

Charter Schools: National Context, California Experience

A discussion sponsored by:

**California Education Policy Seminar
and the
California State University Institute
for Education Reform**

November 1998

The California Education Policy Seminar

provides a neutral forum for state-level education policy makers and educators to gain in-depth knowledge about emerging policy issues. The seminars have contributed to the development, modification and enhancement of education reform initiatives in California. The California Education Policy Seminar is funded by the Stuart Foundation.

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is a university-based policy center focusing on elementary and secondary school issues. Located on the California State University, Sacramento campus, the Institute is supported by the California State University Chancellor's Office.

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Introduction

Checking the Pulse of Charter Schools

Since the first charter school law was passed in Minnesota in 1991, there has been an enormous interest in this alternative form of public schooling. Parents, teachers, elected officials and researchers all are tremendously concerned about the current education system and its frequent failure to prepare children adequately for the future. There is a strong interest in accountability, standards and results. At the same time, there is pressure for the education system to “open up” – with choices for parents, collaboration among many constituencies and a receptiveness to new effective practices.

In the midst of these pressures for meaningful reform, the charter school mechanism has resonated with a great many people as a dynamic solution that provides flexibility of method coupled with a focus on successful academic outcomes.

Today there are more than 1,000 charter schools nationally, with approximately 150 in operation in California. From the beginning, these schools have been scrutinized closely – surveyed to see how they operate, examined to determine their impact and argued over as to their potential. Are they little more than sanctuaries for dissatisfied parents and educators, or are they a means by which the entire education system can be transformed and improved? Are they leader-driven, site-specific solutions that will only work under certain conditions, or can their experience be replicated widely? Should they have to prove that they provide better educational results, or should they be held to academic success standards when regular schools are not? Are they an educational reform fad or an effective learning mechanism that will mature into a permanent option in the education system?

Because charter schools by their very nature are individualistic, there is no easy way to define the charter school experience, add up all of the data and reach sweeping conclusions. But as this movement continues to grow, exchanging information and sharing common experiences is an important way to begin to understand what the charter movement is accomplishing and how far this mechanism will take us in reforming the education system.

October 1, 1998 Seminar

On October 1, 1998, the California Education Policy Seminar and the California State University Institute for Education Reform sponsored a roundtable discussion on charter schools. More than 40 charter school practitioners, educators, state policy makers, elected school board officials, education researchers and others attended the session. The session began with a presentation about the federally funded, five-year study of the charter school experience across the nation. In addition, a panel of presenters described the experience of three California charter schools. Other perspectives were provided by the Los Angeles Unified School District and WestEd.

Finally, the key provisions of California's recent major revision of its charter school law were highlighted. Throughout the seminar, participants asked questions and voiced opinions about the progress and impact of charter schools.

This report documents the proceedings at the seminar. Throughout this report, comments made by individuals are summarized without quotation. All text should be regarded as paraphrasing and/or synthesizing what was actually said, and not as direct quotes attributable to the presenters or other participants.

Presentation of Paul Berman

Paul Berman, President of RPP International, provided a broad overview of charter schools, both nationally and in California.

The Charter School Movement

Most people don't have a comprehensive sense of what is going on in the charter school movement. They may know what their local charter school is doing or how charter schools function in their state, but they don't have a big-picture perspective of how this movement is growing and changing.

In a joint agreement, Congress and the President authorized a study of charter schools. The U.S. Department of Education contracted with RPP International to conduct a neutral, five-year study. In July 1998, the government released the second-year study, which presents information on charter schools for the 1996-97 school year. Some of the information highlighted in this presentation is from the 1997-98 school year, but it primarily draws on information from the second year report.

States are Different

The first point to understand is that state by state, the charter experience varies greatly. As Chart 1 shows, the number of charter schools has been growing steadily and rapidly since Minnesota passed the first charter law in 1991. By September of 1998, there were 1,022 charter schools in operation. (Some schools, particularly in Arizona, have multiple branches or sites and, if those are counted separately, there are 1,080.) The increase is about 350 since 1997 – and we expect the high rate of growth to continue.

One reason that growth should continue is that the number of states that have charter laws is still expanding. Chart 2, which

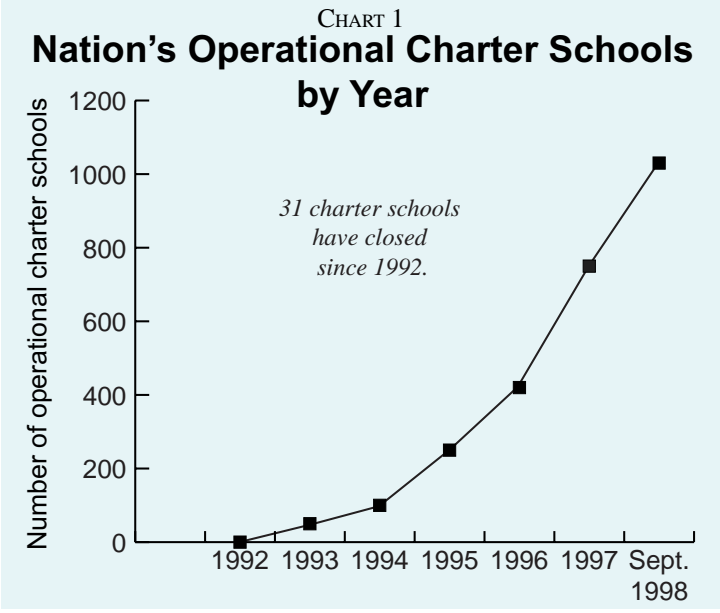


CHART 2
States with Charter Laws
(by year passed as of 9/98)

| 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
|-------|--------|---|-------------------------|--|--|--------------------------------|----------------------------|
| Minn. | Calif. | Colo. Ga. Mass. Mich. N.M. Wisc. | Ariz. Hawaii Kan. | Alas. Ark. Dela. N.H. La. R.I. Wy. | Conn. D.C. Fla. Ill. N.J. N.C. S.C. Texas | Miss. Nev. Ohio Penn. | Ida. Mo. Va. Utah |

shows the states by the year that they passed charter school legislation, indicates the growth of the charter school movement. As of 1998, 33 states plus the District of Columbia have charter school laws.

Not all states with charter school laws have operational charter schools. In the 1997-98 school year, 23 states plus the District of Columbia had operational schools. The number grew to 26 (plus D.C.) at the beginning of the 1998-99 school year. Chart 3 provides a state-by-state, year-by-year look at the numbers. The states with the most charter schools – each with about 150 – are Arizona, California and Michigan.

The numbers only tell part of the story. States do very different things. And as a result, this is a very complex phenomenon. Georgia, for instance, doesn't allow a charter school to develop much beyond a standard school. Other states allow a great deal of freedom.

So, state by state, what is going on can be very different. A comprehensive table in the Appendix answers a few key questions about how each state has set up its charter law: Who can grant the charter, where the school can come from (pre-existing, newly created, private), the number of charter schools allowed, duration of the charter term and collective bargaining status. How these questions are answered determine what kind of charter schools a state will have.

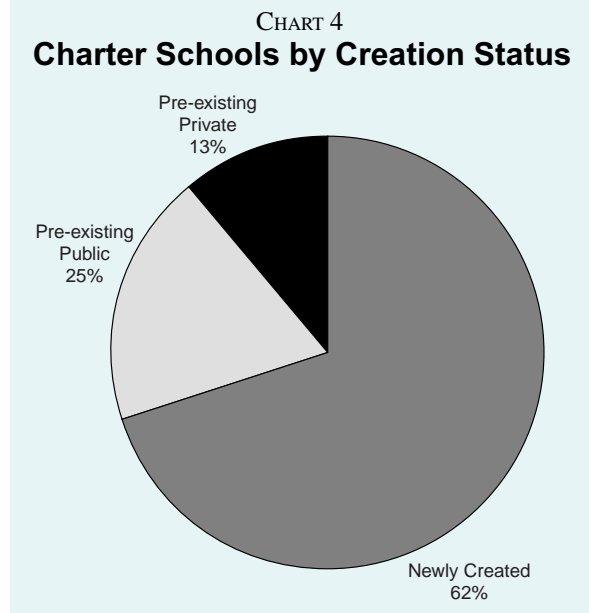
If we look at one of those factors – where the schools come from – we see how individual charter school laws will affect each state's experience. Chart 4 shows that in the 1996-97 school year, nationally 62 percent of charter schools are newly created, 25 percent come from pre-existing public schools and 13 percent are private-school conversions. The experience in California, where private school conversion is not allowed, is quite different, however. In California, about 55 percent are newly created and 45 percent are conversions of public schools.

