent and lease costs. However, the department shall first use the funding appropriated for this program to reimburse charter schools for unreimbursed rent or lease costs for the prior school year.

**(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.

**Section 47614  
Prop 39: Public school  
facilities (cont'd)**

**Section 47614.5  
Charter School Facility  
Grant Program**

**Section 47615  
Legislative findings  
Public school systems**

**Section 47615  
Legislative Findings  
(cont'd)**

Exclusive control

(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.

**Section 47620  
Elementary school at UCLA**

An elementary school that has been operated by the University of California at the Los Angeles campus prior to January 1, 1994, may apply to become a charter school under this chapter. The school may apply under either Section 47621 or Section 47622. If a charter is granted under this chapter, the resulting charter school shall be part of the public school system.

**Section 47621  
School district may charter**

An elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the governing board of the local school district and otherwise following the procedures and requirements contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610).

**Section 47622  
State board may charter**

As an alternative to Section 47621, an elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the State Board of Education. Under this section, the petition shall be signed by not less than 50 percent of the school's currently employed teachers. All other procedures and requirements, other than those prescribed in subdivision (a) of Section 47605, that are contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610) are applicable to a petition filed pursuant to this section except that references to "governing board" shall mean the State Board of Education.

**Section 47624  
UC liability**

If a charter is granted under this chapter, the University of California shall continue to own and be liable for the resulting charter school to the same extent as before the granting of the charter.

**Section 47625  
UCLA charter operative**

A charter granted pursuant to Section 47620 shall not become operative before July 1, 1995.

**Section 47626  
UC as public employer**

(a) Notwithstanding Section 47611.5, a charter school operated by the University of California in facilities owned by the Regents of the University of California shall declare in its charter that it is the employer of the employees at the charter school for the purposes of Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code. The provisions of Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code shall apply to the charter school. A charter school operated by the University of California in facilities owned by the Regents of the University of California may not be deemed a public school employer for the purposes of this chapter.

(b) By March 31, 2000, an existing charter school operated by the University of California shall amend its charter to comply with this section.

**FUNDING MODEL  
EDUCATION CODE SECTIONS 47630-47638**

**Section 47630  
Operational funding equal to similar district**

Simple and direct allocation of funds

(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.

**Section 47630.5  
Operational funding**

No additional responsibility on county superintendent

(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.

**Section 47631  
County-sponsored charter schools**

(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.



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

- (a)** "General-purpose entitlement" means an amount computed by the formula set forth in Section 47633 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of general-purpose funding from those state and local sources identified in Section 47633 received by school districts of similar type and serving similar pupil populations.
- (b)** "Categorical block grant" means an amount computed by the formula set forth in Section 47634 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of categorical aid from those sources identified in Section 47634 received by school districts of similar type and serving similar pupil populations.
- (c)** "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's revenue limit, pursuant to Section 42238.
- (d)** "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.
- (e)** "Economic impact aid-eligible pupils" means those pupils that are included in the economic impact aid-eligible pupil count pursuant to Section 54023. For purposes of applying Section 54023 to charter schools, "economically disadvantaged pupils" means the pupils described in paragraph (2) of subdivision (a) of Section 54026.
- (f)** "Educationally disadvantaged pupils" means those pupils who are eligible for subsidized meals pursuant to Section 49552 or are identified as English learners pursuant to subdivision (a) of Section 306, or both.
- (g)** "Operational funding" means all funding except funding for capital outlay.
- (h)** "School district of a similar type" means a school district that is serving similar grade levels.
- (i)** "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.
- (j)** "Sponsoring local educational agency" means the following:
  - (1)** If a charter school is granted by a school district, the sponsoring local educational agency is the school district.
  - (2)** If a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.
  - (3)** If a charter is granted by the state board after having been previously denied by a local educational agency, the sponsoring local educational agency means the local educational agency designated by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.
  - (4)** For pupils attending county-sponsored charter schools who are eligible to attend those schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local educational agency means the pupils' school district of residence.
  - (5)** For pupils attending countywide charter schools pursuant to Section 47605.6 who reside in a basic aid school district, the sponsoring local educational agency means the school district of residence of the pupil. For purposes of this paragraph, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238.

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.

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 47632**  
**Funding model definitions**  
 General purpose entitlement

- Categorical block grant
- General purpose finding
- Categorical aid
- Economic impact aid
- Educationally disadvantaged
- Operational funding
- School district of a similar type
- Sponsoring local education

**Section 47632.5**  
**Cap on funding for conversion charter schools**

**Section 47633**  
**General purpose entitlement**  
 Statewide average amount

Multiply by charter school's ADA

**Section 47633**

**General purpose entitlement (cont'd)**

Use for a public school purpose

**Section 47634.1**

**Revised block grants for 2005-2008**

EIA funding

Minimum increase for FY 2006-2007

Intent to fully fund charters

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.

**(a)** Notwithstanding subdivision (a) of Section 47634, a categorical block grant for charter schools for the 2005-06 fiscal year shall be calculated as follows:

**(1)** The Superintendent shall divide the total amount of funding appropriated for the purpose of this block grant in the annual Budget Act or another statute, less the total amount calculated in paragraph (2), by the statewide total of charter school average daily attendance, as determined at the second principal apportionment for the 2005-06 fiscal year.

**(2)** The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current fiscal year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

**(3)** For each charter school, the Superintendent shall multiply the amount calculated in paragraph (1) by the school's average daily attendance as determined at the second principal apportionment for the 2005-06 fiscal year.

**(4)** The Superintendent shall add the amounts computed in paragraphs (2) and (3). The resulting amount shall be the charter school categorical block grant that the Superintendent shall apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute. The Superintendent shall allocate an advance payment of this grant as early as possible, but no later than October 31, 2005, based on prior year average daily attendance as determined at the second principal apportionment or, for a charter school in its first year of operation that commences instruction on or before September 30, 2005, on estimates of average daily attendance for the current fiscal year determined pursuant to Section 47652.

**(b) (1)** For the 2006-07 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be four hundred dollars (\$400) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2006-07 fiscal year. This amount shall be supplemented by the amount calculated in paragraph (2).

**(2)** The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current fiscal year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022.

**(c) (1)** For the 2007-08 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be five hundred dollars (\$500) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2007-08 fiscal year. For each fiscal year thereafter, this per unit amount shall be adjusted for the cost-of-living adjustment, as determined pursuant to Section 42238.1, for that fiscal year. This amount shall be supplemented in the 2007-08 fiscal year and each fiscal year thereafter by the amount calculated in paragraph (2).

**(2)** The statewide average amount, as computed by the Superintendent, of funding per economic impact aid-eligible pupil count received by school districts in the current year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of economic impact aid-eligible pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54022.

**(d)** It is the intent of the Legislature to fully fund the categorical block grant for charter schools as specified in this section and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance and counts of economic impact aid-eligible pupils, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, in charter schools. In any fiscal year in which the department identifies a deficiency in the categorical block grant, the department shall identify the available balance for programs that count towards meeting the requirements of Section 8 of Article XVI of the California Constitution and have unobligated funds for the year. On or before July 1, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency, if any, in the categorical block grant. Within 45 days of the receipt of a notification of deficiency, the Director of Finance shall verify the amount of the deficiency in the categorical block grant and direct the Controller to transfer an amount, equal to the lesser of the amount available or the amount needed to fully fund the categorical block grant, from those programs to the categorical block grant. The Department of Finance shall notify the Joint Legislative Budget Committee within 30 days of any transfer made pursuant to this section.

**(e)** For the purposes of this section, a funding deficiency shall be strictly limited to unanticipated increases in average daily attendance and counts of economic impact aid-eligible pupils. In no event

shall additional funding be provided to restore reductions made to categorical programs pursuant to Control Section 12.42 of an annual Budget Act.

**(f)** On or before July 1, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency, if any, in the categorical block grant. Within 45 days of the receipt of a notification of deficiency, the Director of Finance shall verify the amount of the deficiency in the categorical block grant and direct the Controller to transfer an amount, equal to the lesser of the amount available or the amount needed to fully fund the categorical block grant, from those programs to the categorical block grant. The Department of Finance shall notify the Joint Legislative Budget Committee within 30 days of any transfer made pursuant to this section.

**(g)** Commencing October 1, 2007, the Legislative Analyst's Office shall triennially convene a work group to review, commencing with appropriations proposed for the 2008-09 fiscal year, the appropriateness of the funding level provided by the categorical block grant established in this section.

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

**(i)** This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

**(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.

**Section 47634.1**  
**Revised block grants for**  
**2005-2008 (cont'd)**

Block grants may be used for any purpose

**Section 47634.2**  
**SB740: Funding for non-**  
**classroom-based**  
**instruction**

Charter Schools Advisory Committee

**Section 47634.3**  
**Statewide average ADA**

For purposes of Section 47633, the Superintendent shall compute average daily attendance in each of grades 1 through 12, respectively, as follows:

- (a) Distribute statewide total ungraded enrollment and average daily attendance among kindergarten and each of grades 1 through 12, inclusive, in proportion to the amounts of graded enrollment and average daily attendance, respectively, in each of these grades.
- (b) Multiply enrollment in each of grades 1 through 12, respectively, by the ratio of average daily attendance to enrollment in the applicable grade range: 1 through 3, inclusive, 4 through 6, inclusive; 7 and 8; and 9 through 12, inclusive.

**Section 47634.4**  
**Right to apply for program funding outside block grant**

(a) A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply individually for federal and state categorical programs, not excluded in this section, but only to the extent it is eligible for funding and meets the provisions of the program. For purposes of determining eligibility for, and allocation of, state or federal categorical aid, a charter school that applies individually shall be deemed to be a school district, except as otherwise provided in this chapter.

(b) A charter school that does not elect to receive its funding directly, pursuant to Section 47651, may, in cooperation with its chartering authority, apply for federal and state categorical programs not specified in this section, but only to the extent it is eligible for funding and meets the provisions of the program.

(c) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, a charter school may not apply directly for categorical programs for which services are exclusively or almost exclusively provided by a county office of education.

(d) Consistent with subdivision (c), a charter school may not receive direct funding for any of the following county-administered categorical programs:

- (1) American Indian Education Centers.
- (2) The California Association of Student Councils.
- (3) California Technology Assistance Project established pursuant to Article 15 (commencing with Section 51870) of Chapter 5 of Part 28.
- (4) The Center for Civic Education.
- (5) County Office Fiscal Crisis and Management Assistance Team.
- (6) The K-12 High Speed Network.

(e) A charter school may apply separately for district-level or school-level grants associated with any of the categorical programs specified in subdivision (d).

(f) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, in addition to the programs listed in subdivision (d), a charter school may not apply for any of the following categorical programs:

- (6) The K-12 High Speed Network.
- (e) A charter school may apply separately for district-level or school-level grants associated with any of the categorical programs specified in subdivision (d).

(f) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, in addition to the programs listed in subdivision (d), a charter school may not apply for any of the following categorical programs:

- (1) Agricultural Career Technical Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.
- (2) Bilingual Teacher Training Assistance Program, as set forth in Article 4 (commencing with Section 52180) of Chapter 7 of Part 28.
- (3) California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.
- (4) College preparation programs, as set forth in Chapter 12 (commencing with Section 11020) of Part 7, Chapter 8.3 (commencing with Section 52240) of Part 28, and Chapter 8 (commencing with Section 60830) of Part 33.
- (5) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.
- (6) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.
- (7) Home-to-school transportation programs, as set forth in Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 and Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.
- (8) International Baccalaureate Diploma Program, as set forth in Chapter 12.5 (commencing with Section 52920) of Part 28.
- (9) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.
- (10) Principal Training Program, as set forth in Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.
- (11) Professional Development Block Grant, as set forth in Article 5 (commencing with Section 41530) of Chapter 3.2 of Part 24.
- (12) Program to Reduce Class Size in Two Courses in Grade 9 (formerly The Morgan-Hart Class Size Reduction Act of 1989), as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.
- (13) Pupil Retention Block Grant, as set forth in Article 2 (commencing with Section 41505) of Chapter 3.2 of Part 24.

Programs counted towards block grant

- (14)** Reader services for blind teachers, as set forth in Article 8.5 (commencing with Section 45370) of Chapter 5 of Part 25.
- (15)** School and Library Improvement Block Grant, as set forth in Article 7 (commencing with Section 41570) of Chapter 3.2 of Part 24.
- (16)** School Safety Consolidated Competitive Grant, as set forth in Article 3 (commencing with Section 41510) of Chapter 3.2 of Part 24.
- (17)** School safety programs, as set forth in Article 3.6 (commencing with Section 32228) and Article 3.8 (commencing with Section 32239.5) of Chapter 2 of Part 19.
- (18)** Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.
- (19)** State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
- (20)** Targeted Instructional Improvement Block Grant, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2 of Part 24.
- (21)** Teacher dismissal apportionment, as set forth in Section 44944.
- (22)** The deferred maintenance program, as set forth in Article 1 (commencing with Section 17565) of Chapter 5 of Part 10.5.
- (23)** The General Fund contribution to the State Instructional Materials Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
- (24)** Year-Round School Grant Program, as set forth in Article 3 (commencing with Section 42260) of Chapter 7 of Part 24.

**Section 47634.4**  
**Right to apply for program**  
**funding outside block grant**  
**(cont'd)**

**(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:

**Section 47635**  
**Amounts in lieu of property**  
**taxes**

**(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.

Transfer by 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:

Transfer based on preceding fiscal year (August-February)

**(A)** Six percent in August.

**(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.

Transfer based on estimates (March-June)

**(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).

Transfer of differences (July)

**(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.

Final adjustment (February)

**(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

**Section 47635**  
**Amounts in lieu of property taxes (cont'd)**

may not apportion any funds for the attendance of pupils described in this subdivision unless the amount transferred by the basic aid district is less than the revenue limit earned by the charter school, in which event the Superintendent of Public Instruction shall apportion the difference to the charter school from state funds.

**Section 47636**  
**Application for funding sources not in block grant or apportionments**

(a) This chapter does not prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

- (1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.
  - (2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.
  - (3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.
  - (4) Ad valorem property taxes received by a school district which exceed its revenue limit entitlement.
  - (5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution.
- (b) This section shall become operative July 1, 2006.

**Section 47638**  
**Charter school is a school district for lottery funds**

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.

**SPECIAL EDUCATION**  
**Education Code Sections 47640-47647**

**Section 47640**  
**"LEA" for special education purposes**

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.

**Section 47641**  
**Charter school deemed a local educational agency**

(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.

Charter school deemed a public school of sponsoring agency

(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.

Charter a public school of State Board designee

(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).

**Section 47642**  
**Charter student funding included in allocation plans**

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.

**Section 47643**  
**Change in SELPA allocation plan for charter school**

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.

**Section 47644**  
**Apportionment for special education**

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.

**Section 47644**  
**Apportionment for special education (cont'd)**

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:

**Section 47645**  
**Request to participate in SELPA**

- (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.

**Section 47646**  
**Funding and services at charter school**

(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 federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations, including Section 300.209 of Title 34 of the Code of Federal Regulations.

LEA to ensure equitable funding and services

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education program.

(2) Any necessary special education services, including administrative and support services and itinerant services, that are provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

LEA to ensure equitable contribution by charter school

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

A local educational agency reviewing a petition for the establishment or renewal of a charter school may not refuse to grant the petition solely because the charter might enroll pupils with disabilities who reside in a special education local plan area other than the special education local plan area that includes the local educational agency reviewing the petition.

**Section 47647**  
**No denials solely because school may enroll from other SELPA**

**APPORTIONMENT OF FUNDS**  
**Education Code Sections 47650-47652**

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.

**Section 47650**  
**Charter school deemed a school district**

(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.

**Section 47651**  
**Receipt of state aid**

(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

Direct funded

**Section 47651**  
**Receipt of state aid (cont'd)**

Non-direct funded

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.

**Section 47652**  
**Advance apportionment for first year of operation**

Apportionment for new grade levels

First year of operations must start by September 30

**(a)** Notwithstanding Section 41330, a charter school in its first year of operation shall be eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located. For charter schools approved by the State Board, estimated average daily attendance shall be submitted directly to, and approved by, the Department. Not later than five business days following the end of the first 20 schooldays, a charter school receiving funding pursuant to this section shall report to the Department its actual average daily attendance for that first month, and the Superintendent shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

**(b)** In addition to funding received pursuant to Section 41330, a charter school in its second or later year of operation also shall be eligible to receive an advance apportionment pursuant to the process and conditions described in subdivision (a) in any year in which the charter school is adding at least one grade level. The average daily attendance funded for a new grade level shall not exceed the portion of the certified average daily attendance at the second principal apportionment for the prior year that was attributable to pupils in the highest grade served by the charter school.

**(c)** A charter school in its first year of operation may only commence instruction within the first three months of the fiscal year beginning July 1 of that year. A charter school shall not be eligible for an apportionment pursuant to subdivision (a), or any other apportionment for a fiscal year in which instruction commenced after September 30 of that fiscal year.

**COMPUTATIONS AFFECTING SPONSORING LOCAL EDUCATIONAL AGENCIES**

**Section 47660**  
**Enrollment and average daily attendance; general-purpose entitlement determination**

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

**(b) (1)** Notwithstanding subdivision (a), and commencing with the 2005-06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, or if the pupils reside in the unified school district and attended a charter school of that school district that converted to charter status on or after July 1, 2005. Only the attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

**(2)** Notwithstanding subdivision (a), for the 2005-06 fiscal year only, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606 and its operating them as charter schools, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the unified school district if the pupils attended a charter school operating in the unified school district prior to July 1, 2005. Only the attendance of pupils described by this paragraph (7) of subdivision (h) of Section 42238.



**(c) (1)** For the attendance of pupils specified in subdivision (b), the general-purpose entitlement for a charter school that is established through the conversion of an existing public school within a unified school district on or after July 1, 2005, but before January 1, 2010, shall be determined using the following amount of general-purpose funding per unit of average daily attendance, in lieu of the amount calculated pursuant to subdivision (a) of Section 47633:

**(A)** The amount of the actual unrestricted revenues expended per unit of average daily attendance for that school in the year prior to its conversion to, and operation as, a charter school, adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in the year of conversion to, and operation as a charter school.

**(B)** For a subsequent fiscal year, the general-purpose entitlement shall be determined based on the amount per unit of average daily attendance allocated in the prior fiscal year adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if the adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for the unified school district in that fiscal year.

**(2)** This subdivision shall not apply to a charter school that is established through the conversion of an existing public school within a unified school district on or after January 1, 2010, which instead shall receive general-purpose funding pursuant to Section 47633. This paragraph does not preclude a charter school or unified school district from agreeing to an alternative funding formula.

**(d)** Commencing with the 2005-06 fiscal year, the general-purpose funding per unit of average daily attendance specified for a unified school district for purposes of paragraph (7) of subdivision (h) of Section 42238 for a school within the unified school district that converted to charter status on or after July 1, 2005, shall be deemed to be the amount computed pursuant to subdivision (c).

**(e)** A unified school district that is the sponsoring local educational agency as defined in subdivision (j) of Section 47632 of a charter school that is subject to paragraphs (1) and (2) of subdivision (c) shall certify to the Superintendent the amount specified in paragraph (1) of subdivision (c) prior to the approval of the charter petition by the governing board of the school district. This amount may be based on estimates of the unrestricted revenues expended in the fiscal year prior to the school's conversion to charter status and the school's operation as a charter school, provided that the amount is recertified when the actual data becomes available.

**(f)** For the purposes of this section, "basic aid school district" means a school district that does not receive from the state an apportionment of state funds pursuant to subdivision (h) of Section 42238.

**(g)** A school district may use the existing Standardized Account Code Structure and cost allocation methods, if appropriate, for an accounting of the actual unrestricted revenues expended in support of a school pursuant to subdivision (c).

**(h)** For purposes of this section and Section 42241.3, "operating" means that pupils are attending and receiving instruction at the charter school.

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.

**(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.

**(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

**Section 47660**  
**Enrollment and average**  
**daily attendance; general-**  
**purpose entitlement**  
**determination (cont'd)**

**Section 47662**  
**Property tax revenues;**  
**reduction**

**Section 47663**  
**Pupil eligible to attend**  
**school district other than**  
**basic aid school district**

**Section 47664**  
**Election to use funding**  
**method provided for by this**  
**chapter**

**Section 47664  
Election to use funding  
method provided for by this  
chapter (cont'd)**

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 increases 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 based 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 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 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.

**REVOLVING LOAN FUND  
Education Code Sections 41365-41367**

**Section 41365  
Creation**

**(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.

Loans not to exceed \$250,000

**(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.

Repayment up to five years

**(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.

**(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.

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.

**(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.

**SCHOOL DISTRICT FUNDS—EXPENDITURES AND APPROPRIATIONS**

**(a)(1)** Unless otherwise prohibited under federal law or otherwise specified in subdivision (e), for the 2008-09 fiscal year to the 2012-13 fiscal year, inclusive, recipients of funds from the items listed in paragraph (2) may use funding received, pursuant to subdivision (b), from any of these items listed in paragraph (2) that are contained in an *Section 2.00 of the annual Budget Act*, for any educational purpose:

**(2)** Items 6110-104-0001, 6110-105-0001, 6110-108-001, 6110-122-0001, 6110-123-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section 2.00.

**(b)(1)** For the 2009-10 fiscal year to the 2012-13 fiscal year, inclusive, the Superintendent or other administering state agency, as appropriate, shall apportion from the amounts provided in the annual Budget Act of the items enumerated in paragraph (2) of subdivision (a), an amount to recipients based on the same relative proportion that the school district may not redirect charter school funds recipient received in the 2008-09 fiscal year for the programs funded through the items enumerated in paragraph (2) of subdivision (a).

**(2)** This section and Section 42 of Chapter 12 of the 2009-10 Third Extraordinary Session do not authorize a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 to redirect this funding for another purpose unless otherwise authorized in law or pursuant to an agreement between a charter school and its chartering authority. Notwithstanding paragraph (1), for the 2008-09 fiscal year to the 2012-13 fiscal year, inclusive, a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 shall continue to distribute the funds to those charter schools based on the relative proportion that the school district distributed in the 2007-08 fiscal year, and shall adjust those amounts to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a). For a charter school that began operation in the 2008-09 fiscal year, if a school district shall continue to distribute the funds to that charter school pursuant to Section 47634.1 and 47651, the school district shall continue to distribute the funds to that charter school based on the relative proportion that the school district distributed in the 2008-09 fiscal year and shall adjust the amount of those funds to reflect change in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for items enumerated in paragraph (2) of subdivision (a).

**(3)** Notwithstanding paragraph (1), for the 2008-09 fiscal year to the 2012-13 fiscal year, inclusive, the Superintendent shall apportion from the amounts appropriated by Item 6110-211-0001 of Section 2.00 of the annual Budget Act, an amount to a charter school in accordance with the per-pupil methodology prescribed in subdivision (c) of Section 47634.1.

**(4)** Notwithstanding paragraph (1), for the 2008-09 fiscal year to the 2012-13 fiscal year, inclusive, the Superintendent shall apportion from the amounts provided in the annual Budget Act, an amount to a school district, charter school, and county office of education based on the same relative proportion that the local educational agency received in 2007-08 fiscal year for the programs funded through the following items contained in the annual Budget Act: 6110-104-0001, 6110-105-0001, 6110-156-0001,

**Section 41365 Creation (cont'd)**

**Section 41366.5 Interest rate and payments**

**Section 41366.7 Adjustment of interest rate**

**Section 41367 Security fund**

**Section 42605 Funds provided in annual Budget Act; use for any educational purpose; charter schools; requirements**

Per-pupil methodology

**Section 42605  
Funds provided in annual  
Budget Act; use for any  
educational purpose;  
charter schools;  
requirements (cont'd)**

6110-190-0001, Schedule (3) of 6110-193-0001, 6110-198-0001, 6110-232-0001, and Schedule (2) of 6110-240-0001.

**(5)** For purposes of paragraph (4) of this subdivision, if a direct-funded charter school began operation in the 2008-09 fiscal year, the amount that the charter school was entitled to receive from the items enumerated in paragraph (4) for the 2008-09 fiscal year as certified by the Superintendent in March 2009, is deemed to have been received in the 2007-08 fiscal year.

**(c)(1)** This section does not obligate the state to refund or repay reductions made pursuant to this section. A decision by a school district to reduce funding pursuant to this section for a state-mandated local program shall constitute a waiver of the subvention of funds that the school district is otherwise entitled to pursuant to Section 6 of Article XIII B of the California Constitution on the amount so reduced.

**(2)(A)** As a condition of receipt of funds, the governing board of the school district or board of the county office of education, as appropriate, at a regularly scheduled open public hearing shall take testimony from the public, discuss, approve or disapprove the proposed use of funding, and make explicit for each of the budget items in paragraph (2) of subdivision (a) the purposes for which the funds will be used.

**(B)** *The regularly scheduled open public hearing held pursuant to subparagraph (A) shall be held prior to and independent of a meeting where the governing board of the school district or governing board of the county office of education adopts a budget. If the governing board intends to close a program funded by the items listed in paragraph (2) of subdivision (a), the governing board shall identify, in the notice of the agenda of the public hearing or at another public hearing, the program or programs proposed to be closed.*

**(3)** Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall collect and provide this information to the Department of Finance and the appropriate policy and budget committees of the Legislature by April 15, 2010, and annually thereafter on April 15 until, and including, April 15, 2016.

**(d)** For the 2008-09 fiscal year to the 2014-15 fiscal year, inclusive, local educational agencies that use the flexibility provision of this section shall be deemed to be in compliance with the program and funding requirements contained in statutory, regulatory, and provisional language, associated with the items enumerated in subdivision (a).

**(e)** Notwithstanding subdivision (d), the following requirements shall continue to apply:

**(1)** For Items 6110-105-0001 and 6110-156-0001, the amount authorized for flexibility shall exclude the funding provided for instruction of CalWORKs-eligible students pursuant to Schedules (2) and (3) and Provisions 2 and 4.

**(2)(A)** Any instructional materials purchased by a local educational agency shall be the materials adopted by the state board for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, the materials purchased shall be aligned with state standards as defined by Section 60605, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

**(B)** For purposes of this section, "sufficiency" means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119, and that all pupils within the local educational agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3.

**(3)** For Item 6110-195-0001, the item shall exclude moneys that are required to fund awards for teachers that have previously met the requirements necessary to obtain these awards, until the award is paid in full.

**(4)** For Item 6110-266-0001, a county office of education shall conduct at least one site visit to each of the required schoolsites pursuant to Section 1240 and shall fulfill all of the duties set forth in Sections 1240 and 44258.9.

**(5)** For Item 6110-198-0001, a school district or county office of education that operates the child care component of the Cal-SAFE program shall comply with paragraphs (5) and (6) of subdivision (c) of Section 54746.

**(f)** This section does not invalidate any state law pertaining to teacher credentialing requirements or the functions that require credentials.

**Section 42606  
Supplemental categorical  
block grant for specified  
charter schools; application  
for categorical program  
funding included in annual  
Budget Act**

**(a)** *To the extent funds are provided, for the 2010-11 to the 2014-15 fiscal years, inclusive, the Superintendent shall allocate a supplemental categorical block grant to a charter school that began operation during or after the 2008-09 fiscal year. These supplemental categorical block grant funds may be used for any educational purpose. Commencing in the 2011-12 fiscal year, a locally or direct funded charter school that converted from a preexisting school between the 2008-09 and 2014-15 fiscal years, inclusive, is not eligible for funding specified in this section. A charter school that receives funding pursuant to this subdivision shall not receive additional funding for programs specified in paragraph (2) of subdivision (a) of Section 42605, with the exception of the program funded pursuant to Item 6110-211-0001 of Section 2.00 of the annual Budget Act.*

**(b)(1)** *For the 2010-11 fiscal year, the supplemental categorical block grant shall equal one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the 2010-11 second principal apportionment for charter schools commencing operations during or after the 2008-09 fiscal year. A locally funded charter school that converted from a preexisting school during or after the 2008-09 fiscal year is not eligible for funding specified in this section.*

*(2) For the 2011-12 to the 2014-15 fiscal years, inclusive, the supplemental categorical block grant shall equal one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the current year second principal apportionment for charter schools commencing operations during or after the 2008-09 fiscal year. In lieu of this supplemental grant, a school district shall provide new conversion charter schools commenced operations within the district during or after the 2008-09 fiscal year, one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the current year second principal apportionment. This paragraph does not preclude a school district and a new conversion charter school from negotiating an alternative funding rate. Absent agreement from both parties on an alternative rate, the school district shall be obligated to provide funding at the one hundred twenty-seven dollars (\$127) per average daily attendance rate.*

**Section 42606**  
**Supplemental categorical block grant for specified charter schools; application for categorical program funding included in annual Budget Act (cont'd)**

## **INDEPENDENT STUDY LAW & REGULATIONS**

### **Education Code**

**(a)** Commencing with the 1990-91 school year, the governing board of a school district or a county office of education may offer independent study to meet the educational needs of pupils in accordance with the requirements of this article. Educational opportunities offered through independent study may include, but shall not be limited to, the following:

- (1)** Special assignments extending the content of regular courses of instruction.
- (2)** Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum.
- (3)** Individualized alternative education designed to teach the knowledge and skills of the core curriculum. Independent study shall not be provided as an alternative curriculum.
- (4)** Continuing and special study during travel.

**(5)** Volunteer community service activities that support and strengthen pupil achievement.

**(b)** Not more than 10 percent of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, shall be eligible for apportionment credit for independent study pursuant to this article. A pupil who is pregnant or is a parent who is the primary caregiver for one or more of his or her children shall not be counted within the 10 percent cap.

**(c)** No individual with exceptional needs, as defined in Section 56026, may participate in independent study, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation.

**(d)** No temporarily disabled pupil may receive individual instruction pursuant to Section 48206.3 through independent study.

**(e)** No course included among the courses required for high school graduation under Section 51225.3 shall be offered exclusively through independent study.

**Section 51745**  
**Independent study authorized; curriculum; restrictions**

**(a)** The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the school district. The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county. The computation of those ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent of Public Instruction.

**(b)** Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts, and Section 2558, for county offices of education. Nothing in this section shall prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratio described in subdivision (a), except that those additional units shall not be funded pursuant to Section 42238.5 or Section 2558.

**(c)** The calculations performed for purposes of this section shall not include either of the following:

**(1)** The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.

**(2)** The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24.

**(d)** The pupil-teacher ratio described in subdivision (a) in a unified school district participating in the class size reduction program pursuant to Chapter 6.10 (commencing with Section 52120) may, at the school district's option, be calculated separately for kindergarten and grades 1 to 6, inclusive, and for grades 7 to 12, inclusive.

**(e)** The pupils-to-certificated-employee ratio described in subdivision (a) may, in a charter school, be calculated by using a fixed pupils-to-certificated-employee ratio of 25 to one, or by being a ratio of less than 25 pupils per certificated employee. All charter school pupils, regardless of age, shall be included in pupil-to-certificated-employee ratio calculations.

**Section 51745.6**  
**Ratio of independent study pupils to certificated employees responsible for independent study**

25-1 ratio

**Section 51746  
Services and resources**

It is the intent of the Legislature that school districts and county offices of education offering independent study shall provide appropriate existing services and resources to enable pupils to complete their independent study successfully and shall ensure the same access to all existing services and resources in the school in which the pupil is enrolled pursuant to Section 51748 as is available to all other pupils in the school. In addition, the services and resources may include, but need not be limited to, any of the following:

- (a) A designated learning center or study area staffed by appropriately trained personnel.
- (b) The services of qualified personnel to assess the achievement, abilities, interests, aptitudes, and needs of participating pupils to determine each of the following:
  - (1) Whether full-time independent study is the most appropriate alternative for the pupil being referred.
  - (2) If the answer to paragraph (1) is affirmative, the determination of the most appropriate individualized plan and resources to be made available to pupils enrolled in full-time independent study.

**Section 51747  
Apportionments for  
independent study require  
school policies**

A school district or county office of education shall not be eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, and has implemented those policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction, that include, but are not limited to, all of the following:

- (a) The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.
- (b) The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether he or she should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be treated as a mandatory interim pupil record. The record shall be maintained for a period of three years from the date of the evaluation and, if the pupil transfers to another California public school, the record shall be forwarded to that school.
- (c) A requirement that a current written agreement for each independent study pupil shall be maintained on file including, but not limited to, all of the following:
  - (1) The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.
  - (2) The objectives and methods of study for the pupil's work, and the methods utilized to evaluate that work.
  - (3) The specific resources, including materials and personnel, that will be made available to the pupil.
  - (4) A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of missed assignments allowed prior to an evaluation of whether or not the pupil should be allowed to continue in independent study.
  - (5) The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one semester, or one-half year for a school on a year-round calendar.
  - (6) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.
  - (7) The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.
  - (8) Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil. For purposes of this paragraph "caregiver" means a person who has met the requirements of Part 1.5 (commencing with Section 6550) of the Family Code.

Written agreements required

**Section 51747.3  
No apportionment when  
"things of value" provided**

(a) Notwithstanding any other provision of law, a local educational agency, including, but not limited to, a charter school, may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian.

(b) Notwithstanding paragraph (1) of subdivision (d) of Section 47605 or any other provision of law, community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.

(c) The Superintendent of Public Instruction shall not apportion funds for reported average daily attendance, through full-time independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204.

(d) In conformity with Provisions 25 and 28 of Section 2.00 of the Budget Act of 1992, this section is applicable to average daily attendance reported for apportionment purposes beginning July 1, 1992. The provisions of this section are not subject to waiver by the State Board of Education, by the State Superintendent of Public Instruction, or under any provision of Part 26.8 (commencing with Section 47600).

(a) The independent study by each pupil or student shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law.

(b) School districts and county offices of education may claim apportionment credit for independent study only to the extent of the time value of pupil or student work products, as personally judged in each instance by a certificated teacher.

School districts and county offices of education shall not be eligible to receive apportionment for independent study attendance by any pupil who is not otherwise identified in the written records of the district or county board by grade level, program placement, and the school in which he or she is enrolled.

The Superintendent of Public Instruction, upon the next revision of the California Basic Educational Data System, or its equivalent, following the effective date of this article, shall include all data collection elements necessary to compile an annual statewide profile of pupils participating in independent study, including data on the number and percentage of pupils pursuing their coursework through independent study who successfully complete the requirements for a high school diploma.

The Superintendent of Public Instruction shall establish rules and regulations for the purposes of implementing this article.

### **California Code of Regulations Title 5 Sections 11700-11705**

(a) "Full-time equivalent certificated employees" means any combination of full-time certificated employees and part-time certificated employee assignments that aggregate to the amount of instructional time specified in the contract of a full-time certificated classroom teacher of the district or county office of education.

(b) "General supervision" means the supervising teacher's

(1) continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil or adult education student progress for any pupil's or adult education student's independent study; and

(2) personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil's or adult education student's work products.

(c) "Independent study" means an alternative to classroom instruction consistent with the district's course of study.

(d) "Independent study is an optional educational alternative in which no public may be required to participate" means

(1) with regard to school districts or county offices of education, that

(A) they are not required to offer independent study, and

(B) school districts or county offices of education that do offer independent study are not obliged to permit a pupil or adult education student to engage in independent study if school officials given responsibility for the decision determine that independent study is not an appropriate alternative for the pupil or adult education student; and,

(2) with regard to pupils or adult education students,

(A) a pupil's or an adult education student's choice to commence, or to continue in, independent study must not be coerced, and

(B) in the case of a pupil who is referred or assigned to any school, class, or program pursuant to Education Code sections 48915 or 48917, and to the extent that independent study is not prohibited, instruction may be provided to the pupil through independent study only if the pupil has the continuing option of classroom instruction.

(e) "Method utilized to evaluate" means any specified procedure through which a certificated teacher personally assesses the extent to which achievement of the pupil or adult education student meets the objectives of an assignment.

(f) "Methods of study" means the pupil or adult education student activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement.

(g) "Missed assignment" means any specified independent study assignment that has not been turned in, or evidenced as completed, by a pupil or adult education student by the due date for the assignment.

**Section 51747.3  
No apportionment when  
"things of value" provided  
(cont'd)**

**Section 51747.5  
Coordination, evaluation  
and supervision of  
independent study;  
apportionment credit**

**Section 51748  
Written records for  
apportionments**

**Section 51749  
Statewide profile of  
independent study pupils**

**Section 51749.3  
Rules and regulations**

**Section 11700  
Definitions for  
independent study**

**Section 11700**  
**Definitions for independent study (cont'd)**

**(h)** "Regular school program" means the classroom-based instructional program or its equivalent that a pupil or adult education student would have attended had the pupil or adult education student not elected independent study.

**(i)** "Specific resources" include all resources, including materials and services, reasonably necessary to the achievement of the objectives in the written agreement, and shall not be construed to exclude resources normally available to all pupils or adult education students on the same terms as the terms on which they are normally available to all pupils or adult education students.

**(j)** "Supervising teacher" means the certificated teacher employed by the school district or county office of education and assigned, as noted in the written agreement, the responsibility for coordinating, evaluating, and providing general supervision of a pupil's or adult education student's independent study pursuant to Education Code section 51747.5(a).