CHART 3
Charter Schools in Operation in Each State

Number of charter schools starting in the year

| | 1992-93 | 93-94 | 94-95 | 95-96 | 96-97 | 97-98 | Total schools closed as of Sept. 1998 ¹ | New schools as of Sept. 1998 | Total schools operating Sept. 1998 |
|----------------------|----------|-----------|-----------|------------|------------|------------|--|------------------------------|------------------------------------|
| Total | 2 | 34 | 65 | 154 | 178 | 284 | 31 | 331 | 1022 |
| Minnesota | 2 | 5 | 7 | 3 | 3 | 8 | 2 | 12 | 38 |
| California | | 28 | 37 | 30 | 21 | 19 | 6 | 19 | 148 |
| Colorado | | 1 | 13 | 10 | 8 | 19 | 1 | 10 | 60 |
| Michigan | | | 2 | 41 | 33 | 36 | 3 | 24 | 133 |
| New Mexico | | | 4 | 0 | 1 | 0 | 0 | 0 | 5 |
| Wisconsin | | | 2 | 3 | 6 | 7 | 0 | 12 | 30 |
| Arizona | | | | 47 | 58 | 45 | 14 | 23 | 159 |
| Georgia | | | | 3 | 9 | 9 | 1 | 7 | 27 |
| Hawaii | | | | 2 | 0 | 0 | 0 | 0 | 2 |
| Massachusetts | | | | 15 | 7 | 3 | 1 | 10 | 34 |
| Alaska | | | | | 2 | 13 | 0 | 2 | 17 |
| Delaware | | | | | 2 | 1 | 0 | 1 | 4 |
| District of Columbia | | | | | 2 | 1 | 1 | 16 | 18 |
| Florida | | | | | 5 | 28 | 1 | 43 | 75 |
| Illinois | | | | | 1 | 7 | 0 | 6 | 14 |
| Louisiana | | | | | 3 | 3 | 0 | 4 | 10 |
| Texas | | | | | | 17 | 21 | 0 | 33 |
| Connecticut | | | | | | | 12 | 0 | 16 |
| Kansas | | | | | | | 1 | 0 | 15 |
| New Jersey | | | | | | | 13 | 0 | 33 |
| North Carolina | | | | | | | 34 | 1 | 59 |
| Pennsylvania | | | | | | | 6 | 0 | 31 |
| Rhode Island | | | | | | | 1 | 0 | 2 |
| South Carolina | | | | | | | 2 | 0 | 5 |
| Mississippi | | | | | | | | 1 | 1 |
| Nevada | | | | | | | | 1 | 1 |
| Ohio | | | | | | | | 14 | 14 |

¹ The column "Total Schools Closed as of September 1998" reflects the cumulative number of charter schools closed since 1992.

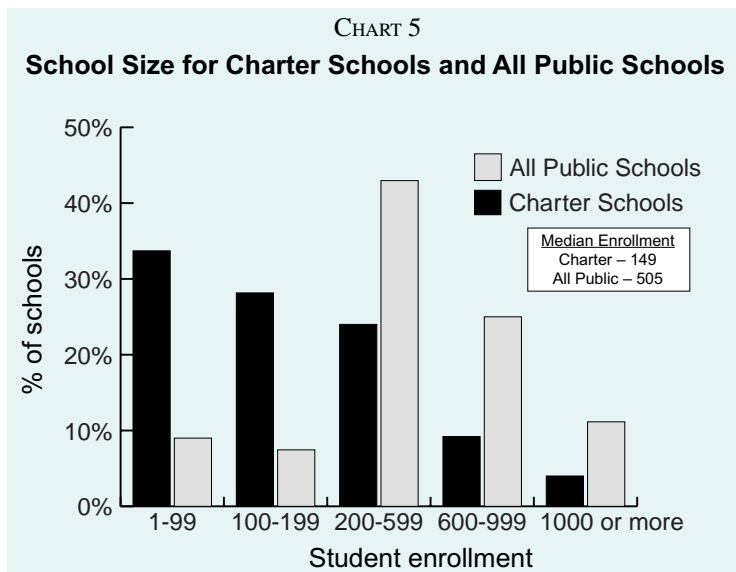


If we want to summarize the charter school experience at the national level, the important thing to understand is that all the data tells us it is a different phenomena state by state. There are different levels of autonomy, different mechanisms for accountability and different battles that are fought.

Individual Schools Differ

The second point to emphasize is that school by school, the charter experience varies. They vary both from other charter schools and from public schools.

Chart 5 shows school size for charter schools compared to public schools. You can see that about 45 percent of public schools have between 200 and 599 students, and the next highest percentage (about 25 percent) are even bigger, with 600 to 999 students. Most charter schools, however, have fewer than 100 students (about 33 percent) or between 100 and 199 students (nearly 30 percent). The median size for all public schools is 505 students, compared to 149 students for charter schools.



If we wanted to take a simplified approach, we would say the typical charter school is newly created and small. But when we look at individual charter schools, “typical” doesn’t have much meaning. For instance, in California there are plenty of examples of large, public school conversions.

In fact, if you are looking for the average charter school, there isn’t one. Some schools embrace technology; some focus on the arts. Some are small and nurturing; others are large and involve distance learning. Some are highly structured or have uniforms; others are very free form with the kids coming in whenever they see fit. Most have a high degree of parental involvement. There are a lot of K-8, some K-12 and some ungraded charter schools.

When you look at the education program in charter schools, there’s probably nothing that a charter school is doing that some public school somewhere isn’t doing. But the average public school – you can pretty much say what they do. In charter schools, there just isn’t a set of common elements. There isn’t an “average” or “typical” set up that you can expect to find in every or most charter schools.

Racial Distribution

The third point is that charter schools tend to serve those who have been disenfranchised by the normal system. One of the fears that often has been expressed is that charter schools will cater to a white elite. But when we look at the statistics, the reality is that charter schools and public schools have very similar distributions. Chart 6 shows a racial breakdown of students in charter and public schools in 16 states. As it indicates, statistics are pretty similar across the board.

But a lot can be hidden in aggregate statistics, so it's important to look at the details. Chart 7, taken from our report on the 1997-98 school year, looks at charter schools compared to their surrounding public school districts. It indicates that in most cases (60 percent), charter schools are quite similar racially to schools around them – and in 35 percent of the cases they actually have higher concentrations of non-white students.

Some of this can be accounted for by different approaches states have taken. Some, such as Massachusetts, Michigan, Minnesota and Texas, have legislation and public policy that specifically requires that charters target at-risk students or students of color. Other states without a prescriptive mandate, like California,* Colorado and Arizona, show a slightly higher proportion of charter schools that serve more white students – but the difference isn't much.

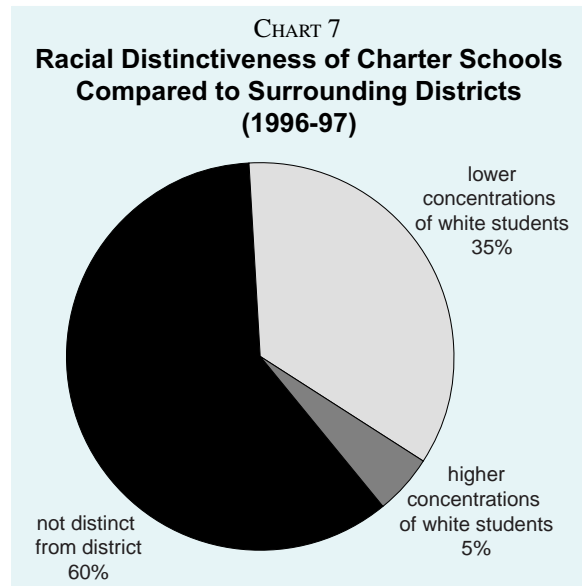
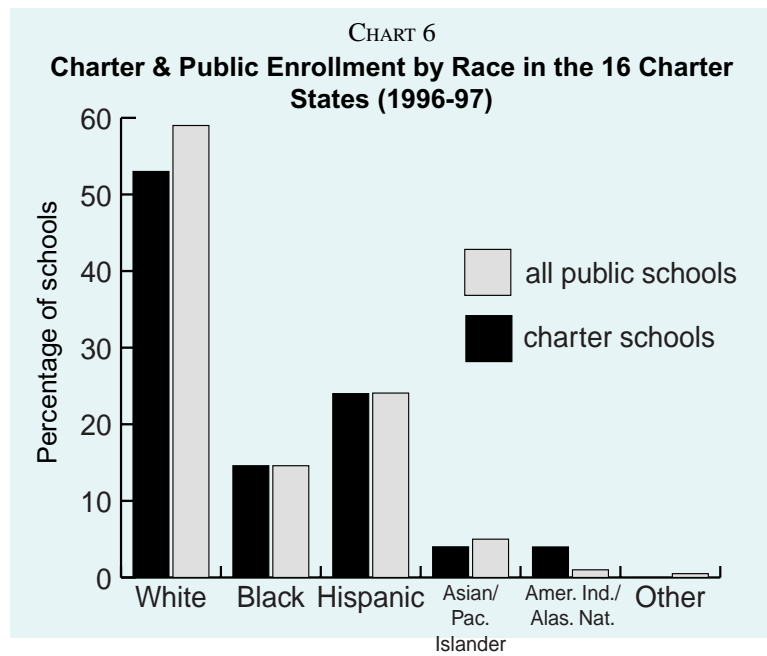
So when you look at the broader picture, charter schools tend to serve higher concentrations of poor, economically disadvantaged students and students of color.

Accountability

The fourth point is that there are different models of accountability. Virtually all charter schools report to someone about something – but what they report and to whom differs widely.

We can look at three states and see the contrast. In Arizona, there is a strong market philosophy. The charter schools offer whatever it is that they offer and parents decide if they want to send their children there. So it is the parents, or the market, who decide what survives. That's the theory – but it's eroding somewhat as more laws and regulations are put into place for greater accountability. There's some very strange creatures in Arizona, financially and in terms of governance.

* *The California law requires that preference be given to charter schools that target traditionally low-achieving students; however, implementation is left up to local districts.*



In Massachusetts, there is a central agency within the state's Department of Education that oversees charter schools. The charters are selected through a Request for Proposal process by the state, not the local school district. This is a very strong, centralized system compared to Arizona's free-market approach.