**(k)** "Type of program" means statutory program category for purposes of attendance accounting.

**(l)** "Work product" means that which results from a pupil's or adult education student's efforts and actions to complete or perform the assignments given and which is subsequently evaluated by a certificated teacher.

**Section 11700.1**  
**Additional definitions for charter schools**

**(a)** "Certificated employees," in charter schools, means employees meeting the requirements of subdivision (l) of Education Code Section 47605.

**(b)** "Classroom instruction," with reference to a charter school, means classroom instruction provided either by the charter school or by another public school that the pupil is eligible to attend.

**(c)** "School district" or "district," for the purposes of this subchapter and of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code, means a school district or a charter school, unless the context clearly indicates otherwise.

**Section 11701**  
**Governing board responsibilities**

In setting policy pursuant to subdivisions (a) and (b) of Education Code section 51747, the local governing board shall consider, in a public hearing, the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils or adult education students. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their age peers as to increase, rather than decrease, the risk of their dropping out of school.

**Section 11701.5**  
**Equitable access**

Consistent with the statutory authorization to offer independent study as an alternative instructional strategy to meet the educational needs of pupils or adult education students,

**(a)** the independent study option is to be substantially equivalent in quality and in quantity to classroom instruction, thereby ensuring that a pupil or adult education student who engages in independent study on a full-time basis, or on a part-time basis in conjunction with part- or full-time classroom study, will be enabled to complete the district or county office of education adopted course of study within the customary time frame for completion of that course of study;

**(b)** pupils or adult education students who choose to engage in independent study are to have the same access to existing services and resources as the other pupils or adult education students of the school in which the independent study pupil or adult education student is enrolled; and

**(c)** pupils or adult education students who choose to engage in independent study are to have equality of rights and privileges with the pupils or adult education students of the district or county office of education who choose to continue in the regular school program.

**Section 11702**  
**Independent study agreements**

**(a)** Each signature required for an independent study agreement shall be dated. An agreement is not in effect until it is complete as to all terms, signed and dated.

**(b)** The curriculum and methods of study specified in an independent study agreement shall be consistent with the district or county office of education policies and procedures for curriculum and instruction as adopted by the governing board.

**Section 11703**  
**Records to be kept**

**(a)** Maintaining records to meet audit requirements is the responsibility of the local district or county superintendent's office. These records may be on site(s).

**(b)** Records shall include but not be limited to:

**(1)** A copy of adopted governing board policy and procedures.

**(2)** A separate listing of the pupils and adult education students, by grade level, program and school, who have engaged in independent study, identifying units of the curriculum undertaken and units of the curriculum completed by each of those pupils in kindergarten and grades 1 to 8, inclusive, and identifying course credits attempted by and awarded to each of those pupils in grades 9 to 12 inclusive and each of those students in adult education, as specified in their written agreements.

**(3)** A file of all agreements, including representative samples of each pupil's or adult education student's work products bearing signed or initialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work, or that he or she has personally reviewed the evaluations made by another certificated teacher.

**(4)** A daily or hourly attendance credit register, as appropriate to the program in which the pupils or adult education students are enrolled, separate from classroom attendance records, and maintained on a current basis as time values of pupil or adult education student work products are personally judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons.



In a charter school, for the purposes of Education Code section 51745.6, the ratio of average daily attendance for independent study pupils to full-time equivalent (FTE) certificated employees responsible for independent study shall not exceed a pupil-teacher ratio of 25:1 or the ratio of pupils to full-time equivalent certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, as reported at the second principal apportionment in the prior year, in the county or counties in which the charter school operates. Units of average daily attendance for independent study that are ineligible for apportionment as provided in subdivision (b) of Education Code section 51745.6 shall also be ineligible for funding pursuant to Chapter 6 (commencing with section 47630) of Part 26.8 of the Education Code. For purposes of this section, a "full-time certificated employee" means an employee who is required to work a minimum six-hour day and 175 days per fiscal year. Part-time positions shall generate a partial FTE on a proportional basis.

**Section 11704**  
**Charter school pupil-teacher ratio**

For the purposes of subdivision (e) of Education Code section 51745, a charter school that includes any of grades 9 to 12, inclusive, shall be deemed to be an alternative school of every high school district and unified school district within which it operates.

**Section 11705**  
**Charter school considered alternative school**

**SELECTED NONPROFIT CORPORATION LAWS**

**Corporations Code**

Except where otherwise expressly provided, "directors" means natural persons, designated in the articles or bylaws or elected by the incorporators, and their successors and natural persons designated, elected or appointed by any other name or title to act as members of the governing body of the corporation. A person who does not have authority to act as a member of the governing body of the corporation, including through voting rights as a member of the governing body, is not a director as that term is used in this division regardless of title. However, if the articles or bylaws designate that a natural person is a director or a member of the governing body of the corporation by reason of occupying a specified position within or outside the corporation, that person shall be a director for all purposes and shall have the same rights and obligations, including voting rights, as the other directors.

**Section 5047**  
**Directors**

**(a)** Except as provided in subdivision (c), and Sections 5151, 5220, 5224, 5512, 5613, and 5616, bylaws may be adopted, amended or repealed by the board unless the action would materially and adversely affect the rights of members as to voting or transfer.

**Section 5150**  
**Bylaws**

**(b)** Bylaws may be adopted, amended or repealed by approval of members (Section 5034); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if that action would materially and adversely affect the rights of that class as to voting or transfer in a manner different than that action affects another class.

**(c)** The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 5151.

**(d)** Bylaws may also provide that repeal or amendment of those bylaws, or the repeal or amendment of specified portions of those bylaws, may occur only with the approval in writing of a specified person or persons other than the board or members. However, this approval requirement, unless the bylaws specify otherwise, shall not apply if any of the following circumstances exist:

**(1)** The specified person or persons have died or ceased to exist.

**(2)** If the right of the specified person or persons to approve is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist.

**(3)** If the corporation has a specific proposal for amendment or repeal, and the corporation has provided written notice of that proposal, including a copy of the proposal, to the specified person or persons at the most recent address for each of them, based on the corporation's records, and the corporation has not received written approval or nonapproval within the period specified in the notice, which shall not be less than 10 nor more than 30 days commencing at least 20 days after the notice has been provided.

**Section 5211**  
**Board Meetings**  
 Notice of meetings

**(a)** Unless otherwise provided in the articles or in the bylaws, all of the following apply:

**(1)** Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

**(2)** Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or by electronic transmission by the corporation (Section 20). The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

Waiver of notice

**(3)** Notice of a meeting need not be given to a director who provides a waiver of notice or consent to holding the meeting or an approval of the minutes thereof in writing, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Adjournment of meetings

**(4)** A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an

**Section 5211  
Board Meetings (cont'd)**

Place of meeting

adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

**(5)** Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

Participation via telephone, video or other communications

**(6)** *Directors* may participate in a meeting through use of conference telephone, electronic video screen communication or electronic transmission by and to the corporation (Sections 20 and 21). Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all *directors* participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, pursuant to this subdivision constitutes presence in person at that meeting if both of the following apply:

**(A)** Each *director* participating in the meeting can communicate with all of the other *directors* concurrently.

**(B)** Each *director* is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Quorum

**(7)** A majority of the number of directors authorized in or pursuant to the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may require the presence of one or more specified directors in order to constitute a quorum of the board to transact business, as long as the death or *nonexistence* of a *specified* director or the death or nonexistence of the person or persons otherwise authorized to appoint or designate that director does not prevent the corporation from transacting business in the normal course of events. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in or pursuant to the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in or pursuant to the articles or bylaws is one, in which case one director constitutes a quorum.

Unanimous written consent

**(8)** Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or the bylaws.

**(b)** An action required or permitted to be taken by the board may be taken without a meeting if all *directors* individually or collectively consent in writing to that action *and if, subject to subdivision (a) of Section 5224, the number of directors then in office constitutes a quorum.* The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For purposes of this subdivision only, "*directors*" does not include an "interested director" as defined in *subdivision (a) of Section 5233 or a "common director" as described in subdivision (b) of Section 5234 who abstains in writing from providing consent, where (1) the facts described in paragraph (2) or (3) of subdivision (d) of Section 5233 are established or the provisions of paragraph (1) or (2) of subdivision (a) of Section 5234 are satisfied, as appropriate, at or prior to execution of the written consent or consents; (2) the establishment of those facts or satisfaction of those provisions, as applicable, is included in the written consent or consents executed by the noninterested or noncommon directors or in other records of the corporation; and (3) the noninterested or noncommon directors, as applicable, approve the action by a vote that is sufficient without counting the votes of the interested directors or common directors.*

**(c)** Each director shall have one vote on each matter presented to the board of directors for action. No director may vote by proxy.

Application to incorporators and committees

**(d)** The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

**Section 5220  
Terms of office**

**(a)** Except as provided in subdivision (d), directors shall be elected for the terms, not longer than four years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year.

The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

**(b)** Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, unless the director has been removed from office.

Election by members

**(c)** The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

**(d)** For the purpose of this subdivision, “designator” means one or more designators. Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection by a specified designator as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), except as provided in subdivision (d) of Section 5150. Unless otherwise provided in the articles or bylaws, the entitlement to designate or select a director or directors shall cease if any of the following circumstances exist:

(1) The specified designator of that director or directors has died or ceased to exist.  
 (2) If the entitlement of the specified designator of that director or directors to designate is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist.

**(e)** If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

**(a)** Any other provision of this part notwithstanding, not more than 49 percent of the persons serving on the board of any corporation may be interested persons.

**(b)** For the purpose of this section, “interested persons” means either:

**(1)** Any person currently being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or

**(2)** Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

**(c)** A person with standing under Section 5142 may bring an action to correct any violation of this section. The court may enter any order which shall provide an equitable and fair remedy to the corporation, including, but not limited to, an order for the election of additional directors, an order to enlarge the size of the board, or an order for the removal of directors.

**(d)** The provisions of this section shall not affect the validity or enforceability of any transaction entered into by a corporation.

**Section 5220**  
**Terms of office (cont'd)**  
 Designation or selection rather than election

Court appointment of directors

Who is “interested”

Violation of transactions not affected

**(a)** A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

**(b)** In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

**(1)** One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

**(2)** Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or

**(3)** A committee of the board upon which the director does not serve that is composed exclusively of any or any combination of directors, persons described in paragraph (1), or persons described in paragraph (2), as to matters within the committee's designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

**(c)** Except as provided in Section 5233, a person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

**Section 5231**  
**Duties and liabilities of directors**

**(a)** Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest and which does not meet the requirements of paragraph (1), (2), or (3) of subdivision (d). Such a director is an “interested director” for the purpose of this section.

**(b)** The provisions of this section do not apply to any of the following:

**(1)** An action of the board fixing the compensation of a director as a director or officer of the corporation.

**(2)** A transaction which is part of a public or charitable program of the corporation if it: (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program.

**(3)** A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of 1 percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars (\$100,000).

**Section 5233**  
**Self-dealing**

No knowledge of transactions

**Section 5233**  
**Self-dealing (cont'd)**  
 Attorney General action

(c) The Attorney General or, if the Attorney General is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710.

(2) A director of the corporation.

(3) An officer of the corporation.

(4) Any person granted relator status by the Attorney General.

No remedy if transaction meets tests

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated; or

(2) The following facts are established:

(A) The corporation entered into the transaction for its own benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph; and (D) (i) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or (ii) the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances; or

(3) The following facts are established:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

Time to file action

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or, if no such notice is filed, within three years after the transaction occurred, except for the Attorney General, who shall have 10 years after the transaction occurred within which to file an action.

Court authority

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

Interested directors may count for quorum

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

Remedies for self-dealing transactions

(h) If a self-dealing transaction has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate. The court may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

**Section 5236**  
**Loans to directors, officers**

(a) A corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer, unless approved by the Attorney General; provided, however, that a corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of such advance, such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent, or any subsidiary.

**(b)** The provisions of subdivision (a) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

**(c)** The provisions of subdivision (a) do not apply to a loan of money to or for the benefit of an officer in circumstances where the loan is necessary, in the judgment of the board, to provide financing for the purchase of the principal residence of the officer in order to secure the services or continued services of the officer and the loan is secured by real property located in the state.

**(a)** There shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

**(1)** The act or omission was within the scope of the director's or executive officer's duties.

**(2)** The act or omission was performed in good faith.

**(3)** The act or omission was not reckless, wanton, intentional, or grossly negligent.

**(4)** Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

**(b)** "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive officer does not affect that person's status as a volunteer within the meaning of this section.

**(c)** "Executive officer" means the president, vice president, secretary, or treasurer of a corporation, or such other individual who serves in like capacity, who assists in establishing the policy of the corporation.

**(d)** Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

**(e)** This section does not eliminate or limit the liability of a director or officer for any of the following:

**(1)** As provided in Section 5233 or 5237.

**(2)** In any action or proceeding brought by the Attorney General.

**(f)** Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

**(g)** This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

**(h)** As used in this section as applied to nonprofit public benefit corporations which have an annual budget of less than twenty-five thousand dollars (\$25,000) and that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, the condition of making "all reasonable efforts in good faith to obtain available liability insurance" shall be satisfied by the corporation if it makes at least one inquiry per year to purchase a general liability insurance policy and that insurance was not available at a cost of less than 5 percent of the previous year's annual budget of the corporation. If the corporation is in its first year of operation, this subdivision shall apply for as long as the budget of the corporation does not exceed twenty-five thousand dollars (\$25,000) in its first year of operation. An inquiry pursuant to this subdivision shall obtain premium costs for a general liability policy with an amount of coverage of at least five hundred thousand dollars (\$500,000).

**(a)** Except as provided in this section or Section 5813.5, amendments may be adopted if approved by the board and approved by the members (Section 5034) and approved by such other person or persons, if any, as required by the articles. The approval by the members or other person or persons may be before or after the approval by the board.

**(b)** Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone:

**(1)** An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929.

**(2)** An amendment deleting the names and addresses of the first directors or the name and address of the initial agent.

**(3)** Any amendment, at a time the corporation has no members; provided, however, that if the articles require approval by any person for an amendment, that an amendment may not be adopted without such approval.

**(4)** An amendment adopted pursuant to Section 9913.

**(c)** Whenever the articles require for corporate action the approval of a particular class of members or of a larger proportion of, or all of, the votes of any class, or of a larger proportion of, or all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles.

**Section 5236  
Loans to directors, officers  
(cont'd)**

**Section 5239  
Immunities of volunteer  
officer or director**

**Section 5812  
Amendment of articles of  
incorporation**

**Section 6320**  
**Records of corporation**

- (a) Each corporation shall keep:
- (1) Adequate and correct books and records of account;
  - (2) Minutes of the proceedings of its members, board and committees of the board; and
  - (3) A record of its members giving their names and addresses and the class of membership held by each.
- (b) Those minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the foregoing. When minutes and other books and records are kept in a form capable of being converted into clearly legible paper form, the clearly legible paper form into which those minutes and other books and records are converted shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper record of the same information would have been, provided that the paper form accurately portrays the record.

**Section 6321**  
**Annual report to member(s)**

- (a) Except as provided in subdivision (c), (d), or (f), the board shall cause an annual report to be sent to the members not later than 120 days after the close of the corporation's fiscal year. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that report and any accompanying material sent pursuant to this section may be sent by electronic transmission by the corporation (Section 20). That report shall contain in appropriate detail the following:
- (1) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
  - (2) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
  - (3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
  - (4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.
  - (5) Any information required by Section 6322.
- (b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation. *The report shall be prepared, audited, and made available in the manner required by paragraph (1) of subdivision (e) of Section 12586 of the Government Code, if applicable.*
- (c) Subdivision (a) does not apply to any corporation which receives less than twenty-five thousand dollars (\$25,000) in gross revenues or receipts during the fiscal year.
- (d) Where a corporation has provided, pursuant to Section 5510, for regular meetings of members less often than annually, then the report required by subdivision (a) need be made to members only with the frequency with which regular membership meetings are required, unless the articles or bylaws require a report more often.
- (e) Subdivisions (c) and (d) notwithstanding, a report with the information required by subdivision (a) shall be furnished annually to *all of the following*:
- (1) All directors of the corporation.
  - (2) Any member who requests it in writing.
- (f) A corporation which in writing solicits contributions from 500 or more persons need not send the report otherwise required by subdivision (a) if it does all of the following:
- (1) Includes with any written material used to solicit contributions a written statement that its latest annual report will be mailed upon request and that such request may be sent to the corporation at a name and address which is set forth in the statement.
- The term "annual report" as used in this subdivision refers to the report required by subdivision (a).
- (2) Promptly mails a copy of its latest annual report to any person who requests a copy thereof.
  - (3) Causes its annual report to be published not later than 120 days after the close of its fiscal year in a newspaper of general circulation in the county in which its principal office is located.

**Section 6322**  
**Transactions or indemnifications**

Covered transactions

- (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members and directors a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) or (d) of Section 6321, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year. Unless otherwise provided by the articles or bylaws and if approved by the board of directors, that statement may be sent by electronic transmission by the corporation (Section 20).
- (b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:
- (1) Any director or officer of the corporation, or its parent or subsidiary.
  - (2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.
- For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.
- (c) For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

**(d)** The statement required by subdivision (a) shall describe briefly:

**(1)** Any covered transaction during the previous fiscal year involving more than fifty thousand dollars (\$50,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than fifty thousand dollars (\$50,000).

**(2)** The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

**(e)** The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars (\$10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 5238; provided that no such report need be made in the case of indemnification approved by the members (Section 5034) under paragraph (2) of subdivision (e) of Section 5238.

**Section 6322  
Transactions or  
indemnifications (cont'd)**

Indemnification or advances greater than \$10,000

**GOVERNMENT CODE**

**Section 6528 Risk Pooling**

A charter school, including a charter school organized pursuant to Section 47604 of the Education Code, may be considered a public agency, as defined in Section 6500, for the purpose of being eligible for membership in a joint powers agreement for risk-pooling.

**Section 6528  
Risk pooling joint powers  
authority**

**NONPROFIT PUBLIC INTEGRITY ACT:**

**Compensation of Officers**

**(g)** The board of directors of a charitable corporation or unincorporated association, or an authorized committee of the board, and the trustee or trustees of a charitable trust shall review and approve the compensation, including benefits, of the president or chief executive officer and the treasurer or chief financial officer to assure that it is just and reasonable. This review and approval shall occur initially upon the hiring of the officer, whenever the term of employment, if any, of the officer is renewed or extended, and whenever the officer's compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees. If a charitable corporation is affiliated with other charitable corporations, the requirements of this section shall be satisfied if review and approval is obtained from the board, or an authorized committee of the board, of the charitable corporation that makes retention and compensation decisions regarding a particular individual.