Contrast those with California, where the agency authorizing a charter school is the local district. And when you look at the California data, you find that how charter schools are held accountable differs depending on the district.

So these are three very different models of accountability and oversight. Over the next five to 10 years, we're going to see which of these three models and their variants in other states really produce innovation, produce change, produce different effects on the system, and impact districts in different ways. It's too early to tell what works best.

Other Data

Other data can give us insights into what is going on with charter schools. Autonomy is one of the key issues with charter schools. Often the degree to which a charter school uses outside providers for service or performs its own services – as distinct from having a district perform the service – indicates how autonomous a charter school is. Chart 8 shows breakdown of service providers by type of charter school. As the chart shows, pre-existing public schools tend to rely on the school district for services when they convert to charter schools. Newly created schools often perform their own services or find an outside vendor. In states where private schools are allowed to convert, the charter schools rarely use the district as a service provider.

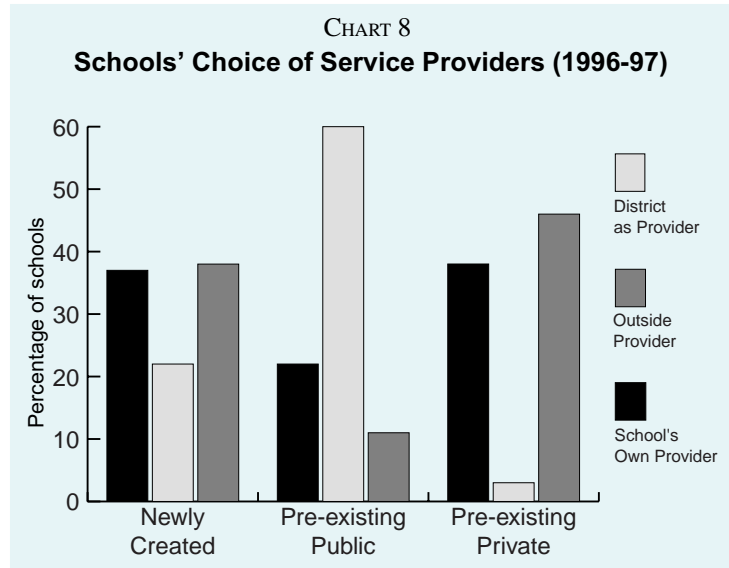


CHART 9
Schools Reporting Difficulties in Implementing Charter Schools (1996-97)

| Barriers | % of charter schools that felt barriers were difficult or very difficult | | |
|---|--|---------------|--------------|
| | All sites | Newly created | Pre-existing |
| Lack of start-up funds | 57.6% | 65.6% | 43.4% |
| Inadequate operating funds | 41.1% | 43.2% | 37.4% |
| Inadequate facilities | 38.6% | 44.2% | 28.7% |
| Lack of planning time | 38.4% | 40.9% | 34.1% |
| State or local board opposition | 23.1% | 20.7% | 27.3% |
| District resistance or regulations | 18.3% | 17.9% | 18.9% |
| Internal conflicts | 18.2% | 20.3% | 14.5% |
| State department of education resistance or regulations | 14.8% | 11.6% | 20.3% |
| Union or bargaining unit resistance | 11.3% | 10.5% | 12.8% |
| Health/safety regulations | 10.4% | 12.4% | 6.8% |
| Accountability requirements | 9.7% | 9.5% | 10.0% |
| Bargaining agreements | 9.0% | 5.8% | 14.6% |
| Hiring staff | 8.8% | 8.6% | 9.1% |
| Community opposition | 6.9% | 9.9% | 1.5% |
| Federal regulations | 6.3% | 6.0% | 6.8% |
| Teacher certification requirements | 4.4% | 3.9% | 5.3% |

Chart 9 addresses some of the barriers that charter schools face. A lack of start-up funds is cited as a problem by almost 58 percent of schools, with more than 65 percent of newly created schools having difficulty with start-up funding. Other frequently mentioned difficulties are lack of planning time, inadequate facilities and inadequate operating funds.

Conclusion

Two questions are often raised about the success of charter schools – when will we know they work, how will we know they work? We’re collecting data now on student performance that will be ready in about a year, but in many ways it is too early to judge student performance.

We are also collecting information on the impact of charter schools on the entire educational system – locally, regionally and at the state level. It’s interesting to note that states are not standing still. In many cases, charter legislation is being amended and is evolving.

Perhaps more importantly, districts are beginning to react. They are going from being defensive and protecting the status quo to adopting some of the practices that are being used in charter schools. About 70 percent of charter schools nationally have waiting lists, so the demand is high and these schools are attracting students with what they are doing. Districts are beginning to take notice of that and make their own changes in response, instituting some of the practices that are attracting students to charter schools. The action and reaction is a very lively process right now and it’s going to take time to see what that means.

Charter School Perspectives

Fenton Avenue Charter School

Joe Lucente and Irene Sumida are co-directors of the Fenton Avenue Charter School in the San Fernando Valley. Lucente handles finances, while Sumida focuses on curriculum.

Before Fenton became a charter school, it was one of the two worst schools in the Los Angeles Unified School District. Last year, we were named a California Distinguished School – and our charter was renewed for another five years.

Fenton Avenue Charter School

- * Public school conversion
- * Began 1/1/94
- * Pre-K through 5th grade
- * 1,340 students (year-round calendar)
- * Diverse: 78% hispanic, 17% black, 2.7% white
- * 62% LEP, 85% Title I, 95% free lunch

When we wrote our renewal proposal, we looked at how we were meeting the goals outlined in the charter school law. One of those goals is to improve learning. Our charter sets a specific goal of improving the number of children who score above the 50th percentile on standardized tests. While we have not accomplished everything we want to, we have made great strides: 383 percent improvement in reading, 253 percent in math and 380 percent in language. We've been able to accomplish this by investing in things like a special phonics program, a full-time school psychologist, a full-time librarian and an added resource specialist.

Another goal in the law is to increase learning opportunities for all students, and we've taken many steps that contribute to this. We were the first school in the state to fully reduce all class sizes to 20-to-1 in grades K through 4. We also offer after-school enrichment in which 250 students participate. We have a large study hall every day to help students do homework, and we have Saturday workshops. And we have a family center open from 8 a.m. to 8 p.m., providing classes for parents.

In addition, we have an ambitious technology plan. We already have almost 400 computers on site, with a minimum of four in every classroom throughout the school – and one on every fifth grade desk. We expect to receive a grant soon to provide computers for every student in third and fourth grade as well. We've found that when children have access and the computers are used properly as part of the curriculum, test scores jump an average of 71 percent.

Yet another goal is professional opportunities for teachers. Our teachers all work collaboratively, and we have a staff development grant to focus on training. We provide teachers with voice amplification systems, which studies have shown make a difference in learning. And teachers have the opportunity to serve as grade level chairs, standards consultants and in other leadership positions. Our governance system is all-inclusive, with all staff on one of the governing bodies.

The charter mechanism has given us the ability to fix things quickly. But it also has meant that we can't point at anyone else when things go wrong. If something is not working, then we are the ones that have to address it.

Guajome Park Academy

Sandra Williamson is Chief Executive Officer of the Guajome Park Academy in San Diego County.

Originally, we were not trying to create a charter school. We had been asked by Vista Unified School District to organize a vision team around what the district needed to do to address secondary school needs in the 21st Century. But then, as we began putting together this very exciting vision, the school board changed direction. So we turned to the charter school law as the solution to save our idea.

We have five campuses, but all operate with the same basic format: presentation of a portfolio of work around core competencies. We are proud to be the first school in the United States to offer the International Baccalaureate program for middle school, adding this to our existing IB high school program. We wanted to have a school formed around standards and a curriculum with an international focus. And IB is a great model for a charter school since it is about standards and outcomes, but leaves schools alone when it comes to the method.

Some of the things we are doing:

- Our students are working with a Norwegian team to put together a model workplace of the future. They will spend three days with 40 leaders in government, business, labor and education working on a vision, identifying the driving forces that will shape the 21st Century and designing the workplace.
- Our Learning Plaza in downtown Vista, open from 7 a.m. to 8 p.m., provides state-of-the-art technology in a variety of areas: a professional digital studio, a wind tunnel, etc. There are no classrooms in this setting – and what is going on there really changes the paradigm of what learning is all about.

Is it working? This past year we had our first graduating class – and we had an 83 percent pass rate on the Advanced Placement exams. Not a single student was from a family with college graduate parents – so this is really an indication that our program is making a difference for these kids.

Guajome Park Academy

- * Newly created school
- * Began 7/1/94
- * Grades 6-12
- * 1,200 students at 5 campuses
- * Diverse: 50% middle class, 50% at-risk

Elise P. Buckingham Charter School

Bob Hampton is principal of the Elise P. Buckingham Charter School in Vacaville.

Elise P. Buckingham Charter School

- * Newly created independent learning school
- * 850 students
- * K-12 (mostly secondary)

Our charter school is designed around three philosophies: community-based learning, job experience and mentorship, and college-model on-site classrooms. Students can pick and choose from a menu of components – but the overall concept is a classroom without walls, where standards are met but students have flexibility about how that happens.

For instance, students can take courses on line. They can receive math credit for working in a bank or English credit for interning on the newspaper. Or they can choose to come to one of our 62 on-site classes that are scheduled in the same fashion as most colleges: for example, 8:30 to 10:30 a.m. on Mondays and Wednesdays. They can take courses at the local community college and get high school credit at the same time they are building up college credit.