**Section 12586(g)  
Compensation of Officers**

**OTHER APPLICABLE EDUCATION CODE PROVISIONS**

**Charter Schools Facilities**

**(a)** There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.

**(b)(1)** The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purpose of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

**(2)** The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

**(3)** The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of the subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

**(c)** As used in this article, the following terms have the following meanings:

**(1)** "Authority" means the California School Finance Authority established pursuant to Section 17172.

**(2)** "Account" means the pertinent account established under subdivision (b) .

**(3)** "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

**(4)** "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by

**Section 17078.52  
Charter schools facilities  
program; leave establish**

**Section 17078.52  
Charter Schools Facilities  
Program; leave establish  
(cont'd)**

the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at least 24 months of documented experience, as measured by criteria established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

**(d)** The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

**Section 17078.53  
Initial preliminary  
applications**

**(a)** The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

**(b)** Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

**(1)** A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

**(2)** A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

**(c)** A preliminary application shall demonstrate either of the following:

**(1)** That a charter petition for the school for which the application is submitted has been granted to the appropriate chartering entity prior to the application deadline determined by the board.

**(2)** That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by this board.

**(d)** A preliminary application shall include either of the following:

**(1)** For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

**(2)** For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

**(e)** Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

**(f)** The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

**(g)(1)** The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

**(2)(A)** Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

**(B)** The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

**(h)** The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

**Section 17078.54  
New construction or  
rehabilitation funding**

**(a)** An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

**(b)** The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

**(c)** To be funded under this article, a project shall comply with all of the following:



**(1)** It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

**(2)** Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section 17281 which shall be complied with in the same manner as any other project under this chapter.

**(3)** The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.

**(d)** Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.

**(e)** The authority may charge its administrative costs against the respective 2002, 2004 or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

**Section 17078.54  
New construction or  
rehabilitation funding  
(cont'd)**

**(a)** The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments only to financially sound applicants in accordance with all of the following criteria:

**(1)** The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.

**(2)** The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.

**(3)** The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.

**(4)** The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicant throughout the state.

**(b)** While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

**Section 17078.56  
Approval of projects;  
criteria; preferences**

**(a)** The authority, in consultation with the board, shall adopt regulations establishing uniform terms and conditions that shall apply equally to all projects for funding in accordance with Section 17078.58, including, but not limited to, all of the following:

**(1)** The process for determining the manner in which the applicant will pay its local matching share, including the method for determining lease payments to be made in lieu of the local matching share. The regulations shall comply with all of the following criteria:

**(A)** The payment process set forth in Section 17199.4 may be used.

**(B)** The payment process shall permit lump-sum local matching payments and shall permit establishment of a schedule for lease payments to be made in lieu of the local matching share.

**(C)** The lease payment schedule shall be calculated by amortizing one-half of the total approved project cost, minus lump-sum payments, over the entire payment period as set forth in Section 17078.58.

**(D)** The payment schedule for payments in lieu of the local matching funds pursuant to this section shall be based upon payment, within a reasonable period of time not to exceed a 30-year period, of one-half of the total eligible project costs, and shall be calculated in a manner that is designed to result in full payment of that portion, together with interest thereon at a rate set by the authority. The interest rate shall be set using the lower of the following:

**(i)** The rate paid on moneys in the Pooled Money Investment Account as of the date of disbursement of the funding.

**(ii)** A rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, and the interest rate shall be computed according to the true interest cost method.

**(E)** Notwithstanding subparagraph (D), the authority shall not set the interest rate on a loan at a rate lower than 2 percent. Program participants that have locked in an interest rate before January 1, 2009, may reset their payment schedule based on the interest rate set pursuant to subparagraph (D) as of January 1, 2009. Program participants executing an agreement on and after January 1, 2009, shall have their interest rate set at the time the funding agreement is executed and shall not renegotiate interest rates without prior approval of the authority.

**(2)** The method for determining whether a charter school is financially sound. In the case of a charter school chartered by a school district that is located outside of the school district that chartered it, the method developed by the authority shall include, but shall not be limited to, a site visit to the school

**Section 17078.57  
Adoption of regulations**

**Section 17078.57**  
**Adoption of regulations**  
**(cont'd)**

facility currently being used by the charter school during hours when pupils are present and instruction is being provided.

**(3)(A)** Security provisions, including, but not limited to, whether title to project facilities shall be held by the school district in which the facility is to be physically located, in trust, for the benefit of the state public school system, or by another entity as authorized pursuant to Section 17078.63.

**(B)** The authority shall adopt a mechanism whereby a person or entity who provides substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of as set forth in paragraph (5) of subdivision (b) of Section 17078.62.

**(4)** The method for integrating funding pursuant to this article with the general procedures of the authority pursuant to subdivision (i) of Section 17180 for otherwise funding projects eligible for funding under this chapter, if appropriate.

**(b)** The authority may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

**Section 17078.58**  
**Maximum amount of**  
**funding; collection of local**  
**share equivalent in the**  
**form of lease payments**

**(a)** Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed the maximum costs that would otherwise be allowable for a new construction project funded under this article.

**(b)** The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

**(c)** Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

**(d)** When a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004 or 2006 Charter School Facilities Account for use by the board for any purpose related to charter school facilities pursuant to this article.

**Section 17078.62**  
**Continued use of facility;**  
**effect of ceasing to utilize**  
**facility for charter school**  
**purposes**

**(a)** As a first priority, the existing charter school shall be permitted to continue to use the facility until it is no longer needed by the charter school for charter school purposes.

**(b)** If the charter school occupying a facility funded pursuant to this article ceases to utilize the facility for a charter school purpose, all of the following apply:

**(1)** If the charter school is no longer using the facility because the school district in which the charter school is located has revoked or declined to renew the charter, the school district, as a necessary component of the first priority established in subdivision (a), may not immediately occupy the facility, but shall allow a reasonable time, not to exceed six months, for completion of the review process contemplated in Section 47607 or 47607.5.

**(2)** As a second priority, any qualifying successor charter school shall be permitted to meet its facility needs by occupying the facility on equal terms as the prior charter school occupant, including, but not limited to, assumption of fee simple title to the facility, as described in paragraph (3) of subdivision (a) of Section 17078.63.

**(3)** As a third priority, the school district in which the charter school is physically located may notify the authority and take possession and take title to the facility, if the title is not already held by the district, and make the facility available for continued use as a public school facility.

**(4)** If the school district in which the charter school is physically located elects to take possession of a facility pursuant to paragraph (3), it shall pay the balance of the unpaid local matching share or demonstrate that it is willing and able to continue to make the lease payments in lieu of the local matching share on the same terms. However, the payments shall be reduced or eliminated, as appropriate, if the school district complies with all of the following:

**(A)** It demonstrates that it would have been eligible for hardship funding under Article 8 (commencing with Section 17075.10) at the time that the application for funding the facility under this article was originally submitted.

**(B)** It certifies to the board that it will utilize the facilities for public school purposes for a period of at least five years from the date that it occupies the facility.

**(5)(A)** If the school district declines to take possession pursuant to paragraph (3), or if the facility is subsequently no longer needed for public school purposes, the school district shall dispose of the facilities in a manner otherwise applicable to the disposal of surplus public schoolsites. Any unpaid local matching share shall be paid from the net proceeds if any, of the disposition and shall be deposited into the respective 2002, 2004, or 2006 Charter School Facilities Account. To the extent that funds remain from the proceeds of the disposition after repayment of the local matching share, any security interest

granted to a person or entity pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 17078.57 shall be satisfied. Funds remaining from the proceeds after any security interest has been satisfied shall be paid to the school district in which the facility is located to be used for capital improvements in the school district.

**(B)** If title to the facility is held by a charter school or a local governmental entity other than the school district, and the school district declines to dispose of the facility, the board shall dispose of the facility in accordance with the provisions that would otherwise apply to the disposal of surplus school property by the school district, including, but not limited to, Chapter 4 (commencing with Section 17385) of Part 10.5. The proceeds of the disposition shall be distributed in accordance with subparagraph (A).

**(6)** If the lease payments in lieu of the local matching share are fully paid, the school district shall continue to hold title to the facility, in trust, for the benefit of the state public school system. The school district shall permit continued use of the facility for charter school purposes as long as the facility is needed for those purposes.

**(a)** Prior to the release of funds for an application submitted pursuant to paragraph (2) of subdivision (b) of Section 17078.53 for site acquisition or new construction final apportionments, applicants shall provide one of the following:

**(1)** Documentary evidence that the school district in which the facility is to be physically located holds title to the project facilities in trust for the benefit of the state public school system.

**(2)** Documentary evidence that a local governmental entity, including, but not limited to, a county board of education, a city, a county, or a city and county, holds title to the project facilities in trust for the benefit of the state public school system, subject to both of the following conditions:

**(A)** Consistent with the prohibition in Section 6 of Article IX of the California Constitution regarding governance of public schools, a city, county, city and county, or other local governmental entity not included within the public school system that holds title pursuant to this paragraph shall not exercise any control over the operation of the charter school.

**(B)** The following shall be recorded in the chain of title for the property:

**(i)** A restrictive covenant specifying that the facility shall be used only for public school purposes as authorized in the California Constitution and statute.

**(ii)** A remainder interest to the school district in which the facility is physically located or, if the school district disclaims the interest to the facility, to the board. The remainder interest shall be triggered when the facility is no longer needed for charter school purposes and shall then be subject to paragraphs (2) to (6), inclusive, of subdivision (b) of Section 17078.62.

**(3)(A)** A request that the charter school be authorized to hold fee simple title to the subject property in trust of the benefit of the state public school system, on which a lien shall be recorded in favor of the board for the total amount of funds allocated pursuant to this article, including any loan received in lieu of a local matching share pursuant to Section 17078.57. The charter school shall include with the request a statement outlining the reasons why ownership of the project facilities is not vested in an entity set forth in paragraph (1) or (2). Prior to releasing any project funds, the board shall make findings that the applicant has submitted all of the information required by this paragraph.

**(B)** The following shall be recorded in the chain of title for the property:

**(i)** A restrictive covenant specifying that the facility shall be used only for public school purposes as authorized in the California Constitution and statute.

**(ii)** A remainder interest to the school district in which the facility is physically located or, if the school district disclaims the interest to the facility, to the board. The remainder interest shall be triggered when the facility is no longer needed for charter school purposes and shall then be subject to paragraphs (2) to (6), inclusive, of subdivision (b) of Section 17078.62.

**(b)** A charter school may request a school district to transfer title to project facilities to an entity authorized by paragraph (2) or (3) of subdivision (a) if the school district entered into an agreement, prior to January 1, 2010, to hold title to those facilities. A school district that receives a request pursuant to this subdivision may transfer the title to the entity designated in the request pursuant to terms and conditions mutually agreed upon by the district and the charter school.

**(c)** The board may adopt regulations to implement this section.

**(a)** In lieu of applying for funding under this article, a school district may elect to include facilities for a charter school that would be physically located within its geographical jurisdiction within its application from funding pursuant to the general provisions of this chapter, other than this article. However, the project would be outside the scope of this article, would not be subject to its provisions, and shall comply with this chapter in the same manner as any noncharter project. Any per-pupil eligibility that is use for that project shall not, also, support any project under this article.

**(b)** Except for those provisions in which the authority is expressly required or authorized to adopt regulations pursuant to this article, the board in consultation with the authority shall adopt regulations to implement this article. The board may adopt, amend, or repeal rules and regulations pursuant to this article as emergency regulations. Until July 1, 2004, the adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

**(c)** This article is not applicable to projects funded with the proceeds of state general obligation bonds approved by the voters prior to January 1, 2002.

**Section 17078.62**  
**Continued use of facility;**  
**effect of ceasing to utilize**  
**facility for charter school**  
**purposes (cont'd)**

**Section 17078.63**  
**Documentary evidence;**  
**title**

**Section 17078.64**  
**School district election to**  
**include charter facilities**

**Section 17078.66  
Joint report by State  
Allocation Board and  
California School Finance  
Authority**

The State Allocation Board and the California School Finance Authority shall jointly report to the Legislature by July 1, 2005, regarding all of the following:

- (a) The implementation of this article, including, but not limited to, a description of the projects funded pursuant to this article from the Kindergarten-University Public Education Facilities Bond Act of 2004.
- (b) A description of the process whereby the board provides funding for charter school facilities under provisions of this chapter other than this article.
- (c) Recommendations, if any, regarding statutory changes needed to facilitate and streamline the process described in subdivision (b).

**Section 42100  
Annual Financial Statement**

**Financial Reporting**

(a) On or before September 15, the governing board of each school district shall approve, in a format prescribed by the Superintendent of Public Instruction, an annual statement of all receipts and expenditures of the district for the preceding fiscal year and shall file the statement, along with the statement received pursuant to subdivision (b), with the county superintendent of schools. On or before October 15, the county superintendent of schools shall verify the mathematical accuracy of the statements and shall transmit a copy to the Superintendent of Public Instruction.

(b) On or before September 15, each charter school shall approve, in a format prescribed by the Superintendent of Public Instruction, an annual statement of all receipts and expenditures of the charter school for the preceding fiscal year and shall file the statement with the entity that approved the charter school.

(c) The forms prescribed by the Superintendent of Public Instruction shall be adopted as regulations by the State Board of Education, and may be amended periodically to accommodate changes in statute or government reporting standards.

**Section 44830.1  
Certificated positions**

**Fingerprinting and Criminal Background Statutes**

(a) In addition to any other prohibition or provision, no person who has been convicted of a violent or serious felony shall be hired by a school district in a position requiring certification qualifications or supervising positions requiring certification qualifications. A school district shall not retain in employment a current certificated employee who has been convicted of a violent or serious felony, and who is a temporary employee, a substitute employee, or a probationary employee serving before March 15 of the employee's second probationary year. If any conviction is reversed and the formerly convicted person is acquitted of the offense in a new trial, or the charges are dismissed, this section does not prohibit his or her employment thereafter.

Violent or serious felony

(b) This section applies to any violent or serious offense which, if committed in this state, would have been punishable as a violent or serious felony.

Sections 667.5 and 1192.7 of  
Penal Code

(c) (1) For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

(2) For purposes of this section, a plea of nolo contendere to a serious or violent felony constitutes a conviction.

(3) For purposes of this section, the term "school district" has the same meaning as defined in Section 41302.5.

Temporary, substitute or  
probationary certificated  
employees

(d) When the governing board of any school district requests a criminal record summary of a temporary, substitute, or probationary certificated employee, two fingerprint cards, bearing the legible rolled and flat impressions of the person's fingerprints together with a personal description and the fee, shall be submitted, by any means authorized by the Department of Justice, to the Department of Justice.

Notification of criminal  
information

(e) When the Department of Justice ascertains that an individual who is an applicant for employment by a school district has been convicted of a violent or serious felony, or for purposes of implementing the prohibitions set forth in Section 44836, any sex offense, as defined in Section 44010, or any controlled substance offense, as defined in Section 44011, the department shall notify the school district of the criminal information pertaining to the applicant. The notification shall be delivered by telephone or electronic mail to the school district. The notification to the school district shall cease to be made once the statewide electronic fingerprinting network is returning responses within three working days. The Department of Justice shall send by first-class mail or electronic mail a copy of the criminal information to the Commission on Teacher Credentialing. The Department of Justice may charge a reasonable fee to cover the costs associated with processing, reviewing, and supplying the criminal record summary required by this section. In no event shall the fee exceed the actual costs incurred by the department.

Certificate of rehabilitation and  
pardon

(f) Notwithstanding subdivision (a), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

Serious felony that is not also a  
violent felony

(g) Notwithstanding subdivision (f), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a serious felony that is not also a violent felony if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is a resident.

**(h)** Notwithstanding any other provision of law, when the Department of Justice notifies a school district by telephone or electronic mail that a current temporary employee, substitute employee, or probationary employee serving before March 15 of the employee's second probationary year, has been convicted of a violent or serious felony, that employee shall immediately be placed on leave without pay. When the school district receives written electronic notification of the fact of conviction from the Department of Justice, the employee shall be terminated automatically and without regard to any other procedure for termination specified in this code or school district procedures unless the employee challenges the record of the Department of Justice and the Department of Justice withdraws in writing its notification to the school district. Upon receipt of written withdrawal of notification from the Department of Justice, the employee shall immediately be reinstated with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement.

**(i)** An employer shall request subsequent arrest service from the Department of Justice as provided under Section 11105.2 of the Penal Code.

**(j)** Notwithstanding Section 47610, this section applies to a charter school.

**(k)** This section shall not apply to a certificated employee who applies to renew his or her credential when both of the following conditions have been met:

**(1)** The employee's original application for credential was accompanied by that person's fingerprints.

**(2)** The employee has either been continuously employed in one or more public school districts since the issuance or last renewal of his or her credential or his or her credential has not expired between renewals.

**(l)** Nothing in this section shall prohibit a county superintendent of schools from issuing a temporary certificate to any person described in paragraph (1) or (2) of subdivision (k).

**(m)** This section shall not prohibit a school district from hiring a certificated employee who became a permanent employee of another school district as of October 1, 1997.

**(n)** All information obtained from the Department of Justice is confidential. Every agency handling Department of Justice information shall ensure the following:

**(1)** No recipient may disclose its contents or provide copies of information.

**(2)** Information received shall be stored in a locked file separate from other files, and shall only be accessible to the custodian of records.

**(3)** Information received shall be destroyed upon the hiring determination in accordance with subdivision **(a)** of Section 708 of Title 11 of the California Code of Regulations.

**(4)** Compliance with destruction, storage, dissemination, auditing, backgrounding, and training requirements as set forth in Sections 700 through 708 inclusive, of Title 11 of the California Code of Regulations and Section 11077 of the Penal Code governing the use and security of criminal offender record information is the responsibility of the entity receiving the information from the Department of Justice.

**(a)** In addition to any other prohibition or provision, no person who has been convicted of a violent or serious felony shall be employed by a school district pursuant to this chapter. A school district shall not retain in employment a current classified employee who has been convicted of a violent or serious felony, and who is a temporary, substitute, or a probationary employee who has not attained permanent status.

**(b)** This section applies to any violent or serious offense which, if committed in this state, would have been punishable as a violent or serious felony.

**(c) (1)** For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

**(2)** For purposes of this section, the term "school district" has the same meaning as defined in Section 41302.5.

**(d)** When the Department of Justice ascertains that an individual who is an applicant for employment by a school district has been convicted of a violent or serious felony, the department shall notify the school district of the criminal information pertaining to the applicant. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the school district by first-class mail.

**(e)** Notwithstanding subdivision (a), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

**(f)** Notwithstanding subdivision (e), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a serious felony that is not also a violent felony if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is a resident.

**(g)** Notwithstanding any other provision of law, when the Department of Justice notifies a school district by telephone that a current temporary, substitute, or probationary employee who has not attained permanent status, has been convicted of a violent or serious felony, that employee shall immediately be placed on leave without pay. When the school district receives written notification of the fact of conviction from the Department of Justice, the employee shall be terminated automatically and without

**Section 44830.1  
Certificated positions  
(cont'd)**

Immediate leave or termination without pay

Subsequent arrest service

Applies to charter schools  
Renewal of credential

Temporary certificate

Permanent employee of another district

DOJ information is confidential

**Section 45122.1  
No person convicted of a violent or serious felony shall be employed**

Violent or serious felony

Sections 667.5 and 1192.7 of the Penal Code

Certification or rehabilitation and pardon

Serious felony that is not also a violent felony

Immediate leave or termination without pay

**Section 45122.1**  
**No person convicted of a violent or serious felony shall be employed (cont'd)**

Applies to charter schools

**Section 45125.1**  
**Criminal background check required for contractors who may have contact with pupils**

Background check not required in emergency

Background check may be required for other schoolsite services

DOJ check of arrest or conviction of any crime

DOJ may verify records with FBI

regard to any other procedure for termination specified in this code or school district procedures unless the employee challenges the record of the Department of Justice and the Department of Justice withdraws in writing its notification to the school district. Upon receipt of written withdrawal of notification from the Department of Justice, the employee shall immediately be reinstated with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement.

**(h)** Notwithstanding Section 47610, this section applies to a charter school.

**(a)** Except as provided in subdivisions (b) and (c), if the employees of any entity that has a contract with a school district, as defined in Section 41302.5, to provide any of the following services may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the department for its costs incurred in processing the application:

- (1)** School and classroom janitorial.
- (2)** Schoolsite administrative.
- (3)** Schoolsite grounds and landscape maintenance.
- (4)** Pupil transportation.
- (5)** Schoolsite food-related.

**(b)** This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

then the person may seek a finding of rehabilitation from the court in the school district in which he or she is resident.

**(c)** This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district when the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee has limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a school district has made this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees.

**(d)** A school district may determine, on a case-by-case basis, to require an entity providing schoolsite services other than those listed in subdivision (a) or those described in Section 45125.2 and the entity's employees to comply with the requirements of this section, unless the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee will have limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a school district makes this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees. If a school district requires an entity providing services other than those listed in subdivision (a) and its employees to comply with the requirements of this section, the Department of Justice shall comply with subdivision.

**(e) (1)** The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it pursuant to subdivision (a) has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the department. Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the department shall ascertain the information required pursuant to this section within three working days. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it pursuant to subdivision (a) has a pending criminal proceeding for a felony as defined in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1, the department shall notify the employer designated by the individual of that fact. The notification shall be delivered by telephone or electronic mail to the employer.

**(2)** The Department of Justice, at its discretion, may notify the school district in instances when the employee is defined as having a pending criminal proceeding described in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1.

**(3)** The Department of Justice may forward one copy of the fingerprints to the Federal Bureau of Investigation to verify any record of previous arrests or convictions of the applicant. The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation and shall notify the employer only as to whether or not an applicant has any convictions or arrests pending adjudication for offenses which, if committed in California, would have been punishable as a violent or serious felony. The Department of Justice shall not provide any specific offense information received from the Federal Bureau of Investigation. The Department of Justice shall provide written notification to the contract employer only concerning whether an applicant for employment has any conviction or arrest pending final adjudication for any of those crimes, as specified in Section 45122.1, but shall not provide any information identifying any offense for which an existing employee was convicted or has an arrest pending final adjudication.

**(f)** An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Section 45122.1.

**(1)** This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a felony if the employee has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

**(2)** This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a serious felony that is not also a violent felony if that employee can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of schoolsite employment for at least one year. If the offense in question occurred outside this state, who may come in contact with pupils have been convicted of a felony as defined in Section 45122.1.

**(g)** An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall certify in writing to the school district that neither the employer nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and

**(h)** An entity having a contract as specified in subdivision (a) on the effective date of this section and an entity required to comply with this section pursuant to subdivision (d) by a school district with which it has a contract on the effective date of the amendments made to this section during the 1997-98 Regular Session shall complete the requirements of this section within 90 days of that date.

**(i)** For purposes of this section, a charter school shall be deemed to be a school district.

**(j)** Where reasonable access to the statewide electronic fingerprinting network is available, the Department of Justice may mandate electronic submission of the fingerprint cards and other information required by this section.

**(a)** Pupils of the public schools, including charter schools, shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not the publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material that so incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

**(b)** The governing board or body of each school district or charter school and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

**(c)** Pupil editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism advisor of pupil publications within each school to supervise the production of the pupil staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

**(d)** There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to a limitation of pupil expression under this section.

**(e)** "Official school publications" refers to material produced by pupils in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

**(f)** This section does not prohibit or prevent the governing board or body of a school district or charter school from adopting otherwise valid rules and regulations relating to oral communication by pupils upon the premises of each school.

**(g)** An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

**(a)** A school district operating one or more high schools, a charter school, or a private secondary school shall not make or enforce a rule subjecting a high school pupil to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside of the campus, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution.

**(b)** A pupil who is enrolled in a school at the time that the school has made or enforced a rule in violation of subdivision (a) may commence a civil action to obtain appropriate injunctive and declaratory relief as determined by the court. Upon motion, a court may award attorney's fees to a prevailing plaintiff in a civil action pursuant to this section.

**Section 45125.1**  
**Criminal background check required for contractors who may have contact with pupils (cont'd)**  
 No contact with pupils until DOJ ascertains no felony conviction

Contractor's certification of compliance with DOJ background check

**Section 48907**  
**Charter schools; freedom of speech and of the press**

**Section 48950**  
**Freedom of speech; students' remedies; attorney's fees; retaliation prohibited**

**Section 48950  
Freedom of speech;  
students' remedies;  
attorney's fees; retaliation  
prohibited (cont'd)**

- (c) This section does not apply to a private secondary school that is controlled by a religious organization, to the extent that the application of this section would not be consistent with the religious tenets of the organization.
- (d) This section does not prohibit the imposition of discipline for harassment, threats, or intimidation, unless constitutionally protected.
- (e) This section does not supersede, or otherwise limit or modify, the provisions of Section 48907.
- (f) The Legislature finds and declares that free speech rights are subject to reasonable time, place, and manner regulations.
- (g) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

**OTHER CHARTER SCHOOL REGULATIONS (5 Cal Code Regs)**

**Parent Trigger**

*The Parent Empowerment regulations shall remain valid in the event of changes to federal law referenced within the legislative language of Chapters 2 and 3 of the 5th Extraordinary Session Statutes of 2010, to the extent allowable under the law.*

**Section 4800  
Intent**

**Section 4800.1  
Definitions**

- (a) "Elementary school" means a school, regardless of the number of grade levels, whose graduates matriculate into either a subject elementary, middle or high school.
- (b) "Eligible signature" means a signature of a parent or legal guardian of a pupil that can be counted toward meeting the requirement that at least one-half of the parents or legal guardians of pupils have signed the petition as set forth in Education Code section 53300.
- (c) "Final disposition" means the action taken by the local educational agency (LEA) to implement the requested intervention option presented by a petition or implement one of the other intervention options as set forth in Education Code section 53300.
- (d) "High school" means four-year high schools, senior high schools, continuation high schools, and evening schools.
- (e) "Intervention" or "requested intervention" means:
  - (1) one of the four interventions (turnaround model, restart model, school closure, and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Education Code section 53202 and as further described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009; or
  - (2) the alternative governance arrangement pursuant to Title 20 U.S.C. Section 6316(b)(8)(B)(v).
- (f) "Middle school" means a school, regardless of the number of grade levels, whose graduates matriculate into a subject high school. Middle school also means a junior high school whose graduates matriculate into a subject senior high school.
- (g) "Normally matriculate" means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high school or from a middle school to a subject high school, as determined by the Local Educational Agency (LEA) pursuant to established attendance boundaries, published policies, or practices in place on the date the petition is submitted.
- (h) "Parents or legal guardians of pupils" means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code sections 56028 or 56055, including foster parents who hold rights to make educational decisions, on the date the petition is submitted.
- (i) "Petition" means a petition requesting an LEA to implement one of the interventions defined in subdivision (e)
- (j) "Pupils attending the subject school or elementary or middle schools that normally matriculate into a subject middle or high school" means a pupil enrolled in the school on the date the petition is submitted to the LEA.
- (k) "Subject school" means a school identified by the Superintendent of Public Instruction, following the release of the annual adequate Yearly progress report, as a school that:
  - (1) Is not one of the persistently lowest-achieving schools identified by State Superintendent of Public Instruction (SSPI) and the State Board of Education (SBE);
  - (2) Has been in corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act for at least one full academic year;
  - (3) Has failed to make adequate yearly progress (AYP); and
  - (4) Has an Academic Performance Index (API) score of less than 800.
- (l) "Has not exited Program Improvement."
- (l) "Cannot implement the specific recommended option" means that an LEA is unable to implement the intervention requested in the petition and has provided in writing, during a regularly scheduled public meeting, the considerations; and reasons for reaching such a finding.
- (m) "Matriculating School" means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school.



Every pupil that attended a subject school prior to the implementation of an intervention shall continue to be enrolled in the school during and after an intervention is implemented pursuant to Education Code section 53300, unless the parent or legal guardian of the pupil chooses to enroll the pupil in another school or the school is closed. In addition, any pupil who resides in the attendance area of the subject school during or after the implementation of an intervention has a right to attend the school, subject to any laws or rules pertaining to enrollment.

**Section 4800.3**  
**Requirement to serve all pupils**

**(a)** The CDE shall create a website for parents and guardians to obtain further information on circulating a parent empowerment petition.

**Section 4800.5**  
**Parental notice**

**(b)** An LEA may create a website that lists the schools in the LEA subject to the provisions of the Parent Empowerment regulations, including enrollment data and attendance boundaries for each school. The web site may also inform parents and legal guardians of pupils how they may:

**(1)** Sign a petition requesting the school district to implement one or more interventions to improve the school, and

**(2)** Contact community-based organizations or work with individual school administrators and parent and community leaders to understand the school intervention options and provide input about the best options for the school.

**(c)** Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Section 6301 et seq.), on the date the notice of restructuring planning or restructuring status, Program Improvement Year 4 or later, is given pursuant to federal law, the LEA shall provide the parents and guardians of all pupils enrolled in a school in restructuring planning or restructuring status with notice that the school may be eligible for a parent empowerment petition to request a specific intervention pursuant to Education Code section 53300 and shall list the CDE website address created pursuant to section 4800.5(a). This notice, and any other written communication from the school or the LEA to parents or legal guardians of pupils, must meet the language requirements of Education Code section 48985.

**(a)** A petition shall contain signatures of parents or legal guardians of pupils attending the subject school, or may contain a combination of signatures of parents and legal guardians of pupils attending the subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools.

**Section 4801**  
**Petition signatures**

**(b)** Only one parent or legal guardian per pupil may sign a petition.

**(c)** The petition must have boxes that are consecutively numbered commencing with number 1, with sufficient space for the signature of each petition signer as well as his or her printed name, date, pupil's name, the pupil's date of birth, the name of the school the pupil is currently attending, and the pupil's current grade.

**(d)** The boxes described in subdivision (c) may also have space for the signer's address, city or unincorporated community name, and zip code, or request other information, and, if so, the petition shall make clear that providing such information is voluntary and cannot be made a condition of signing the petition.

**(e)** A petition may be signed by a parent or a legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, once for each of his or her pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject middle or high school. Separate petition boxes must be completed by the parent or legal guardian for each of his or her pupils.

**(f)** A petition may be circulated and presented in sections, so long as each section complies with the requirements set forth in this section and section 4802 regarding the content of the petition.

**(g)** Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community, and parents and legal guardians of eligible pupils shall be free from harassment, threats, and intimidation related to circulation of or signing a petition, and from being discouraged to sign or being encouraged to revoke their signature on a petition. Signature gatherers shall disclose if they are being paid and shall not be paid per signature.

**(h)** All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in procedures.

**(i)** School or district resources shall not be used to impede the signature gathering process pursuant to this section.

**Section 4802**  
**Content of the petition**

**(a)** The petition and each section of the petition shall contain the following elements:

**(1)** A heading which states that it is a Petition of Parents, Legal Guardians, and Persons Holding the Right to Make Educational Decisions for Pupils, including Foster Parents who hold rights to make educa-

**Section 4802**  
**Content of the petition**  
**(cont'd)**

tional decisions, to request an Intervention be implemented at the specified subject school and to be submitted to a specified LEA;

(2) A statement that the petition seeks the signatures of the parents or legal guardians of the pupils attending the subject school or, in the alternative, the signatures of the parents or legal guardians of the pupils attending the subject school and the signatures of the parents or legal guardians of the pupils attending elementary or middle schools who would normally matriculate into the subject school;

(3) The name and public contact information of the person to be contacted by either persons interested in the petition or by the LEA;

(4) Identification of the requested intervention:

(5) A description of the requested intervention using the language set forth in either sections 4803, 4804, 4805, 4806, or 4807, without omission to ensure full disclosure of the impact of the intervention;

(6) The name of the subject school;

(7) Boxes as designated in section 4801(cc) and (d);

(8) An affirmation that the signing parent or legal guardian is requesting the LEA to implement the identified intervention at the subject school; and

(9) If requesting that an LEA implement the restart model intervention identified pursuant to Education Code section 53202(a)(2), and that the subject school be reopened under a specific charter school operator, charter management organization, or education management organization, a clear statement containing that information on the front of the petition, including contact information of the charter school operator, charter management organization or education management organization.

(10) The names of any agencies or organizations that are supporting the petition. either through direct financial assistance or in-kind contributions of staff and volunteer support, must be prominently displayed on the front page of the petition.

(b) The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website for interested petitioners to use. The CDE shall make the sample petition available in other languages pursuant to Education Code section 48985. Petitioners shall not be required to use the sample petition; however, alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

**Section 4802.05**  
**Submission of petition**  
**50% threshold**

(a) Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

1 to 5 lead petitioners

(c) At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.

**Section 4802.1**  
**Verification of petition**  
**signatures and obligations**  
**of the LEA**

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b) Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a parent or legal guardian of an eligible pupil on a minor technicality assuming the parent or legal guardian is entitled to sign it. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

(c) If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school, unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether the parents or legal guardians of at least one-half of pupils attending

the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

**(f)** In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

**(g)** Upon receipt, the LEA may, within 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

**(1)** One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

**(2)** The school named in the petition is not a subject school; or

**(3)** The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

**(h)** If the LEA finds that sufficient signatures cannot be verified by the LEA it shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians it cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used, including, but not limited to, an official notarization process or having the parent or guardian appear at the school or district office.

**(i)** If the LEA finds a discrepancy or problem with a submitted petition it shall notify the lead petitioner contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition, or any need for further clarification regarding the petition.

**(j)** If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to section 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted pursuant to section 4802.1(h). The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be submitted to the LEA and it shall be deemed a new petition.

**(k)** If the LEA does not return the petition the LEA shall have 45 calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 25 calendar days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

**(l)** The LEA shall notify the SSPI and the SBE in writing within fifteen calendar days of its receipt of a petition and within five calendar days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option and designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

**(m)** If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.

**(a)** Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition shall be subject to all the provisions of law that apply to other charter schools.

**(b)** Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed. The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

**(c)** A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for

**Section 4802.1**  
**Verification of petition signatures and obligations of the LEA (cont'd)**

**Section 4802.2**  
**Restart requirements for parent empowerment petitions**

**Section 4802.2**  
**Restart requirements for**  
**parent empowerment**  
**petitions (cont'd)**

signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as the intervention and includes a proposed charter, the LEA must follow the provisions of section 4802.1 and implement the option requested by the parents, unless, in a regularly scheduled public hearing, the LEA makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in Education Code section 53300 it will implement. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g), then the rigorous review process required by Education Code section 53300 and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

**(d)** If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter management organizations and education management organizations and select a specific charter school operator or decline to do so.

**(1)** If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

**(2)** If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 20 calendar days, solicit charter proposals from charter school operators, charter management organizations and education management organizations. Thereafter, the LEA shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days.

**(e)** If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.

**Section 4803**  
**Description of**  
**intervention—turnaround**  
**model**

**(a)** A turnaround model is one in which an LEA must:

**(1)** Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

**(2)** Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students;

**(A)** Screen all existing staff and rehire no more than 50 percent; and

**(B)** Select new staff;

**(3)** Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

**(4)** Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

**(5)** Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new "turnaround office" in the LEA, hire a "turnaround leader" who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain added flexibility in exchange for greater accountability;

**(6)** Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;

**(7)** Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

**(8)** Establish schedules and implement strategies that provide increased learning time (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59805 (Nov.18, 2009)); and

**(9)** Provide appropriate social-emotional and community-oriented services and supports for students.

**(b)** A turnaround model may also implement other strategies such as:

**(1)** Any of the required and permissible activities under the transformation model; or

**(2)** A new school model (e.g., themed, dual language academy).

A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides "whole-school operation" services to an LEA.) A restart: model must enroll, within the grades it serves, any former student who wishes to attend the school.

**Section 4804**  
**Description of**  
**intervention—restart model**

School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

**Section 4805**  
**Description of**  
**intervention—school**  
**closure**

A transformation model is one in which an LEA implements each of the following strategies:

**Section 4806**  
**Description of**  
**intervention—**  
**transformation model**

(a) Developing and increasing teacher and school leader effectiveness.

(1) Required activities. The LEA must:

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

1. Take into account data on student growth (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59806 (Nov. 18, 2009)) as a significant factor as well as other factors such as multiple observation-based assessments of performance and on-going collections of professional practice reflective of student achievement and increased high-school graduations rates; and

2. Are designed and developed with teacher and principal involvement.

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(2) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(b) Comprehensive instructional reform strategies.