We believe in multiple validation of results. We do a pre- and post-test during the year so that we can track individual improvement. Teachers provide comprehensive evaluations, students create a product to demonstrate competency and skills, and standardized testing occurs. To remain in the program, students must achieve a minimum 70 percent competency rate and 100 percent completion of work.

One example of a student project was the naming of our school. Originally we were the Vacaville Independent Charter School, but several students thought they could do a better job. They defined their learning objectives and identified a methodology. They researched and found an early Vacaville pioneer who was very much a positive influence on the community but a bit of a lone ranger – a good match for our school. They presented their case to the school board and did such a good job that the school was renamed.

The bottom line for us is that as a charter school, we are a product – we service consumers. It's “voice and choice.” We provide options and students have a voice in what they are doing.

Other Voices

Los Angeles Unified School District

Ron Prescott is deputy superintendent of government relations and legislation for Los Angeles Unified School District, the district with the highest number of charter schools in the state (13).

Charter schools at first were somewhat like a virus entering a body. It frightened the unions and challenged administrators. After all, the folks running charter schools are obviously gifted people – what if they demonstrated that poor kids can learn?

Today, charter schools are beginning to change the public schools. We have 700,000 students, 650 schools and 13 charter schools. The charter schools have had an effect on how we do business with the other 650 schools. We want to move away from focusing on process to measuring outcomes. Superintendent Ruben Zacarias has said he doesn't care which reform movement a school follows, "just show me the reading scores."

But we face many problems. One is where do we put the schools? The University of Southern California has a charter, but no place to put a school. It has land, but it is not eligible for school construction funds. The state needs to address this problem.

Another concern is ensuring that there is equity between individual schools and making sure there is a balance within school districts. For example, the state is moving to more categorical delivery of funding. If a school has an infrastructure for applying for and administering funding, then it can get its share. If it doesn't, it will be left out. If we are not careful, we will lose the concept of a unified system where there is equitable opportunity across the system.

Charter schools are often driven by unique individuals – personalities who could probably make a school succeed in any system. But our challenge is to make education work in a system where we have people with varying degrees of commitment and ability.

Nonetheless, we have to give credit to charter schools for taking the lid off and making administrators think about what is possible. And as people begin to find their salaries tied to results, as we are doing in LAUSD, fewer people worry about charter schools being a disruptive process. Now, everyone simply cares about getting the job done. And if charter schools demonstrate good results, then they will be accepted by everyone as an effective part of our system.

So I don't think charter schools will go away – in fact, I believe the system will begin to look more and more like charter schools as all of us move to focus on results. In that regard, the charter school movement is more important as a philosophy than as an organizational structure.

WestEd

Glen Harvey is chief executive officer of WestEd, an educational research development and services organization. WestEd recently completed an evaluation of Los Angeles charter schools.

WestEd believes in promoting excellence, achieving equity and providing learning opportunities for all children and the adults who support them. With that as a starting point, I think there are several issues that cut across charter schools – and in fact, all schools that have been raised during the presentations today.

1. **Accountability is needed.** We need to be clear about what counts, how we will know when we are successful and how we are going to measure results. All schools should know these things and be held accountable, not just charter schools.
2. **Governance is not cost-free.** To have these democratic, representative governance structures takes a lot of time and is very labor intensive. The potential for burnout is enormous. If you invest time in training teachers, and then they leave because of burnout, what will that mean in the long run?
3. **Funding should be efficient.** A year ago in Arizona, people were pushing for a parallel department to the Department of Education that would focus on charter schools. But I think that undermines the resources, splitting the dollars that are there to perform duplicative jobs. Funding should be holistic so it isn't wasted.
4. **Equity is an ongoing concern.** I'm encouraged by Paul Berman's statistics. But we need to make sure that every child has access to the highest quality education.
5. **Innovation is limited.** I don't see much in the way of innovation when it comes to teaching and learning in charter schools. A lot of things that we've heard about are not unique to charters and can be accomplished in the regular schools: flexibility, speed, "voice and choice," parent involvement, student focus and accountability. We need to identify the levers for making students successful at learning – and then we need to find ways to get them in all schools.

These observations shouldn't subtract from one thing that is very clear: Charter schools demonstrate that passion, enthusiasm and commitment make a difference in education.

Initial Roundtable Discussion

Questions and Answers

A roundtable discussion followed the charter school perspectives. As throughout the rest of this report, the dialogue below is paraphrased.

Q. *People always talk about what you gain when you operate under a charter. What have you had to give up in becoming a charter school?*

A. **Joe Lucente, Fenton:** I think the obvious negative is that you take on all the responsibilities that the district usually would do. And it's very intensive. The commitment in terms of time and energy is immense. We've lost some high quality, very professional teachers who found the required commitment just too great. But the counterbalance is that it's very satisfying. In a large system, there are too many things that you do because you have to do them. Here, you do them because you can see the results.

Q. *What have you been able to do as a charter school that you can't do in a regular school setting?*

A. **Irene Sumida, Fenton:** Things happen very quickly. You can see a need, find a solution and implement it all within a very short timeframe. For example, one of our teachers saw a phonics system and thought it would be really good for us – but the cost was very high, \$1,600 per classroom. We brought it in for a demonstration and the teachers liked what they saw. Our curriculum committee assessed it, we found a way to move money around in the budget, and within weeks we bought this system and began implementing it. If we had had to go through the school district, it would have taken months – and because of the cost, it might not have been possible at all.

Q. *When you look at charter schools, they often are led by visionaries – special people with a high level of knowledge and commitment. How do we keep going once these successful people move on?*

A. **Bob Hampton, Buckingham:** It's easy to get tunnel vision and just focus on what you are trying to achieve at your charter school. But it's really important for every organization to stay connected and networked rather than being consumed by its own product. Those connections help you keep everything alive and moving forward.

Joe Lucente, Fenton: I have pondered about this because I have seen a lot of directors and principals move on. We have to train people and bring up people from within. The state and national associations are beginning to train leaders and there are organizations out there that will provide services and support for those who lack experience in an area, such as finance. So this is an area that is beginning to be addressed.

Q. What do you see as the greatest threat to the continued expansion of charter schools?

A. Sandra Williamson, Guajome: Before the new law (AB 544) was enacted, I would say it was the five-year term of the charter. That had lots of implications, along with uncertainty and ambiguity, that made it very difficult to make long-range plans and count on some stability. With the new legislation, there is a better sense of security.

Bob Hampton, Buckingham: The stereotype of charters being lumped together is a continuing threat. As with any reform movement, there are always going to be some charter schools that will crash and burn. We have to make sure that a few bad apples don't become the symbol for all charter schools. That could ruin the momentum and the changes that are taking place.

Q. How do you cope with attrition? With students coming and going, isn't it difficult to track outcomes and show that academic progress is being made?

A. Irene Sumida, Fenton: The strength of our program has actually lowered our attrition. It was 57 percent before we became a charter school and now is 32 percent. Many of our students stay with us even if they move out of the area because our parents are convinced it's a safe, positive environment where their children can learn and succeed. For those who come to us as non-readers or behind in an area, we have after-school classes. And we have Saturday workshops so students can get help and parents can learn how to help their children.

Bob Hampton, Buckingham: As our program matures, we're looking for the population to stabilize. But student turnover is one reason we do pre- and post-testing in the same year so we can measure individual progress.

Sandra Williamson, Guajome: The biggest attrition problem we have is with the young adults who come to us to get a high school diploma and then move on before they finish. But for the most part, we try to make sure parents and children really understand what our program is about before they make the decision to enroll. Our program is attractive to many parents, but if the kids don't want to come to Guajome and want a more traditional program, with football for instance, then we've discovered it won't work out very well for everyone involved. Parents shouldn't force their children into the program. We want both parent and child to choose Guajome because it's not a program that is for everyone.

Q. What about funding for charter schools? What money sources can you count on?

A. Joe Lucente, Fenton: It's the same as for any school – revenue limit, federal funding, school improvement funds, and so on. We've been fortunate to receive some grants, but grant money makes up less than 1 percent of our total budget. The first five years, we paid the school district 3 percent of our budget for services and 2 percent of our principal apportionment for facility maintenance. Now we've switched to fee-for-service on the facilities and are negotiating to get a fee-for-service basis on everything else as well.

Presentation of Sue Burr

Sue Burr is co-director of the Institute for Education Reform and drafted the original California charter school law. An annotated version of California's new charter law is included in the Appendix.

California's New Charter School Law

This year, California enacted the first comprehensive revision of its charter school law when AB 544 was signed into law. The measure was in response to a charter school reform initiative for which Silicon Valley interests had gathered enough signatures to place on the ballot. Many supporters, as well as some critics, of charter schools felt a legislative compromise was a better approach to reforming the charter school law than an initiative -- and so a concerted effort was made to hammer out a legislative solution. The result was the successful passage of AB 544 (Lempert), which led the Silicon Valley interests to drop their initiative proposal.

Like all pieces of legislation, AB 544 represents compromises between various interests and competing visions of what needed to be done with the charter law. The new law, which takes effect January 1, 1999, has two strands:

- It provides key leverage points to boost the charter school movement and to assist those who want to increase the number of charter schools.
- It strengthens accountability in charter schools to ensure educational quality and provide more options for parents and students.