(1) Required activities. The LEA must:

(A) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school wide "response-to-intervention" model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited-English-proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools:

1. Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learn-

**Section 4806**  
**Description of**  
**intervention—**  
**transformation model**  
**(cont'd)**

*ing academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;*

**2.** *Improving student transition from middle to high school through summer transition programs or freshman academies;*

**3.** *Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills;* or

**4.** *Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.*

**(c)** *Increasing learning time and creating community-oriented schools.*

**(1)** *Required activities. The LEA must:*

**(A)** *Establish schedules and implement strategies that provide increased learning time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and*

**(B)** *Provide ongoing mechanisms for family and community engagement.*

**(2)** *Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as:*

**(A)** *Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;*

**(B)** *Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;*

**(C)** *Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment: or*

**(D)** *Expanding the school program to offer full-day kindergarten or pre-kindergarten.*

**(d)** *Providing operational flexibility and sustained support.*

**(1)** *Required activities. The LEA must:*

**(A)** *Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and*

**(B)** *Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the State Educational Agency (SEA), or a designated external lead partner organization (such as a school turnaround organization or an EMO).*

**(2)** *Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as:*

**(A)** *Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or*

**(B)** *Implementing a per-pupil school-based budget formula that is weighted based on student needs.*

**Section 4807**  
**Description of**  
**intervention—alternative**  
**governance arrangement**

*Alternative governance is one in which an LEA institutes any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311 (b)(2) of the federal Elementary and Secondary Education Act.*

**Section 4808**  
**Prospective effect of**  
**regulations**

*The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations operative September 13, 2010 through June 13, 2011, are to be deemed in compliance with these regulations operative November 26, 2011.*

**Section 11960**  
**Average daily attendance**

**Regular Average Daily Attendance**

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

Reduction for fewer than 175 days

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

Age limits

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

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

- (B) The pupil is not over the age of 22 years.
- (2) This subdivision shall not apply to a charter school program specified in Education Code section 47612.1. A charter school program as specified in Education Code section 47612.1 may be either:
  - (A) the whole of a charter school, if the school has an exclusive partnership agreement with one or more of the programs specified in Education Code section 47612.1 and serves no other pupils; or
  - (B) an instructional program operated by a charter school that is exclusively dedicated to pupils who are also participating in one of the programs specified in Education Code section 47612.1, provided that arrangement is set forth in an exclusive partnership agreement between the charter school and one or more of the programs specified in Education Code section 47612.1.
  - (d) No individual who is ineligible to generate attendance for apportionment purposes in a charter school pursuant to subdivision (c) may be claimed as regular attendance for apportionment purposes by a local education agency that is authorized by law to grant charters. This subdivision shall not apply to claims other than claims for regular attendance for apportionment purposes.

**Section 11960**  
**Average daily attendance**  
**(cont'd)**

**Closure Procedures**

As used in Education Code sections 47605(b)(5)(P) and 47605.6(b)(5)(Q), "procedures" means, at a minimum, each of the following:

- (a) Designation of a responsible entity to conduct closure-related activities.
- (b) Notification of the closure of the charter school to parents (guardians) of pupils, the authorizing entity, the county office of education (unless the county board of education is the authorization entity), the special education local plan area in which the school participates, the retirement systems in which the school's employees participate (e.g., Public Employees' Retirement System, State Teachers' Retirement System, and federal social security), and the California Department of Education, providing at least the following:
  - (1) The effective date of the closure;
  - (2) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure;
  - (3) The pupils' school districts of residence; and
  - (4) The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.
- (c) Provision of a list of pupils in each grade level and the classes they have completed, together with information on the pupils' district of residence, to the responsible entity designated in subdivision (a).
- (d) Transfer and maintenance of all pupil records, all state assessment results, and any special education records to the custody of the responsible entity designated in subdivision (a), except for records and/or assessment results that the charter may require to be transferred to a different entity.
- (e) Transfer and maintenance of personnel records in accordance with applicable law.
- (f) Completion of an independent final audit within six months after the closure of the school that may function as the annual audit, and that includes at least the following:
  - (1) An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value.
  - (2) An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.
  - (3) An assessment of the disposition of any restricted funds received by or due to the charter school.
- (g) Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed, including but not limited to, the following:
  - (1) The return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required Final Expenditure Reports and Final Performance Reports.
  - (2) The return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.
- (h) Completion and filing of any annual reports required pursuant to Education Code section 47604.33.
- (i) Identification of funding for the activities identified in subdivisions (a) through (h).

**Section 11962**  
**Definition of procedures for**  
**school closure**

- (a) "Notification" as used in Education Code section 47604.32(e) means the transmission to the California Department of Education of at least the following:
  - (1) A description of the circumstances of the closure;
  - (2) The effective date of the closure; and
  - (3) The location of pupil records and personnel records.
- (b) "Personnel records" as used in subdivision (a) means any records the charter school has relevant to its employees, including, but not limited to, records related to performance and grievance as specified in Labor Code section 1198.5.
- (c) "Pupil records" as used in subdivision (a) has the same meaning as per Education Code section 49061(b).
- (d) "Timely" as used in Education Code section 47604.32(e) means receipt of the evidence transmitted pursuant to subdivision (a) within ten calendar days of the official action taken by the chartering authority.

**Section 11962.1**  
**Definitions related to the**  
**duties of a chartering au-**  
**thority**

**Section 11963**  
**Definition of classroom-**  
**based instruction**

**Classroom and Non-Classroom Based Instruction**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 11963.1**  
**Non-classroom-based**  
**instruction in charter**  
**schools**

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

**Section 11963.2**  
**SB740: Average daily**  
**attendance for non-**  
**classroom-based**  
**instruction in charter**  
**schools**

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

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

**Section 11963.3**  
**SB740: Determination of**  
**funding request forms and**  
**calculations**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

**(F)** The excess (or deficiency) of revenues over expenditures calculated by subtracting the total of subparagraphs (B), (C), (D), and (E), from the total resources reported pursuant to subparagraph (A), and a list of the amount of reserves for: facilities acquisition or construction, economic uncertainties, the amount required by the charter-authorizing entity, or other reserves. Reserves in excess of the greater of fifty-thousand dollars or five percent of total expenditures may be allowed for economic uncertainties or long-term expenditures such as capital projects if the excess reserves are satisfactorily explained pursuant to section 11963.4(b).

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

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

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

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

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

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

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

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

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

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

**Section 11963.3  
SB740: Determination of  
funding request forms and  
calculations (cont'd)**

- (5) An explanation of all transfers reported pursuant to subparagraph (E) of paragraph (5) of subdivision (a).
- (6) A list and the amount of each of the other reserves reported pursuant to subparagraph (F) of paragraph (5) of subdivision (a).
- (7) To the extent that a charter school desires to have facility costs considered as an instructional cost, the total annual facility-related and operational cost, total facility square footage occupied by the charter school, total classroom-based average daily attendance (if applicable) as reported at the prior-year second principal apportionment, and the total student hours attended by nonclassroom-based pupils at the school site shall be provided.
- (8) The number of full-time equivalent employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing and who work in the charter school in a position required to provide direct instruction or direct instructional support to students. For purposes of these regulations, "direct instructional support" includes, but is not limited to, activities that are directly related to student instruction that are performed by qualified certificated persons such as curriculum coordinators, individualized education plan coordinators, librarians, counselors, psychologists, and nurses.
- (c) The California Department of Education shall perform the following using the resource and expenditure data provided pursuant to subdivision (a).
- (1) A calculation showing the charter school's total expenditures for salaries and benefits for all employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing (and who work in the charter school in a position required to provide direct instruction or direct instructional support to students) as a percentage of the school's total public revenues. For the purposes of this subdivision:
- (A) "Employees" shall include special education teachers who possess a valid teaching certificate, permit, or other document equivalent to that which special education teachers in non-charter public schools would be required to hold issued by the Commission on Teacher Credentialing, and who provide direct instruction or direct instructional support to pupils of the charter school pursuant to a contract with a public or private entity.
- (B) "Employees" shall include individuals who possess a valid certificate, permit, or other document equivalent to that which the individuals would be required to possess in a non-charter public school, issued by the Commission on Teacher Credentialing, and who are employed by a local education agency (LEA), provided all of the following conditions are met: the LEA is the employer of all the charter school's staff; the governing board of the LEA is the governing authority for the charter school (i.e., the charter school is not a corporate entity separate from the LEA); and the LEA's employees are assigned exclusively to work at the charter school providing direct instruction or direct instructional support to students or, to the extent that the LEA's employees are assigned to work at the charter school on a part-time basis, the charter school pays for the services rendered by the employee providing direct instruction or direct instructional support to students on a documented, fee-for-service basis and not, for example, on the basis of a fixed annual amount, fixed percentage of average daily attendance revenue, or other basis that is not related to documented services actually rendered to the charter school. Under no circumstances shall certificated employees of an LEA be considered employees of a charter school for purposes of this subparagraph unless the charter school pays for the services rendered by the LEA's employees on a documented, fee-for-service basis.
- (C) For purposes of this section, "employee" also means qualified persons that provide direct instruction or direct instructional support, that are hired directly by the charter school through an employment services contract based on a documented, fee-for-service basis.
- (D) The school's total public revenue is based on the amounts reported pursuant to subparagraph (A) of paragraph (5) of subdivision (a) and equals the sum of: all federal revenue, less any Public Charter School Grant Program start-up, implementation, and dissemination grant funds; state revenue; and local revenue from in-lieu property taxes.
- (2) A calculation showing the charter school's total expenditures on instruction and related services as a percentage of the school's total revenues. For the purposes of this subdivision, the school's total revenues do not include the ending balance from the prior fiscal year.

**Section 11963.4  
SB740: Evaluation of  
funding for non-classroom-  
based instruction**

- (a) When a complete determination of funding request is received from a charter school, it shall be reviewed by the California Department of Education and presented to the Advisory Commission on Charter Schools, along with credible information pertaining to the request obtained from any other source. The Advisory Commission shall develop a recommendation pursuant to this section to the State Board of Education regarding the request, and that recommendation shall be presented to the State Board of Education by the California Department of Education. The following criteria shall guide the process of reviewing and developing a recommendation on the request. The California Department of Education shall report any difference of opinion between the California Department of Education and the Advisory Commission as to the recommendation presented to the State Board of Education.
- (1) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals at least 35 percent but less than 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 60 percent but less than 70 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the

request at 70 percent, unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

**(2)** If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 70 percent but less than 80 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 85 percent, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying a percentage that is greater than 70 percent and, if the recommended percentage is lower than the requested percentage, the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

**(3)** If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals or exceeds 80 percent, and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of 25:1 or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 100 percent (i.e. full funding), unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

**(4)** If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 is less than 35 percent, or the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 is less than 60 percent, then the charter school's nonclassroom-based instruction is not substantially dedicated to the instructional benefit of the students, and the Advisory Commission on Charter Schools shall recommend that the State Board of Education deny the request, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying the denial and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school. Denial of a determination of funding request by the State Board of Education shall result in no funding being apportioned for average daily attendance identified by the charter school as being generated through nonclassroom-based instruction pursuant to Education Code section 47634.2(c).

**(5)** Any request for a funding determination received prior to the effective date of these regulations will be reviewed pursuant to the criteria in effect at the time of submittal.

**(b)** The Advisory Commission on Charter Schools and/or the California Department of Education may ask the charter school to provide additional information in order to make possible a more detailed review or to develop a reasonable basis for a recommendation other than those prescribed in subdivision (a). With the consent of the Superintendent of Public Instruction, the request for additional information shall be considered a reasonable inquiry to which the charter school must respond pursuant to Education Code section 47604.3.

**(c)** Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

**(d)** Prior to a recommendation by the Advisory Commission on Charter Schools (that a determination of funding request be denied or approved at a percentage lower than that requested) being forwarded to the State Board of Education, the affected charter school shall be given thirty (30) calendar days in which to amend its determination of funding request and/or to provide additional information in support of the request. Based upon consideration of the amended request or any additional information that may be provided, the Advisory Commission may modify its recommendation to the State Board.

**(e)** A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

**Section 11963.5  
SB740: Determination of  
funding requests for virtual  
or on-line schools**

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

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

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

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

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

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

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

**(5)** All students are provided an individualized learning plan that is based on initial testing of the students and that is monitored either remotely or in person, by the teacher to evaluate student progress.

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

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

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

**Section 11963.6  
Multiyear funding  
determinations for non-  
classroom-based  
instruction**

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

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

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

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

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

**(f)** Not more than 120 days following the receipt of a complete determination of funding request, the California Department of Education shall present the request and the recommendation of the Advisory Commission on Charter Schools to the State Board of Education in accordance with subdivision (a) of section 11963.4.

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

**Section 11963.6  
Multiyear funding determinations for non-classroom-based instruction (cont'd)**

Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the funding authorized. The State Board of Education may terminate a determination of funding if updated or additional information requested by the California Department of Education and/or the Advisory Commission on Charter Schools is not made available by a charter school within thirty (30) calendar days or if credible information from any source supports termination. If the latter is the case, the charter schools shall be given thirty (30) calendar days prior to the termination of funding to provide additional information to support the school's determination of funding.

**Section 11963.7  
Termination of a determination of funding regarding non-classroom-based instructions**

### **General Provisions**

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

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

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

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

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

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

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

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

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

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

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

**(1)** The location of the facility;

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

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

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

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

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

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

**(2)** All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision(f)(1) including the date and duration of the alleged

**Section 11965  
Definitions**

**Section 11965  
Definitions (cont'd)**

*violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued; and*

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

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

**(h)** *For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering authority is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.*

*For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program made pursuant to 20 U.S.C. Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.*

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

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

**Section 11966  
Certification**

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

**Renewals, Appeals & Statewide Benefit Charter Schools**

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

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

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

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

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

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

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

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

**Section 11966.5  
Charter petitions that have not been renewed—  
submission to county board of education**

**(a)** *When the governing board of a school district denies a charter school's petition for renewal, the charter school may submit a petition for renewal to the county board of education not later than 30 calendar days after the district governing board makes its written factual findings. The county board of education and the charter petitioner may extend this date by an additional 30 days only by written mu-*

tual agreement. A petition for renewal not submitted to the county board of education within this time shall be considered denied with no further options for administrative appeal.

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

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

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

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

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

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

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

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

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

**(e)** If a county board of education denies a petition for renewal of a countywide charter school established under Education Code section 47605.5, the petitioner may not elect to submit the petition for renewal of the countywide charter school to the SBE.

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

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

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

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

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

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

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

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

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

**(a)** A charter school whose charter is now renewed by the chartering authority but is subsequently approved on appeal by the county office of education or the SBE, and a charter school initially approved by a County Office of Education or the SBE on appeal and subsequently renewed by the district that previously had denied the charter, shall continue to be eligible for class size reduction funds provided that the charter school had applied for class size reduction funds in 2008-09 either directly or through its authorizer.

**(1)** A charter school that applied through its authorizer in 2008-09 shall, for purposes of Education Code section 52124.3, continue to be eligible for funding through its authorizer for the same number of classes for which its authorizer applied for funding on its behalf in 2008-09 and all subsequent years during which the school was operational. In order to receive funding, a charter school must provide

**Section 11966.5**  
**Charter petitions that have not been renewed—**  
**submission to county board of education (cont'd)**

**Section 11966.6**  
**Charter petitions that have not been renewed locally—**  
**submission to State Board of Education (SBE)**

**Section 11966.7**  
**Categorical funding for charter schools renewed by a different authorizer**

**Section 11966.7**  
**Categorical funding for charter schools renewed by a different authorizer (cont'd)**

*timely reports of actual enrollment in each participating class, pursuant to Education Code sections 52124 and 52126, to its 2008-09 authorizer.*

**(2)** *A charter school that is eligible for funding pursuant to this subdivision shall not be eligible for class size reduction funding pursuant to section 42606.*

**(3)** *This subdivision shall be in effect until such time as Education Code section 52124.3 is no longer in effect.*

**Section 11967**  
**Appeals of petitions for the establishment of a charter school that have been denied**

What must be filed

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

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

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

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

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

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

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

County board of education

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

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

Review not limited to reasons for denial

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

**Section 11967.5**  
**State board approval of charter school petition**

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

**Section 11967.5.1**  
**State board approval criteria**

Unsound program

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

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

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

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

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

Likelihood of success

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(A)** Curriculum, instruction, and assessment.

**(B)** Finance and business management.

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

Signature adequate

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

Required affirmations

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

What is "reasonably comprehensive"

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

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

**(B)** Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person" in the 21st

century, belief of how learning best occurs, and a goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(C)** Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the *SBE* determines to be reasonable and

**Section 11967.5.1  
State board approval  
criteria (cont'd)**

not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

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

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

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

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

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

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

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

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

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

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

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

**(A)** Improve pupil learning.

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

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

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

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

**Section 11967.6  
Statewide benefit charter  
school petition**

Independent study

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

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

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

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

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

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

At least 2 schools

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

Similar populations

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

SELPA membership

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

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

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

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

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

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

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

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

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

**(A)** A timeline for the commencement of instruction at each school. Commencement of instruction must begin during the term of the charter.

**(B)** The general location of each school and the school district and county in which each school is to be located.

**(C)** A description of the potential facilities to be used at each school.

**(D)** The approximate number of pupils that can safely be accommodated by each school facility.

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

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

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

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

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

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

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

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

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

**Section 11967.6  
Statewide benefit charter  
school petition (cont'd)**

Track record

Community report

Address centralized  
responsibilities

Describe statewide benefit

**Section 11967.6.1  
Notification of statewide  
benefit charter school  
petitions and amendments  
to counties and school  
districts**

**Section 11967.6.1**  
**Notification of statewide benefit charter school petitions and amendments to counties and school districts (cont'd)**

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

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

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

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

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

**Section 11967.7**  
**Evaluation of facilities for statewide benefit charter schools**

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

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

**Section 11967.8**  
**Funding for statewide benefit charter schools**

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

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

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

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

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

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

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

**Maximum Number of Charter Schools**

**Section 11968**  
**Charter school numbering**

**(a)** If a charter school, including a statewide benefit or countrywide charter school, ceases to operate by voluntary surrender, revocation, or non-renewal of its charter, the charter school's number will lapse and will not be reassigned.

**(b)** On July 1, 1999, and on each succeeding July 1, the limit on the total number of charter schools authorized to operate in this state will be increased by 100.

**(c)** Whenever the statutory limit on the permissible number of charter schools authorized to operate in this state is reached, requests for new numbers will be placed on a list in the order received by the State Board of Education.

### Establishment and Revocation

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

**(b)** When the *SBE* approves a charter petition or receives notice that a charter petition has been approved by an *LEA*, the *SBE* shall assign a number to that charter petition in accordance with section 47602(a)(1) of the Education Code.

The California Department of Education (*CDE*) on or before November 1 of each year shall identify and notify the State Board of Education (*SBE*) of each charter school that meets the conditions specified in subdivision (e) and any other charter school that the *SSPI* determines warrants action pursuant to Education Code section 47604.5(c).

**(b)** On or before November 1 of each year, the *CDE* shall notify the charter schools identified pursuant to subdivision (e) of these regulations and each school's authorizer in writing that:

**(1)** the *SSPI* may recommend, among other actions, revocation of the school's charter; and

**(2)** the *SBE* will consider the *SSPI*'s recommendation and take appropriate action, including, but not limited to, revocation of the school's charter.

**(c)** The notice provided pursuant to subdivision (b) of these regulations shall provide that the charter school and the authorizer shall be given an opportunity to provide information in writing to the *SSPI* and the *SBE* as to why the school's charter should not be revoked. Such information may include, but is not limited to, action by the school or the local authorizer to address the departures such as the initiation of a plan of corrective action or other local authorizer board action.

**(d)** Any action to revoke a charter school shall be effective at the end of the fiscal year in which the action is taken, to allow sufficient time for transition in accordance with school closure regulations in section 11962 of these regulations, unless the *SBE* identifies cause for immediate revocation and closure and makes a public finding that the departures at the school are so significant as to require the immediate revocation and closure of the charter school. At the beginning of the revocation review, the *CDE* shall require any school being reviewed to immediately provide, at their own expense, written notification to every parent, guardian, or caregiver that fully describes the revocation process, all options including specific schools available to students to transfer if it is needed or desired, and any administrative assistance required for a timely transfer.

**(e)** Substantial and sustained departure from measurably successful practices that jeopardize the educational development of a school's pupils within the meaning of subdivision (c) of Education Code section 47604.5 occurs when a charter school is in operation five years or more, and the charter school has not qualified for the Alternative School Accountability Model pursuant to subdivision (h) of Education Code section 52052, and

**(3)** The charter school has met each of the following:

**(A)** a statement of 1 on API based data for the last two years, and

**(B)** did not achieve a cumulative API growth of at least 50 points over the last three API cycles (i.e., an API cycle represents the difference between a current year growth API and the prior year's base API).

**(4)** These criteria do not limit the discretion of the *SSPI* and *SBE* to recommend or take action relating to a charter school that does not meet this criteria, but which otherwise demonstrates a substantial and sustained departure from measurably successful practices that jeopardize the educational development of a school's pupils within the meaning of subdivision (c) of Education Code section 47604.5.

**(f)** Nothing in this section shall be interpreted to relieve the chartering authority of its duties as a charter authorizer.

**(g)** After the *CDE* determines the conditions in subdivision (e) exist for any charter school, and makes notifications in accordance with subdivisions (b) and (c), the following shall occur:

**(1)** if the charter school and/or the authorizer choose to submit any supporting materials, the materials shall be received by the *CDE* by 5:00 p.m. on December 1.

**(2)** The *SSPI* shall deliver his/her recommendation to the executive director of the *SBE* no later than January 15.

**(3)** No later than February 1, the *CDE* shall send notification to the charter school and its authorizer of the *SSPI*'s recommendation and the date of the *SBE* meeting when the matter is scheduled to be heard.

**(4)** The *SBE* shall hold a public hearing and consider action in accordance with Education Code section 47604.5 no later than March 31.

**(h)** The authority of the *SBE* pursuant to Education Code section 47604.5 is not limited to revocation. Based on additional information provided by the charter school, the school's authorizer, or teachers and parents of pupils at the school, which may include data on more recent academic gains, similar schools ranking and other analysis of similar student populations, and school safety, the *SBE* may offer the charter school an opportunity to take specific corrective actions in lieu of revocation for the remaining term of the charter. The specific corrective action shall address the sustained low academic achievement and may include, but is not limited to, a plan to address any subgroups failing to make academic progress. Corrective action may include, but is not limited to, restructuring of the school's staffing or governance to ensure that the school and all numerically significant subgroups have substantial promise of increasing academic performance in subsequent years.

### Section 11968.1 Numbering of charter school petitions

### Section 11968.5 Revocation of a charter by the State Board of Education upon recommendation

**Section 11968.5.1**  
**Revocation of, or other**  
**action related to, a charter**  
**by the SBE**

*(a) Prior to making a recommendation to the SBE under Education Code sections 47604.5(a) and (b), the SSPI shall deliver a written notice to the charter school's governing body as described in the school's charter and the SBE Executive Director, which identifies one or more specific alleged violations by the charter school based on the grounds specified in Education Code sections 47604.5(a) and (b). This notice shall identify all of the following:*

*(1) the charter school's alleged gross financial mismanagement that jeopardizes the financial stability of the charter school pursuant to Education Code section 47604.5(a); or the charter school's alleged illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school pursuant to Education Code section 47604.5(b);*

*(2) All evidence relied upon by the SSPI in determining the charter school engaged in any of the acts or omissions identified in subdivision(a)(1); and*

*(3) The period of time that will serve as the opportunity to remedy or refute the identified violation(s) by the charter school's governing body as described in the school's charter.*

*(b) Upon receipt of a written notice, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:*

*(1) Submit to the SSPI a detailed, written response to each identified violation which shall include the refutation or remedial action taken by the charter school's governing body as described in the school's charter, specific to each identified violation. The written response shall be due by the end of the remedy period identified in the written notice.*

*(2) Attach to its written response, supporting evidence of remedial action, if any, including written reports, statements, and other appropriate documentation.*

*(c) After conclusion of the remedy period, the SSPI shall evaluate the response of the charter school's governing body as described in the school's charter, if submitted, and shall take one of the following actions:*

*(1) Make a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, and provide timely written notice of such action within 30 calendar days to the charter school's governing body as described in the school's charter; or*

*(2) Discontinue action and provide written notice of such action to the charter school's governing body as described in the school's charter within 10 calendar days.*

*(d) In making a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, the SSPI shall present written findings to the SBE at the next regularly scheduled board meeting.*

**Section 11968.5.2**  
**Charter revocation**

*This section sequentially sets forth procedures the chartering authority and the charter school's governing body as described in the school's charter shall complete for the revocation of a school's charter pursuant to Education Code sections 47607, except for charter revocation when the violation constitutes a severe and imminent threat to the health or safety of pupils which is subject to section 11968.5.3 rather than this section.*

*(a) At least 72 hours prior to any board meeting in which a chartering authority will consider issuing a Notice of Violation, the chartering authority shall provide the charter school with notice and all relevant documents related to the proposed action.*

*(b) The chartering authority shall deliver a Notice of Violation to the charter school's governing body as described in the school's charter.*

*(c) Upon receipt of a Notice of Violation, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:*

*(1) Submit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.*

*(2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.*

*(d) After conclusion of the reasonable opportunity to remedy, the chartering authority shall evaluate the response of the charter school's governing body as described in the school's charter response to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions:*

*(1) If the chartering authority has substantial evidence that the charter school has failed to refute to the chartering authority's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school's governing body as described in the school's charter; or*

*(2) Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school's governing body as described in the school's charter.*

*(e) If the chartering authority does not act, as specified in subdivision (d), within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void.*

*(f) On the date and time specified in the Notice of Intent to Revoke, the chartering authority shall hold a public hearing concerning revocation. No more than 30 calendar days after the public hearing (or 60 calendar days by written mutual agreement with the charter school) the chartering authority shall issue a Final Decision.*



**(g)** The chartering authority shall provide a copy of the Final Decision to the CDE and its county board of education (unless the county board of education is also the chartering authority), within 10 calendar days of issuing the Final Decision.

**(h)** If the chartering authority does not act to issue a Final Decision within the timeframe specified in subdivision (f), the revocation process is terminated and the Notice of Intent to Revoke is void.

This section sets forth procedures the chartering authority shall complete for the revocation of a school's charter when the chartering authority has determined that any violation under Education Code section 47607(c) constitutes a severe and imminent threat to the health or safety of pupils and the procedures that a charter school and county office of education and SBE must follow if the charter school elects to appeal a chartering authority's Final Decision to revoke the school's charter.

**(a)** If there is a severe and imminent threat to pupil health or safety, the chartering authority is exempt from the requirements of section 11968.5.2 and may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body as described in the school's charter, the county board of education (unless the county board of education is also the chartering authority), and the CDE.

**(b)** Following the approval and delivery of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety by the chartering authority, the charter school's governing body as described in the school's charter may appeal to the county board of education or the SBE, as applicable, pursuant to Education Code sections 47607(f) and (g).

**(c)** In an appeal to a county board of education, within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter shall approve and deliver a written Notice of appeal to the county board of education that:

**(1)** includes a copy of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety issued pursuant to this article except that the charter school shall not be responsible for providing this document if the chartering authority did not provide it to the charter school as required in this section;

**(2)** includes evidence of the final vote of the chartering authority, if available;

**(3)** includes all evidence relied upon by the chartering authority in determining that a violation under section 11965(e) existed;

**(4)** includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available; and

**(5)** includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence.

**(d)** If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision (c) of this section, the district chartering authority's decision is upheld, pending any further appeal.

**(e)** In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety pursuant to Education Code sections 47607(c) and (d).

**(f)** The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.

**(g)** If the district chartering authority or the school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days following the final decision by the county board of education, or within 30 calendar days upon the expiration of 90 calendar days pursuant to subdivision (d) of this section, or within 30 calendar days of a county chartering authority's Final Decision.

**(h)** The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE:

**(1)** copies of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, the Final Decision, and the Notice of Appeal delivered to the county board of education, and the county board of education's written decision, as applicable;

**(2)** evidence of the final vote of the chartering authority, if available;

**(3)** evidence relied upon by the chartering authority in determining that a violation under section 11965 (e) existed; and

**(4)** minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available.

**(i)** At the same time the appellant submits its Notice of Appeal to the SBE, the appellant shall also submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

**Section 11968.5.2  
Charter revocation (cont'd)**

**Section 11968.5.3  
Charter revocation when  
there is a severe and  
imminent threat to the  
health or safety of pupils**

**Section 11968.5.3**  
**Charter revocation when there is a severe and imminent threat to health or safety of pupils (cont'd)**

- (1) a summary of the procedural and substantive facts limited to matters in the record;
- (2) a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and
- (3) specific citations to the administrative record in support of each argument presented.
- (j) If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written opposition shall be in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the appellant within five calendar days of delivery to the SBE; and contain the following:
  - (1) a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;
  - (2) a summary of the arguments in support of the respondent's position that the chartering authority and/or the county board of education did not err in its decision; and
  - (3) specific citations to the administrative record in support of each argument presented.
- (k) Within 15 calendar days of the delivery of the respondent's written opposition to the SBE, the appellant may submit to the SBE a written reply to the respondent's written opposition in the form of a brief or letter. If submitted, this written reply shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:
  - (1) a summary of the arguments refuting the arguments raised in the respondent's opposition; and
  - (2) specific citations to the administrative record in support of each argument presented.
- (l) If the SBE does not take action within 120 calendar days of receipt of the appellant's written argument, if submitted pursuant to subdivision (i); or within 150 days of receipt of the respondent's written opposition, if submitted pursuant to subdivision (j); or within 165 days of receipt of the appellant's written reply, if submitted pursuant to subdivision (k); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

**Section 11968.5.4**  
**Appeal of a district charter revocation to a county board of education**

*This section establishes the procedures that a charter school and county office of education must follow if the charter school elects to appeal to a county board of education a district chartering authority's Final Decision to revoke the school's charter.*

- (a) Within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter, shall approve and deliver a written Notice of Appeal to the county board of education that:
  - (1) Includes a copy of the Notice of Violation, Notice of Intent to Revoke and the Final Decision issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide them to the charter school as required in section 11968.5.2;
  - (2) Includes evidence of the final vote of the chartering authority, if available;
  - (3) Includes all evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation;
  - (4) Includes all evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke;
  - (5) Includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available;
  - (6) Includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence; and
  - (7) Identifies any procedural omissions or errors the charter school alleges to have occurred in the revocation process.
- (b) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision (a) of this section, the district chartering authority's decision is upheld, pending any further appeal.
  - (1) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Violation, a reasonable opportunity to remedy the identified violation(s), a Notice of Intent to Revoke, a public hearing, and Final Decision, pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e), inclusive.
  - (2) If the charter school submits a response to the Notice of Violation pursuant to 11968.5.2(c), the county board of education shall, in determining whether the district chartering authority's factual findings are supported by substantial evidence, consider whether the charter school complied with the procedures set forth in that section.
  - (3) The county board of education shall also consider whether an alleged procedural deficiency negatively impacted the charter school's ability to refute or remedy the alleged violation or the chartering authority's ability to comply with its procedural obligations or authorizing duties.

**(c)** The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.

**(d)** An appeal to a county board of education of a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety is subject to section 11968.5.3 rather than this section.

**(a)** If the district chartering authority or the charter school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days of receiving a written decision by the county board of education, within 30 calendar days upon the expiration of 90 calendar days pursuant to section 11968.5.4(b), or within 30 calendar days of a county chartering authority's Final Decision.

**(b)** The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE::

**(1)** copies of the Notice of Violation, Notice of Intent to Revoke, the Final Decision, the Notice of Appeal to the county board of education, and the county board of education's written decision, as applicable;

**(2)** evidence of the final vote of the chartering authority if available;

**(3)** evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to refute to the chartering authority's satisfaction or remedy one or more violations identified in the Notice(s) of Violation;

**(4)** evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke; and

**(5)** minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter if available.

**(c)** At the same time the appellant submits its Notice of Appeal to the SBE, the appellant shall also submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

**(1)** a summary of the procedural and substantive facts limited to matters in the record;

**(2)** a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and

**(3)** specific citations to the administrative record in support of each argument presented.

**(d)** If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written opposition shall be in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the appellant within five calendar days of delivery to the SBE; and contain the following:

**(1)** a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;

**(2)** a summary of the arguments in support of the respondent's position that the chartering authority and/or the county board of education did not err in its decision; and

**(3)** specific citations to the administrative record in support of each argument presented.

**(e)** Within 15 calendar days of the delivery of the respondent's written opposition to the SBE, the appellant may submit to the SBE a written reply to the respondent's written opposition in the form of a brief or letter. If submitted, this written reply shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

**(1)** a summary of the arguments refuting the arguments raised in respondent's opposition; and

**(2)** specific citations to the administrative record in support of each argument presented.

**(f)** If the SBE does not take action within 120 calendar days of receipt of the appellant's written argument, if submitted pursuant to subdivision (c); or within 150 days of receipt of the respondent's written opposition, if submitted pursuant to subdivision (d); or within 165 days of receipt of the appellant's written reply, if submitted pursuant to subdivision (e); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

**(g)** An appeal to the SBE of a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety is subject to section 11968.5.3 rather than this section.

### **Implementation of Proposition 39**

**(a)** This article governs provision of facilities by school districts to charter schools under Education Code section 47614.

**(b)** If a charter school and a school district mutually agree to an alternative to specific compliance with any of the provisions of this article, nothing in this article shall prohibit implementation of that alternative, including, for example, funding in lieu of facilities in an amount commensurate with local rental or lease costs for facilities reasonably equivalent to facilities of the district.

**Section 11968.5.4**  
**Appeal of a district charter revocation to a county board of education (cont'd)**

**Section 11968.5.5**  
**Appeal of charter revocation to the SBE and submission of the administrative record**

**Section 11969.1**  
**Purpose and stipulation**

**Section 11969.2  
Definitions**

**(a)** Average Daily Classroom Attendance. As used in Education Code section 47614(b), "average daily classroom attendance," or "classroom ADA," is average daily attendance (ADA) for classroom-based apportionments as used in Education Code section 47612.5. "In-district classroom ADA" is classroom ADA attributable to in-district students. Nothing in this article shall prohibit a school district from allowing a charter school to include nonclassroom-based ADA in average daily classroom attendance, but only:

**(1)** to the extent of the instructional time that the students generating the nonclassroom-based ADA are actually in the classroom under the direct supervision and control of an employee of the charter school; and

**(2)** if the school district and charter school agree upon the time(s) that facilities devoted to students generating nonclassroom-based ADA will be used.

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

**(c)** In-district Students. As used in Education Code section 47614(b), a student attending a charter school is an "in-district student" of a school district if he or she is entitled to attend the schools of the school district and could attend a school district-operated school, except that a student eligible to attend the schools of the school district based on interdistrict attendance pursuant to Education Code section 46600-46611 or based on parental employment pursuant to Education Code section 48204(b) shall be considered a student of the school district where he or she resides.

**(d)** Contiguous. As used in Education Code section 47614(b), facilities are "contiguous" if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety. In evaluating and accommodating a charter school's request for facilities pursuant to Education Code section 47614, the charter school's in-district students must be given the same consideration as students in the district-run schools, subject to the requirement that the facilities provided to the charter school must be contiguous. If a school district's preliminary proposal or final notification presented pursuant to subdivisions (f) or (h) of section 11969.9 does not accommodate a charter school at a single school site, the district's governing board must first make a finding that the charter school could not be accommodated at a single site and adopt a written statement of reasons explaining the finding.

**(e)** Furnished and Equipped. As used in Education Code section 47614(b), a facility is "furnished and equipped" if it includes reasonably equivalent furnishings necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction as found in the comparison group schools established under section 11969.3(a), and if it has equipment that is reasonably equivalent to that in the comparison group schools. "Equipment" means property that does not lose its identity when removed from its location and is not changed materially or consumed immediately (e.g., within one year) by use. Equipment has relatively permanent value, and its purchase increases the total value of a Local Educational Agency's (LEA's) physical properties. Examples include furniture, vehicles, machinery, motion picture film, videotape, furnishings that are not an integral part of the building or building system, and certain intangible assets, such as major software programs. Furnishings and equipment acquired for a school site with non-district resources are excluded when determining reasonable equivalence.

**(f)** General Fund. As used in Education Code section 47614(b)(1), "general fund" means the main operating fund of the LEA. It is used to account for all activities except those that are required to be accounted for in another fund. In keeping with the minimum number of funds principle, all of an LEA's activities are reported in the general fund unless there is a compelling reason to account for an activity in another fund. An LEA may have only one general fund.

**(g)** Unrestricted Revenues. As used in Education Code section 47614(b)(1), "unrestricted revenues" are those funds whose uses are not subject to specific constraints and that may be used for any purposes not prohibited by law. Restricted revenues are those funds received from external sources that are legally restricted or that are restricted by the donor to specific purposes. Programs funded by a combination of restricted and unrestricted sources will be accounted for and reported as restricted. Funds or activities that are not restricted or designated by the donor, but rather by the LEA's governing board, will be accounted for and reported as unrestricted.

**(h)** Facilities Costs. As used in Education Code section 47614(b)(1), "facilities costs" are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools. This includes plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases.

**Section 11969.3  
Conditions reasonably  
equivalent**

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

**(a)** Comparison Group.

**(1)** The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration.

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

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

**(4)** Although the district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration, nothing in this article shall preclude the district from entering into an agreement with the charter school to modify an existing school site, with the costs of the modifications being paid exclusively by the charter school or by the school district, or paid jointly by the district and the charter school.