The tables on the next page detail the key changes related to each of these strands. In addition, I want to add some of my own observations about charter schools. It seems to me that a pattern of characteristics for success is emerging. These include:

- Teachers become risk takers who are willing to break out of the mold.
- Parents become true partners and participants in the educational process.
- Administrators become goal-oriented, rather than focusing on process.

Charter schools are working. We are beginning to see system changes that are occurring because charter schools are providing competition. The new law gives charter school applicants more leverage, thus promoting competition even more. In addition, charter schools realize site-level change through consensus, a clear focus and a strong sense of educational purpose. This occurs when all school staff share in the consequences and rewards of whatever the school achieves. And finally, charter schools are helping traditional management/employment relationships evolve to a more collaborative partnership that is a necessary ingredient for schools to move forward towards a successful future.

Key Provisions of AB 544

Leverage Points

- Increases cap – up to 250 schools in 98-99, 100-school increase annually after that. Eliminates district cap
- Allows parents to sign charter petitions (in lieu of teachers) for new schools
- Requires boards to approve charters unless board makes written findings about unsound or infeasible educational practices
- Allows appeals to county boards and State Board of Education
- Clarifies direct funding to charter schools so that it is equal to district amount for schools
- Limits district oversight charge to charter school to 3 percent (1 percent if no facilities involved)
- Allows access to rent-free, district-owned facilities under specified conditions
- Provides explicit authorization for charter schools to purchase administrative and other services
- Allows non-profit corporation status
- Protects districts from liability
- Requires that prior to a charter revocation, school must be notified and given time to correct violations

Accountability Provisions

- Prohibits funding for charter school pupils who also attend private schools
- Authorizes State Board revocation for:
 - ✓ gross financial mismanagement
 - ✓ improper use of funds for personal benefit
 - ✓ persistent educational practices that jeopardize students
- Requires first-year operations budget and financial projection for three years in charter application
- Requires charter school teachers to have a credential, permit or waiver issued by the Commission on Teacher Credentialing (same standard for teachers in regular schools)
- Prohibits state funding for children under 5 or over 19 (unless continuously working toward high school diploma)
- Requires a comprehensive state evaluation by July 2003

Final Roundtable Discussion

School Board Role

Q. The new law seems to take away the discretion of the school board to decide whether a charter school is really needed, or can be supported, or is a good thing for the district as a whole. Doesn't that take away from the ability of elected trustees to do their job well?

A. Dave Patterson, California Department of Education and school board trustee: You have to look at charter schools as an organizational innovation rather than an educational one. Charter schools allow teachers, parents and administrators to do what has been the purview of the board and the superintendent in the past. It allows others to come in and say, "We see a need, and here's how it should be met." The board of trustees become the broker for a lot of people's good ideas – rather than the provider of services. The board sets the vision and manages an array of different providers. In this way, charter schools are a fundamental systems change – and the role of the school board is changing.

Sandra Williamson, Guajome: When you have a charter school, people have a sense of ownership and empowerment. Making decisions at the school level gives people incredible energy and a sense of commitment. It's a very American thing to do; it's part of the great American entrepreneurial tradition to create your own school. It means that people are making decisions about their children and their schools – and it's okay for boards to give that up and look at a different role for trustees. They should have a whole different way of looking at what needs to be done district-wide.

Competition vs. Cooperation

Q. People keep saying competition is a good thing – but in many cases of deregulation, like airlines, competition has lowered standards. Isn't cooperation more important?

A. Paul Berman, RPP International: I don't think you should juxtapose the two as a dichotomy. A lot of parents and students nationally are choosing charters because they haven't felt satisfied with what public schools have to offer. Competition for students has pushed districts to move forward – and in many cases, districts have begun to cooperate and co-opt what charter schools have been offering as a way of competing. So we shouldn't simplify the charter movement down to the single concept of competition. It's an evolutionary process and charter schools are really beginning to open up the system.

Special Education

Q. How should we handle special education in charter schools? These schools have no geographical boundaries, and there's no real way to put together the current system of special education

funding and the alternative system that charter schools provide. And it only takes one high-cost case to really endanger a charter school's ability to operate.

A. Eric Premack, Charter Schools Development Center: This area represents not only a tough technical issue but also a fabulous opportunity. Charter schools, by their nature, are deregulated and outcome-focused. To merge that with the special education system – with its layers of bureaucracy, federal, state and case law and its process (rather than outcome) orientation – is very difficult. But some charter schools have reached out and provided extraordinary services to special education students, so it is possible to provide a good Band-Aid solution.

However, some SELPAs have been difficult to work with, and in some cases even very hostile. They have written policies that say charter schools must provide services but can only get whatever funding is left over after all other needs are met. What is needed to build a permanent system is a dialogue between charter schools and the special education people. In the meantime, it can be manageable at the local level when there are thoughtful, problem-solving discussions between the district, the SELPA and the charter school.

Conclusion

Charter schools have taken hold and spread across the nation, with more than 1,000 schools created since the first charter law was passed in 1991. With only seven years' experience at the very oldest charter school, it is early to try to make sweeping conclusions about the educational effectiveness of this reform movement. But that has not stopped researchers from tracking data about these schools, studying their operations and assessing their progress.

One thing that becomes clear when charter schools are examined at the national level is that how a school operates – and perhaps therefore what it achieves – is greatly influenced by how a state sets up its charter school mechanism. Whether we are seeking a measurement of academic results or trying to understand what influence charter schools have in promoting system reforms, the restrictions a charter school faces or freedoms that it enjoys shape the conclusions that can be reached.

In the case of California, where about 150 charter schools are in operation, authority over charter schools is vested in local districts – not in a centralized state agency and not in a pure free-market mechanism. That means that in California there is a different element introduced into the charter school concept: a tension between locally elected school board officials and the forces for reform in the community.

With the recent passage of revisions to California's charter school law, we can expect the dynamic to only grow more intense. The law gives charter school proponents more leverage to gain school board approval. It also expands the parameters for charter school creation and operation. As with any change in law, controversy is likely over exactly what is allowed and precisely what must be done.

For school boards and their administrators, charter schools can represent a potential burden. But they also represent a special opportunity, depending on how school board members choose to approach their responsibilities and provide policy direction to district leaders. One measurement of the effect of charter schools will be how school districts evolve to rise to these challenges and opportunities.

Appendices

Table of Charter Provisions



New California Law



Attendees



List of Publications

Key Dimensions of Charter Legislation by State

| State | Who can grant charter | Charter creation status | | | Number of charter schools allowed | Duration of charter term | Collective bargaining allowed (% of schools with covered teachers) |
|----------------------|--|-------------------------|---------------------|----------------------|-----------------------------------|--------------------------|--|
| | | Newly created | Pre-existing public | Pre-existing private | | | |
| Alaska | Local boards | Yes | Yes | No | 30 | 5 years | Yes (100%) |
| Arizona | Local boards, State Board, and State Charter Board | Yes | Yes | Yes | No limit | 15 years | Yes (2%) |
| Arkansas | State board | No | Yes | No | No limit | 3 years | Yes |
| California | Local boards + appeals | Yes | Yes | No | 100 annually ⁱⁱ | 5 years | Yes (57%) |
| Colorado | Local boards + appeals | Yes | Yes | No | No limit | 5 years | Yes (8%) |
| Connecticut | Both Local boards and State board | Yes | Yes | No | 24 ⁱⁱⁱ | 5 years | Yes (18%) |
| Delaware | Local boards for conversions and State Board for newly created | Yes | Yes | No | No limit | 3 years | Yes (0%) |
| District of Columbia | Local boards, State board, and State charter board + appeals | Yes | Yes | Yes | 20 annually | 15 years | Yes (0%) |
| Florida | Local boards + appeals | Yes | Yes | No ^{iv} | No limit ^v | 3 years | Yes (3%) |
| Georgia | State board | Yes | Yes | No | No limit | 5 years | No |
| Hawaii | State board | Yes | Yes | No | 25 | 4 years | Yes (100%) |
| Idaho | Local boards + appeals | Yes | Yes | No | 60 ^{vi} | 12 years | Yes |
| Illinois | Local boards with State board review + appeals | Yes | Yes | No ^{vii} | 45 | 3-5 years | Yes (0%) |
| Kansas | Local boards | Yes | Yes | No | 15 | 3 years | Yes (100%) |
| Louisiana | Local boards and State board + appeals | Yes | Yes | No | 42 | 5 years | Yes (0%) |
| Massachusetts | Local boards for conversions and State board for newly created | Yes | Yes | No | 50 | 5 years | Yes (0%) |
| Michigan | Local boards and IHEs | Yes | Yes | Yes | No limit | Up to 10 years | Yes (5%) |
| Minnesota | Local boards and IHEs + appeals | Yes | Yes | Yes | No limit | 3 years | Yes (8%) |
| Mississippi | Local boards and State board | No | Yes | No | 6 | 4 to 6 | Yes |
| Missouri | Local boards + appeals | Yes | Yes | | No limit ^{viii} | 5-10 years | Yes |
| Nevada | Both Local boards and State board | Yes | Yes | No | No limit ^{ix} | 3 years | Yes |
| New Hampshire | Local boards + appeals | Yes | Yes | No | 10 annually ^x | 5 years | Yes |
| New Jersey | State Commissioner | Yes | Yes | No | 135 ⁱⁱⁱ | 4 years | Yes (0%) |
| New Mexico | State board | No | Yes | No | 5 | 5 years | Yes (75%) |
| North Carolina | Local boards, State board, and IHEs | Yes | Yes | Yes | 100 | 5 years | No |
| Ohio | Local boards and State board | Yes | Yes | No | No limit | 3 years | Yes |
| Pennsylvania | Local boards | Yes | Yes | Yes | No limit | Annual review | Yes (0%) |
| Rhode Island | State board | Yes | Yes | No | 20 | 5 years | Yes (100%) |
| South Carolina | Local boards + appeals | Yes | Yes | Yes | No limit | 3 years | No |
| Texas | Local boards for conversions and State board for newly created | Yes | Yes | Yes | No limit ^{xi} | Specified in charter | Yes (21%) |
| Utah | State board | Yes | Yes | No | 8 | 3 years | Yes |
| Virginia | Local boards | Yes | Yes | No | 2 per district | 3 years | No |
| Wisconsin | Local boards | Yes | Yes | Yes ^{xii} | No limit | Up to 5 years | Yes (94%) |
| Wyoming | Local boards | Yes | Yes | No | No limit | No | Yes |

- ⁱ The last column of the Table states whether collective bargaining is permitted in the state. The number in parenthesis is the percentage of schools that have teachers are covered by a collective bargaining agreement. States with “Yes” without a percentage in parenthesis had no open schools during the 1997-98 school year.
- ⁱⁱ In California, the cap was raised from 100 to 250 in 1997-98, with 100 additional charters allowed per year thereafter.
- ⁱⁱⁱ Charter legislation in Connecticut and New Jersey requires a legislative review in 1999 and 2000 respectively.
- ^{iv} Although Florida’s law does not allow private schools to apply directly for charter status, the state allows private schools to convert to charter status if they disband, reincorporate as a new organization with a new board, and enroll students in a public lottery.
- ^v The Florida legislation does not specify a statewide limit on the number of charter schools, the legislation does restrict the number of charters granted in each district based on district size. The effective cap for the state is 487 schools.
- ^{vi} The Idaho legislation limits the annual number of charters to 12 up to the statewide limit of 60.
- ^{vii} Illinois state legislation stipulates that a private school must cease operation as a private school before applying for charter status.
- ^{viii} Missouri law states that no more than 5 percent of the buildings used for instruction in a district may be converted to charter schools.
- ^{ix} Nevada law limits the number of charters granted in each district based on district size, creating an effective cap of about 17 schools, with an exception for schools focusing on at-risk students.
- ^x The New Hampshire legislation allows 10 charters annually until the year 2000.
- ^{xi} Texas legislation does not limit campus charters, but limits open-enrollment charters to 100 with no limit for charters serving at-risk students.
- ^{xii} Wisconsin’s law allows the conversion of private schools only in Milwaukee.

California's Revised Charter Schools Act

*Highlighting sections added, amended, and deleted by
Assembly Bills 544 and 2417 of the 1998 legislative session
(10/13/98)*

Background

On May 8, 1998, Governor Wilson signed AB 544 (Lempert, D-Palo Alto) into law after it was adopted in both houses of the Legislature with overwhelming, bipartisan support. This historic legislation significantly expands and clarifies California's Charter Schools Act. The sweeping changes contained in this legislation may constitute the most profound and fundamental realignment of the structure of California's education system in decades. Some of the major changes include the following:

- **Increases the statewide cap** of 100 schools to 250 in 1998-99, with an additional 100 schools allowed each year thereafter. The law eliminates the cap of 10 schools per district.
- **Revises the requirement in current law that charter petitions** be signed by half of the teaching staff at an existing district school, or 10 percent of the teachers of the district—a major hurdle for those not well-connected to existing schools. Instead, the law instead allows a group of parents or teachers to petition for the establishment of a new charter school.
- **Allows charter developers to appeal to the county board of education and/or State Board of Education** in the event the local school board denies their charter petition. Local boards are compelled to grant charters unless they make specific, written findings that the charter proposal is unsound. Current law, by contrast, allows local boards to deny charters for virtually any reason and includes a cumbersome appeal process.
- **Allows charter schools to receive funding directly from the state and clarify that charter schools are entitled to a “fair share” of virtually all education funding sources, except capital sources.** The bill's fiscal provisions are quite general in nature and authorize the State Board of Education to adopt regulations to clarify the details. Under current practice, charter school entitlements are unclear and flow through the accounts of the sponsor district. Many districts extract financial concessions or levy high overhead charges from charter schools. The new law limits such charges to actual oversight costs, up to a maximum of 1 to 3 percent of the school's revenues.
- **Specifically permits charter schools to organize as non-profit corporations** and protects the charter granting agency from liability for the school's operations. The current legal status of charter schools in California is disputed.
- **Allows charter schools to use district-owned facilities that are not used for educational or administrative purposes at no cost**, unless the site has historically been rented to other organizations. The charter school would be responsible for maintenance. Current law does not address facilities issues.
- **Requires that charter school teachers hold a credential, emergency permit, or other document** issued by the Commission on Teacher Credentialing.

The Charter Schools Development Center has prepared this special annotated version of the new Charter Act to show how California's charter laws were significantly amended by Assembly Bill 544 and by Assembly Bill 2417 (a “technical clean-up” bill that followed the enactment of AB 544). This version shows deleted portions of the previous legislation in strikeout form, new provisions in italics, and existing provisions that are

not amended by the new legislation in plain text. This also contains explanatory commentary and section headings in bold that are not part of the official codes. These editorial comments reflect only the preliminary impressions of the author and do not constitute legal counsel. Charter developers are encouraged to consult with a qualified attorney. As a “non-urgency” measure, and except as specifically referenced otherwise, most provisions of this legislation will take effect on January 1, 1999.

CHARTER SCHOOLS ACT

Title

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

Legislative intent

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

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

[Editor’s Note: AB 544 added provision “g,” which adds the concept of competition as one of the intended consequences of the new law. Though intent statements generally have little legal force on their own, the addition of competition as an intended consequence helps to frame any debates regarding how the law should be interpreted.]

Caps on numbers of charter schools allowed

47602. ~~(a) Except as provided in subdivision (b), the total number of charter schools operating in this state in any school year shall not exceed 100, with not more than 10 charter schools in any single school district.~~

~~(b) In addition to the total number of charter schools that school districts may operate in this state pursuant to subdivision (a) and the 10 charter schools that a single school district may operate pursuant to subdivision (a), a school district that maintains an enrollment of more than 600,000 pupils in the current school year may operate 12 charter schools for a maximum of 22 charter schools in these types of school districts.~~

~~(c) (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 and to each charter notice it receives pursuant to subdivision (i) and paragraph (5) of subdivision (j) of Section 47605*, based on the chronological order in which the notice is received. *The limits contained in this paragraph may not be waived pursuant to Section 33050 or any other provision of law.*

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

[Editor's Note: AB 544 deleted the previous statewide cap of 100 schools, the district cap of 10 schools, and the cap of 22 schools in the Los Angeles district. Instead, the new legislation provides for a cap of 250 schools in the 1998-99 school year, with an additional 100 schools in each year thereafter. The new law contains no district-level cap and prohibits the State Board from waiving the cap. The new law also calls for the Legislative Analyst to make policy recommendations regarding the cap in 2003, presumably in conjunction with the study mandated below.]

Conversion of private schools and enrollment of private school students prohibited

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

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

[Editor's Note: AB 544 retains the current prohibition on private school conversion to charter status and adds a provision prohibiting charter schools from receiving funds for students who attend private schools that charge tuition.]

Legal status and liability

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

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

(c) *It is the intent of the Legislature that an authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation shall not be liable for the debts or obligations of the charter school.*

[Editor's Note: AB 544 added this new section that specifically provides charter schools with the option to operate as or be operated by a California nonprofit corporation. Though many charter schools have already done so, this new section clarifies that doing so is an option. The new section also, however, provides that school districts that grant charters shall be entitled to a "single representative" on the board of the nonprofit corporation. Charter developers should review their corporate bylaws (if any) and discuss this matter with their local district. The law does not specify whether this representative must be a voting member with full rights and responsibilities or merely an ex-officio member or communications link. Finally, the section notes that the Legislature intends that charter-granting agencies not be held liable for the debts or obligations of charter schools that are established as nonprofit corporations.]

State oversight and information disclosure

47604.3. A charter school shall promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority or from the Superintendent of Public Instruction and shall consult with the chartering authority or the Superintendent of Public Instruction regarding any inquiries.

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

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

[Editor's Note: This vaguely-worded new section calls for charter schools to respond to "reasonable inquiries" from the charter-granting agency or State Superintendent. The section does not define "reasonable." The State Board is also granted the authority to revoke charters or "take appropriate action" if it finds that charter schools engage in gross fiscal mismanagement, improper use of funds, or jeopardize the educational development of students.]

Charter development and approval process

~~47605. (a) A petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. After the petition has been signed by not less than 10 percent of the teachers currently employed by the school district, or by not less than 50 percent of the teachers currently employed at one school of the district, it may be submitted to the governing board of the school district for review.~~⁽¹⁾ Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school.