**(b) Capacity.**

**(1)** Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools. School district ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. Charter school ADA shall be determined using in-district classroom ADA projected for the fiscal year and grade levels for which facilities are requested. The number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing. "Interim housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities, as defined in California Code of Regulations, title 2, section 1859.2, and classrooms used as emergency housing for schools vacated due to structural deficiencies or natural disasters.

**(2)** If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall include a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

**(A)** the grade levels of the charter school's in-district students;

**(B)** the charter school's total in-district classroom ADA; and

**(C)** the per-student amount specialized classroom space in the comparison group schools.

**(3)** The school district shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

**(c) Condition.**

**(1)** All of the factors listed below shall be used by the school district and charter school to determine whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Condition is determined by assessing such factors as age (from latest modernization), quality of materials, and state of maintenance.

**(A)** School site size.

**(B)** The condition of interior and exterior surfaces.

**(C)** The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes.

**(D)** The availability and condition of technology infrastructure.

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

**(F)** The condition of the facility's furnishings and equipment.

**(G)** The condition of athletic fields and/or play area space.

**(2)** Notwithstanding paragraph (1) of subdivision (c), at a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the condition of the facility previously used by the school district at the site shall be considered to be reasonably equivalent to the condition of school district facilities for the first year the charter school uses

**Section 11969.3**  
**Conditions reasonably**  
**equivalent (cont'd)**

the facility. During its first year of operation, the charter school shall be subject to charges for pro rata costs pursuant to section 11969.7, but shall not be subject to reimbursement for over-allocated space pursuant to section 11969.8.

**(d)** Additional Provisions Relating to a Charter School Established at an Existing Public School Site.

The following provisions apply only to a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650 and that operated at the site in its first year pursuant to paragraph (2) of subdivision (c).

**(1)** The school site, as identified in the school's charter, shall be made available to the school for its second year of operation and thereafter upon annual request pursuant to Education Code section 47614. The district is entitled to charge the charter school pro rata costs for the school site pursuant to section 11969.7, and the district is entitled to receive reimbursement for over-allocated space from the charter school pursuant to section 11969.8, except as provided in paragraph (3).

**(2)(A)** If, by material revision of the charter, the location of a charter school is changed, or if one or more additional sites are approved pursuant to Education Code section 47605(a)(4), then the school is entitled to request and the district shall provide for the use of facilities by the school in accordance with the revised charter, Education Code section 47614, and the provisions of this article.

**(B)** If the charter school was established pursuant to Education Code section 47605(a)(2), the district shall change the school's attendance area only if a waiver is first secured from the State Board of Education (SBE) pursuant to Education Code sections 33050-33053 of the requirement in Education Code section 47605(d)(1) that the school continuously give admission preference to students residing in the former attendance area of the school site.

**(C)** If the charter school was established pursuant to Education Code sections 52055.5, 52055.55, or 52055.650, the district shall relocate the school or change the school's attendance area only if a waiver is first secured from the SBE pursuant to Education Code sections 33050-33053 of the provision of statute binding the school to the existing school site.

**(D)** If a school district decides to change a charter school's attendance area as provided in subparagraphs (B) or (C), and if the decision occurs between November 1 and June 30 and becomes operative in the forthcoming fiscal year, then the space allocated to the charter school is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the forthcoming fiscal year.

**(3)** If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the following year or thereafter, and the district is entitled to occupy all or a portion of the space identified. To recover space surrendered to the district pursuant to this paragraph, a charter school must apply to the district. An application to recover surrendered space shall be evaluated by the district in accordance with the provisions of this article

**Section 11969.4**  
**Operations and**  
**maintenance**

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

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

**Section 11969.5**  
**Availability**

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

**Section 11969.6**  
**Location**

A school district may satisfy the requirements of Education Code section 47614 by providing facilities that are located outside the school district's boundaries, subject to other provisions of this article and subject to the restrictions on location of charter schools established in Education Code sections 47605 and 47605.1. No school district is required to provide facilities that are located outside the school district's boundaries to a charter school.

**Section 11969.7**  
**Charges for facilities costs**

If the school district charges the charter school a pro rata share of its facilities costs for the use of the facilities, the pro rata share shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted revenues from the district's general fund, as defined in sections 11969.2(f) and (g) and hereinafter referred to as "unrestricted general fund revenues," divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school. The following provisions shall apply to the calculation of the pro rata share of facilities costs:

**(a)** For purposes of this section, facilities costs that the school district pays with unrestricted general fund revenues includes those costs associated with plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases, as defined in section 11969.2(h). For purposes of this section, facilities costs also includes:

- (1)** contributions from unrestricted general fund revenues to the school district's Ongoing and Major Maintenance Account (Education Code section 17070.75), Routine Restricted Maintenance Account (Education Code section 17014), and/or deferred maintenance fund,
- (2)** costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and
- (3)** costs paid from unrestricted general fund revenue for replacement of facilities-related furnishings and equipment, that have not been included in paragraphs (1) and (2), according to school district schedules and practices.

For purposes of this subdivision, facilities costs do not include any costs that are paid by the charter school, including, but not limited to, costs associated with ongoing operations and maintenance and the costs of any tangible items adjusted in keeping with a customary depreciation schedule for each item.

- (b)** For purposes of this section, the cost of facilities shall include debt service costs.
- (c)** "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space includes, but is not limited to, those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.
- (d)** The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.
- (e)** The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article, and a charter school using school district facilities pursuant to Education Code section 47614 shall report the per-square-foot charge it is paying in the current fiscal year to the California Department of Education (CDE) in any notification the charter school makes to the CDE pursuant to Education Code section 47630.5(b). The CDE shall post the per-square-foot amounts reported by charter schools on its publicly accessible Web site. The CDE shall offer the opportunity to each school district to provide explanatory information regarding its per-square-foot charge and shall post any information received.
- (f)** If a school district charges a charter school for facilities costs pursuant to this article, and if the district is the charter school's authorizing entity, the facilities are not substantially rent free within the meaning of Education Code section 47613, and the district may only charge for the actual costs of supervisorial oversight of the charter school not to exceed one percent of the school's revenue.

**(a)** Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater. The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263 for 2005-06, adjusted annually thereafter by the CDE by the annual percentage change in the general-purpose entitlement to charter schools calculated pursuant to Education Code section 47633, rounded to the next highest dollar, and posted on the CDE Web site. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA. For purposes of this subdivision, the actual in-district classroom ADA shall be determined using the report submitted pursuant to section 11969.9(l) in conjunction with the second principal apportionment under Education Code section 41601.

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

**(c)** With respect to charter schools established at existing public school sites pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the provisions of this section are limited by the applicable provisions of subdivisions (c) and (d) of section 11969.3.

**Section 11969.7**  
**Charges for facilities costs**  
**(cont'd)**

**Section 11969.8**  
**Reimbursement rates for**  
**over-allocated space**

**Section 11969.9  
Procedures and timelines  
for the request for,  
reimbursement for, and  
provision of, facilities**

**(a)** A charter school must be operating in the school district as defined in Education Code section 47614 before it submits a request for facilities. A new or proposed new charter school is operating within the school district and, therefore, eligible to request facilities for a particular fiscal year only if it submitted its charter petition pursuant to Education Code sections 47605, 47605.5, 47605.6, or 47605.8 on or before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated and/or provided access to facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested.

**(b)** To receive facilities during a particular fiscal year, a charter school must submit a written facilities request to the school district on or before November 1 of the preceding fiscal year.

**(c)(1)** The written facilities request consists of:

**(A)** reasonable projections of in-district and total ADA and in-district and total classroom ADA, based on ADA claimed for apportionment, if any, in the fiscal year prior to the fiscal year in which the facilities request is made, adjusted for expected changes in enrollment in the forthcoming fiscal year;

**(B)** a description of the methodology for the projections;

**(C)** if relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in in-district ADA), documentation of the number of in-district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise arithmetical accuracy;

**(D)** the charter school's operational calendar;

**(E)** information regarding the district school site and/or general geographic area in which the charter school wishes to locate; and

**(2)** Projections of in-district ADA, in-district classroom ADA, and the number of in-district students shall be broken down by grade level and by the school in the school district that the student would otherwise attend.

**(3)** School districts may require the charter school to submit its facilities request containing the information specified in paragraphs (1) and (2) on a form available from the CDE and developed in consultation with the Advisory Commission on Charter Schools (ACCS) or another form specified by the school district. School districts may also require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review.

**(d)** The school district shall review the charter school's projections of in-district and total ADA and in-district and total classroom ADA and, on or before December 1, express any objections in writing and state the projections the district considers reasonable. If the district does not express objections in writing and state its own projections by the deadline, the charter school's projections are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

**(e)** On or before January 2, the charter school shall respond to any objections expressed by the school district and to the district's projections provided pursuant to subdivision (d). The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to subdivision (d). If the charter school does not respond by the deadline, the district's projections provided pursuant to subdivision (d) are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

**(f)** On or before February 1, the school district shall prepare in writing a preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include (1) the projections of in-district classroom ADA on which the proposal is based, (2) the specific location or locations of the space, (3) all conditions pertaining to the space, including a draft of any proposed agreement pertaining to the charter school's use of the space, and (4) the projected pro rata share amount and a description of the methodology used to determine that amount. The district shall also provide the charter school a list and description of the comparison group schools used in developing its preliminary proposal, and a description of the differences between the preliminary proposal and the charter school's facilities request as submitted pursuant to subdivision (b).

**(g)** On or before March 1, the charter school shall respond in writing to the school district's preliminary proposal made pursuant to subdivision (f), expressing any concerns, addressing differences between the preliminary proposal and the charter school's facilities request as submitted pursuant to subdivision (b), and/or making counter proposals.

**(h)** On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to subdivision (g), the school district shall submit in writing a final notification of the space offered to the charter school. The notification shall include a response to the charter school's concerns and/or counter proposals (if any). The notification shall specifically identify:

**(1)** the teaching station, specialized classroom space, and non-teaching station space offered for the exclusive use of the charter school and the teaching station, specialized classroom space, and non-teaching station space to which the charter is to be provided access on a shared basis with district-operated programs;

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

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

**(4)** the specific location or locations of the space;



- (5) all conditions pertaining to the space;
- (6) the pro rata share amount; and
- (7) the payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes.
- (i) The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur by May 1 or 30 days after the school district notification pursuant to subdivision (h), whichever is later. The charter school's notification can be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the school district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the school district by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in the following fiscal year.
- (j) The space allocated to the charter school by the school district (or to which the school district provides the charter school access) must be furnished, equipped and available for occupancy by the charter school for a period of at least ten working days prior to the first day of instruction of the charter school. For good cause, the period is subject to reduction by the school district, but to no fewer than seven working days.
- (k) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in the notification provided by the school district to the charter school pursuant to subdivision (h). In addition:
  - (1) The charter school shall maintain general liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable. The school district shall maintain first party property insurance for the facilities allocated to the charter school.
  - (2) The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.
  - (3) A reciprocal hold-harmless/indemnification provision shall be established between the school district and the charter school.
  - (4) The school district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code section 47610(d) or 47610.5.
- (l) The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

**Section 11969.9  
Procedures and timelines  
for the request for,  
reimbursement for, and  
provision of, facilities  
(cont'd)**

If a dispute arises between a school district and a charter school concerning the provisions of Education Code section 47614 or this article, nothing in this article shall preclude the dispute being subject to mediation in accordance with the procedures set forth in this section, if agreeable to both parties. Mediation consists of the following:

- (a) The initiating party shall select a mediator, subject to the agreement of the responding party. If, though agreeing to mediation, the parties are unable to agree upon a mediator, the CDE shall be requested by the initiating party to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.
- (b) Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolution process shall prepare and send to both the responding party and the mediator a notice of dispute that shall include the following information:
  - (1) The name, address, and phone numbers of designated representatives of the parties;
  - (2) A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute;
  - (3) The specific sections of the statute or regulations that are in dispute; and
  - (4) The specific resolution sought by the initiating party.
- (c) Within seven days of receiving the information specified in subdivision (b), the responding party shall file a written response.
- (d)(1) The mediation procedure shall be entirely informal in nature. However, copies of exhibits upon which either party bases its case shall be shared with the other party. The relevant facts shall be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made.
- (2) If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the school district and the charter school. The agreement shall not set a precedent for any other case.
- (3) If the school district and the charter school fail to meet within the specified time line, have not reached an agreement within 15 days from the first meeting held by the mediator, or if the mediator declares the parties at impasse, the mediation is terminated.
- (e) The costs of the mediation shall be divided equally by the two parties and paid promptly.

**Section 11969.10  
Mediation of disputes**

**REFERENCE LIST OF OTHER PERTINENT LAWS, REGULATIONS AND PUBLICATIONS:**

- Airport proximity of school, Education Code § 17215
- Attendance Accounting, Education Code § 46000 et seq.
- Audits by County Superintendent, Education Code § 1241.5
- California Environmental Quality Act ("CEQA"), Public Resource Code § 21000 et seq.
- California High School Exit Exam (CAHSEE), Education Code § 60850 et seq.; 5 Cal. Code Regs. § 1200 et seq.
- California School Finance Act, Education Code §§ 17171, 17173 et seq.
- California School Accounting Manual, published by California Department of Education
- Child Abuse and Neglect Reporting Act, Penal Code § 11164 et seq.
- Collective Bargaining, Government Code § 3540 et seq.
- Conflicts of Interest, Government Code § 1090 et seq.
- Conflicts of Interest, Government Code § 87100 (Political Reform Act); 2 Cal. Code Regs. § 18700 et seq.
- Conversion Charters Targeted Instruction Grant, Education Code § 41340
- County Superintendent Audits, Education Code § 1241.5
- Credentials—Highly Qualified Teacher (HQT) under No Child Left Behind, 20 U.S.C. § 6311 et seq.
- Desegregation funding, Education Code § 41540
- *Dropout Recovery*, Education Code § 52052.3
- FERPA (Family Educational Rights and Privacy Act), 20 USC § 1232g
- Field trips, Education Code § 35330
- Fingerprints, Education Code § 44237
- *GEDs*, Education § 51420
- Governing Board, Education Code § 42127.8
- *JPA as Public School Employer*, Government Code § 3540.1
- Liability of non-profit directors and officers, Corporations Code § 5047.5
- Nonprofit Public Benefit Corporations, Formation, Corporations Code § 5120 et seq.
- Open Meetings ("Brown Act"), Government Code § 54950 et seq.
- Open Meetings Exception for Employment Negotiations, Government Code § 3549.1
- Parent Trigger Law, Education Code § 53300 et seq., 5 Cal. Code Regs. § 4800 et seq.
- *Prison Goods*, Penal Code § 2807
- Proposition 55, Kindergarten—University Public Education Facilities Bond Act of 2004, Education Code § 100800 et seq.
- Public Records Act, Government Code § 6250 et seq.
- School facilities funding match calculation, Education Code § 17078.57
- School Funding Priority, Cal. Constitution Art. 16 §§ 8, 8.5
- *Seizures*, Education Code § 49414.7
- Special Education Local Plan Areas, Education Code § 56195 et seq.
- Standardized Testing and Reporting Program, Education Code § 60640 et seq., 5 Cal. Code Regs. § 850 et seq.
- Teacher Pay Periods, Education Code §§ 45038-40
- Uniform Complaint Procedures, 5 Cal. Code Regs § 4600 et seq.
- Waivers, Education Code § 33050
- *Whooping Cough*, Education Code § 120335.1
- Work permits for students, Education Code § 49110
- Year round grant funding phaseout, Education Code § 42270
- Zoning Exemption, Government Code § 53090 et seq.

## INDEX

- Assessments
  - Academic Performance Index (API), 17
  - Affecting renewal, 17
  - California High School Exit Exam (CAHSEE), 90
  - Standardized testing and reporting (STAR) Program, 17, 72, 90
- Attendance
  - Attendance accounting, 19, 20, 39, 62, 64, 84, 90
  - Average Daily Attendance (ADA), 19, 22, 26, 28, 84
  - Independent study attendance accounting, 38-40, 64-68
- Authorizers, 9-12, 14-17
- Brown Act, 18, 90
- Chartering
  - Appeal of denial to the County or State Board of Education, 12, 16, 18, 70-72
  - Conversion schools, 8, 10, 25, 32, 34, 90
  - County or State Board of Education criteria for petition review, 12, 14-16, 70-72
  - Criteria for denial, 10, 12, 14-16, 19, 31, 72
  - Elements of a charter petition, 9-12, 14-16, 76
  - Petition review, 9, 10, 12, 14, 16, 19, 31, 72
  - Renewal, 9, 12, 17, 18
  - Revocation, 9, 17, 18
  - SBE Revocation Regs 69, 79-83
  - SBE Renewal Regs 70-71
- Chartering Authority
  - Responsibilities, 9-12, 52, 63
- Conflicts of Interest
  - Government Code § 1090, 90
  - Nonprofit corporation directors, 41-46
  - Political Reform Act, 90
- Facilities
  - Generally, 11, 14, 16, 18, 22-24, 47-52, 72, 76, 78, 83-89
  - Prop 39, 22, 83-89
  - Prop 55, 90
  - SB 740, 23
- Finance/Business
  - Audits, 11, 15, 28, 72, 76, 90
  - Budgets and financial reports, 9, 11-12, 16, 52, 62, 63, 72
  - Inquiries from chartering authorities, 8-9
  - Investigations, 9
- Funding
  - Charter school block grant, 25-27, 31, 36-37
  - Direct-funded charter schools, 24, 28, 31, 36, 78
  - Generally, 24-30, 31-36, 57-62, 78
  - SB740 requests, 27, 64-68
- Governance
  - Articles, bylaws of nonprofit public benefit corporations, 6, 41, 90
  - Brown Act, 90
  - Incorporation, 6, 41-46
- Grants - See Funding - Charter School Block Grant
- Human Resources
  - Educational Employment Relations Act applicable, 19
  - Employee return rights, 11
  - Participation in STRS, PERS, or Social Security, 11, 19
  - Qualifications of employees, 11
- Lottery, 30, 31
- Megawaiver, 18
- Non Classroom Based Education
  - Attendance reporting, 38-40, 64-69
  - Auditing, 68
  - Funding requests, 64-69
  - Independent study, 37-41, 64-69
  - Preferences, 11
- Parent Trigger, 56-62, 90
- Religious Education, 11, 15
- Special Education
  - LEA Responsibilities, 30-31
  - No denial, 16, 31
  - School within a local educational agency (LEA), 30-31
  - Special Education Local Plan Area (SELPA), 30-31, 76, 90
- Supervisory Oversight Fees, 21