The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

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

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

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

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

(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 ~~employee and parental~~ 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 ~~may~~ shall grant a charter for the operation of a school under this part if it ~~determines~~ is satisfied that ~~the 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 ~~contains~~ does not contain the number of signatures required by subdivision (a) ~~, a statement.~~
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d) ~~, and~~.
- (5) The petition does not contain reasonably comprehensive descriptions of all of the following:

[Editor's Note: This section has been heavily amended to significantly enhance the ability of charter developers to successfully petition for a charter. The amendments revise the current requirement that charter developers gather signatures from teachers on a petition. Specifically, developers of new, "from scratch" charter schools will instead need to gather signatures from a number of parents or teachers that represent half of the parents or teachers that would be enrolled in the planned new charter school. The new language modifies the current petition requirement for "conversion" of existing schools by requiring that the signatures be gathered from 50 percent of the "permanent status" teachers at the school. Perhaps most significant, the amendments seem to compel a school district board to grant a charter unless they make specific, written findings regarding weaknesses in the charter proposal or its proponents. This is a major departure from current law which allows school boards much more discretion in the charter granting process. Finally, the amendments require that charter elements must be "reasonably comprehensive." This is perhaps an indication that charter developers need to draft charter documents with provisions that are more clear and complete than the many existing charters that are vague and/or incomplete.]

Required charter contract elements

- (A) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
- ~~(2)~~-(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.
- ~~(3)~~-(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.
- ~~(4)~~-(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.
- ~~(5)~~-(E) The qualifications to be met by individuals to be employed by the school.
- ~~(6)~~-(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal

record summary as described in Section 44237.

~~(7)(G)~~ The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

~~(8)(H)~~ Admission requirements, if applicable.

~~(9)(I)~~ The manner in which ~~an annual audit of the financial and programmatic operations of the school is to be conducted~~ *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.*

~~(10)(J)~~ The procedures by which pupils can be suspended or expelled.

~~(11)(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.

~~(12)(L)~~ The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

~~(13)(M)~~ A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

~~(14)(N)~~ The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

[Editor's Note: The only change regarding required charter elements is in relation to financial and programmatic audits. The new law drops the requirement for a programmatic audit (perhaps unintentionally) although the Charter Schools Development Center recommends that charter schools perform a program audit despite the fact that it is no longer legally required. The new language further clarifies that financial audits must be done by an independent auditor and in accord with "generally accepted accounting principles" (GAAP—an accounting term of art referring to accounting standards established by national accounting experts). The charter must also contain a provision describing how any audit exceptions or deficiencies (problems or concerns raised by an auditor regarding a school's financial management) will be resolved. Though these changes to the list of required charter elements are the only ones legally required in this section, the Charter Schools Development Center recommends that all charter schools engage in a thorough review of their charter document, preferably prior to the January 1 effective date, and make all necessary changes and amendments. The Center will be revising its "sample" charter contract document and will load it on its web site (www.cacharterschools.org).]

State performance standards and assessments

~~(c) (1)~~ Charter schools shall meet ~~the all~~ statewide performance 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 non charter public schools.*

[Editor's Note: The meaning of this section prior to the amendments was unclear, and the new amendments do little to clarify matters. For further information regarding this unclear section, see "Navigating Through the Standards Maze," available from the CSDC web site (www.cacharterschools.org).]

Public operating principles

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

~~(d) (1)~~ In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.

[Editor's Note: AB 544 adds a section mandating consultation with parents and teachers on a regular

basis regarding educational programs—another “throwaway” clause given the close relationships with parents and teachers for which many charter schools are known.]

Open student enrollment and admissions

~~Admission~~ Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

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

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

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet student demand.

[Editor’s Note: The new law adds a requirement that schools use an admissions drawing or lottery if applications for admission exceed capacity. The law explicitly allows for residential preference, if applications exceed capacity, and other preferences to the extent permitted by the charter-granting agency. The Center recommends that any other preferences be specifically referenced or listed in the charter as specified above in Education Code Section 47605 (5) (H) relating to admissions requirements.]

Student and staff choice

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

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

Effect on sponsor district

(g) The governing board ~~may~~ 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 petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.*

[Editor’s Note: This section has been amended to require that charter developers provide financial and programmatic impact data to the school district during the initial petition process. It also adds a requirement that petitioners provide a basic financial plan. Previously, the district had the option to require the charter developers to provide the information. This information does not need to be included in the actual charter contract, but must presumably be provided in some document or format accompanying the charter petition.]

Preference for serving low-achieving students

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive

learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

Submission to State Board

(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 State Board of Education.

“Appeal” process if charter petition is denied

~~(j) (1) If the governing board of the school district denies a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review the action of the governing board. The review panel shall consist of three governing board members from other school districts in the county and three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.~~

~~(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie.~~

~~(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) and, accordingly, may grant a charter. A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part.~~

(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 either the county board of education or directly to the State Board of Education. The county board of education or the State Board of Education, as the case may be, shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the State Board of Education.

(2) A charter school for which a charter is granted by either the county board of education or the State Board of Education pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

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

(4) The State Board of Education shall adopt regulations implementing this subdivision.

(5) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the State Board of Education.

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

(2) The designated local education agency shall have all monitoring and supervising authority of a chartering

agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the State Board of Education.

(3) A charter school that has been granted its charter by the State Board of Education and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the State Board of Education for renewal of its charter.

[Editor's Note: AB 544 significantly strengthens the options for charter petitioners in the event that the local board denies a charter petition. Specifically, the law allows the petitioners to appeal directly to either the county or State Board of Education. This is a major shift from the current, cumbersome two-stage appeal process that includes no state-level appeal. The new law contains a unique provision allowing the State Board to designate a local education agency (i.e., school district or county office of education) as the overseer of the charter school. This delegation, however, must be done by "mutual agreement." It does not clearly specify which parties must mutually agree or whether the charter school must be a party to the agreement. Upon renewal, a State Board-granted charter must first petition the local school board.]

Teachers' qualifications

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

[Editor's Note: Perhaps the largest "concession" in AB 544 is this provision requiring that teachers hold a CTC "certificate, permit, or other document." This vaguely-worded section is open to varying interpretations. It does not, for example, define what constitutes "teacher" in charter schools and contains an intent statement that charter schools be accorded flexibility with regard to "noncore" and non-college preparatory" courses. "Noncore" and "non-college preparatory" are not defined. The section calls for the charter school to maintain documentation on file at the school (as distinct from the county-level documentation process used in the non-charter public system) and provides that the charter-granting agency may inspect the files. Thus, it appears that most of these matters will be enforced by the charter granting agency and therefore need to be resolved at the local level. Unlike the non-charter public system, this section does not make use of documented staff a condition of apportionment. Charter schools that opt to explore the flexibility inherent in this language are strongly encouraged to clarify these matters in the staff qualifications section of their charter contract so as to avoid any conflict with their charter-granting agency.]

County boards may grant charters

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

[Editor's Note: This new section clarifies that county boards of education may grant charters (largely confirming current practice). It limits such chartering authority to schools that serve pupils for which county offices "would otherwise be responsible." Given that county offices often educate all types of pupils in County Community Schools (see Education Code Section 1981 et. sec.), this "limitation" may have no practical effect for county boards that grant charters to community school programs.]

District-wide charter

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

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

Charter term, renewal, and revocation

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

(2) *Renewals and material revisions of charters shall be governed by the standards and criteria in Section 47605.*

(b) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter ~~petition~~.
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter ~~petition~~.
- (3) Failed to meet generally accepted accounting ~~standards of principles, or engaged in~~ fiscal ~~man-~~agement ~~mismanagement~~.
- (4) Violated any provision of law.

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

47608. All meetings of the governing board of the school district, ~~the review panel convened pursuant to subdivision (j) of Section 47605,~~ 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 54590-54950) of Division 2 of Title 5 of the Government Code).

[Editor's Note: AB 544 mandates that charter renewals be for five years (apparently prohibiting renewal of less than five years) and requires basing renewal decisions on the same criteria as are used in the new process for granting of charters initially. These changes should significantly strengthen the hands of charter schools in the renewal process. The new legislation also requires that charter schools be given a chance to cure any revocable offenses prior to revocation, unless the reason for revocation is an imminent health or safety threat.]

Charter "mega waiver"

47610. A charter school shall comply with *this part* and all of the provisions set forth in its charter ~~peti-~~tion, but is otherwise exempt from the laws governing school districts except ~~as specified in Sections 47611 and 41365.~~ 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.

[Editor's Note: AB 544 leaves the charter "mega waiver" largely intact, except for cross-referencing the new requirements in the Charter Act and requiring that charter school students meet public school minimum attendance age requirements. As a general rule, Kindergarten students must be at least five years old by December 2, and first grade students must be age six by December 2 (for further information see Education Code Sections 48000 et. sec.). This restriction is apparently designed to curtail the practice of enrolling four-year-old students into "pre-kindergarten" programs.]

Retirement systems

47611. If a charter school chooses to participate in the State Teacher's Retirement System, all employees of the charter school who qualify for membership in the system shall be covered under the system, and all provisions of Part 13 (commencing with Section 22000) and Part 14 (commencing with Section 26000) shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

Charter school funding

47612. (a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of 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. *In no event shall average daily attendance in a charter school 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."*

(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.

(3) Funds for the programs described in 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.

(b) 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 subdivisions (a) and (b).

(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

47613. Notwithstanding subdivision (c) of Section 48209.11, *the full apportionment received by the basic aid district pursuant to this section shall be provided to the charter school, and with respect to any pupil of a charter school located within a basic aid school district of choice who attended a public school who resides in a district other than a basic aid district immediately before transferring to the charter school, the Superintendent of Public Instruction, commencing with the 1996-97-1998-99 fiscal year, shall calculate for that school an apportionment of state funds that provides 70 percent of the district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the school district of residence for any average daily attendance credited pursuant to Section 48209.11. For purposes of this section, "basic aid 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.

[Editor’s Note: Parts of this section will be overridden by the following section. Other parts, notably the new residency requirement and restriction on students over age 19, will presumably remain in effect. The restriction on students age 19 and older is not clearly drafted, but apparently means that students over age 19 may not drop out of the charter school and later re-enroll (described by some as a “no revolving door” provision) and that the students must be making “satisfactory progress towards award of a high school diploma.” It is not a prohibition on enrolling students who are 19 and have previously dropped out of school. The diploma requirement is apparently designed to prevent non-diploma programs and other classes that are usually funded at a lower rate via Adult Education programs from being funded at the higher, K-12 rate. Charter schools serving students of majority age should carefully monitor the adoption of state regulations on this topic.]

New funding system

47613.5. (a) Notwithstanding Sections 47612 and 47613, commencing with the 1999-2000 school year and only upon adoption of regulations pursuant to subdivision (b), charter school operational funding shall be equal to the total funding that would be available to a similar school district serving a similar pupil population, provided that a charter school shall 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 State Department of Education shall propose, and the State Board of Education may adopt, regulations to implement subdivision (a) and, to the extent possible and consistent with federal law, provide for simple and, at the option of the charter school, local or direct allocation of funding to charter schools.

(c) For the purposes of this section, the following terms have the following meanings:

(1) “Operational funding” means all funding other than capital funding.

(2) “School district of a similar type” means a school district that is serving similar grade levels; elementary, high, or unified.

[Editor’s Note: This vaguely-worded section calls for the State Department of Education to propose, and allows the State Board to adopt, regulations establishing a new funding system for charter schools. This section therefore grants the State Board unusually broad powers to develop a new funding system, but within some broad parameters. These parameters are vaguely-worded, but the Charter Schools Development Center anticipates that it will result in most charter schools receiving a higher level of funding than under current law. The amendments also allow a charter school to opt to receive its funds directly, whereas funds currently flow through district accounts. All charter schools should carefully monitor the development of this new funding system. If adopted, the regulations establishing this system would not take effect until the 1999-2000 fiscal year.]

Cap on “oversight” charges

47613.7. (a) Except as set forth in subdivision (b), a chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 1 percent of the revenue of the charter school.

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

(c) A local agency that is given the responsibility for supervisory oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the costs of supervisory oversight, and administrative costs necessary to secure charter school funding, not to exceed 3 percent of the revenue of the charter school. A charter school that is charged for costs under this subdivision shall not be charged pursuant to subdivision (a) or (b).

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

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

[Editor's Note: This section limits charter-granting agencies' ability to charge schools for oversight costs to actual costs, up to a maximum of 1 or 3 percent of revenues, depending on whether the agency provides free facilities. The percentage caps are maximums, not minimums. Thus, districts should be able to document these costs. Since the law does not define how these costs should be calculated, or define the term "substantially rent free," the Charter Schools Development Center recommends clarifying how these costs will be calculated in the charter contract. The new law allows charter schools to purchase other services from the chartering agency separate from oversight, and there is no cap on these costs. Here too, the Center recommends clarifying these matters in the charter contract and/or a separate contract or memorandum of understanding. This section will, however, likely reduce the sometimes exorbitant charges that districts have levied on charter schools that are not related to services provided to the school. This section legally takes effect on January 1, 1998. It presumably affects at least the second half of the 1998-99 fiscal year and perhaps the entire fiscal year given the difficulty of prorating oversight costs.]

Rent-free use of district facilities

47614. A school district in which a charter school operates shall permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes provided the charter school shall be responsible for reasonable maintenance of those facilities.

[Editor's Note: This section is presumably intended to discourage districts from charging rent for unused school facilities. Since it does not clearly define "reasonable maintenance" or other key terms, the Charter Schools Development Center recommends that these matters be clarified in the charter contract along with a well-drafted lease agreement.]

Legal construction and interpretation clauses

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

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

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

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

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

[Editor's Note: These sections note that the Legislature intends that charter schools be a part of the public school system as defined in the California Constitution, contain language regarding implementation (calling for "full and fair funding") and a provision stating that the law should be interpreted liberally. These sections will probably not have any direct effect on individual charter schools. Instead, they will help shape the interpretation of the rest of the Charter Act.]

State study of charter schools

47616. The State Department of Education shall review the educational effectiveness of the charter school approach authorized under this part and, not later than January 1, 1999, shall report to the Legislature accordingly with recommendations to modify, expand, or terminate that approach.

*47616.5. The Legislative Analyst shall contract for ~~an interim~~ a neutral evaluator to conduct an evaluation of the effectiveness of the charter school approach authorized under this part and, on ~~November~~ ~~July 1, 1997-2003~~, the neutral evaluator shall report directly to the Legislature and the Governor accordingly with recommendations to modify, expand, or terminate that *the charter school ap-**

proach. The evaluation of the effectiveness of the charter school approach shall include, but shall not be limited to, the following factors:

- (a) If available, the pre- and post-charter school test scores of pupils attending charter schools and other pupil assessment tools.
- (b) The level of parental satisfaction with the charter school approach compared with schools within the district in which the charter school is located.
- (c) The impact of required parental involvement.
- (d) The fiscal structures and practices of charter schools as well as the relationship of these structures and practices to school districts, including the amount of revenue received from various public and private sources.
- (e) An assessment of whether or not the charter school approach has resulted in increased innovation and creativity.
- (f) Opportunities for teachers under the charter school approach.
- (g) Whether or not there is an increased focus on low-achieving and gifted pupils.
- (h) Any discrimination and segregation in charter schools.
- (i) If available, the number of charter school petitions submitted to governing boards of school districts and the number of those proposals that are denied, per year, since the enactment of the charter school law, including the reasons why the governing boards denied these petitions, and the reasons governing boards have revoked charters.
- (j) The governance, fiscal liability and accountability practices and related issues between charter schools and the governing boards of the school districts approving their charters.
- (k) The manner in which governing boards of school districts monitor the compliance of the conditions, standards, and procedures entered into under a charter.
- (l) The extent of the employment of noncredentialed personnel in charter schools.
- (m) An assessment of how the exemption from laws governing school districts allows charter schools to operate differently than schools operating under those laws.
- (n) A comparison in each school district that has a charter school of the pupil dropout rate in the charter schools and in the non charter schools.
- (o) The role and impact of collective bargaining on charter schools.

[Editor's Note: The new law calls for another state study of charter schools and continues to use much of the language that governed the previous study. Hopefully this section will be refocused and clarified before the state embarks on contracting the study, because these issues and questions are currently very poorly framed and resulted in few bids from qualified researchers during the prior state study contracting process.]

Charter school revolving loan fund

41360. Loans may be made from moneys in the Public School District Organization Revolving Fund to newly organized elementary, high school, or unified school districts upon application of the governing board of any such district, certified by the county superintendent officials and approved by the Superintendent of Public Instruction for use by the district during the period from the date the action to form the district was completed and the date the district becomes effective for all purposes. Money loaned to a district pursuant to this section shall be used only to meet (a) the expenses of office rental, office supplies, postage, telephone, and telegraphing; (b) the expenses of necessary elections required by law or authorized by Section 4062; and (c) the expenses of employing, the salary of, and necessary travel expenses of officers and necessary clerical help for the governing board.

During each of the two successive fiscal years commencing with the first fiscal year of the existence of the school district for all purposes, the State Controller shall deduct from apportionments made to such school district an amount equal to one-half of the amount loaned to such school district under this section and pay the same amount into the Public School District organization Revolving Fund in the State Treasury.

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the State Department of Education for charter schools and any other funds appropriated or transferred to the fund. The amount in the Charter School Revolving Loan Fund is continuously appropriated for the purposes of the fund.

From the federal Public Charter Schools Program grant funds awarded to the Department of Education for 1996-97 and appropriated in Item 6110-112-0890 of Section 2.00 of Chapter 162 of the Statutes of 1996, one hundred fourteen thousand dollars (\$114,000) shall be deposited by the Superintendent of Public Instruction in the Charter School Revolving Loan Fund. Additional federal Public Charter Schools Program grant funds appropriated in Item 6110-112-0890 of Section 2.00 of Chapter 162 of the Statutes of 1996 may be transferred by the Superintendent of Public Instruction to the Charter School Revolving Loan Fund subject to approval by the Department of Finance.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to school districts for charter schools that are not a conversion of an existing school upon application of a school district and approval by the Superintendent of Public Instruction. A loan is for use by the charter school during the period from the date the charter is granted pursuant to Section 47605 and the end of the fiscal year in which the charter school first enrolls pupils.

Money loaned to a school district for 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 school district for a charter school pursuant to this subdivision shall not exceed fifty thousand dollars (\$50,000). This subdivision does not apply to a renewal of a charter pursuant to Section 47607.

(c) During each of the two successive fiscal years commencing with the first fiscal year following the fiscal year the charter school first enrolls pupils, the Controller shall deduct from apportionments made to the school district an amount equal to one-half of the amount loaned to the school district for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury.

Independent Study finance restrictions

51747.3. (a) No local education agency may 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 students who attend regular classes or to their parents or guardians.

(b) Notwithstanding any other provision of law, community school and independent study average daily attendance shall be claimed by school districts and county superintendents of 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 (f) 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).

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