



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

October 14, 2019

**To:** Superintendents, Member School Districts (K-12)  
**From:** Jennifer E. Nix, Associate General Counsel JEN  
**Subject:** Changes to Law Governing Charter School Authorization,  
Oversight, Appeals, and Renewals  
Memo No. 27-2019

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On October 3, 2019, Governor Newsom signed into law Assembly Bills 1505 and 1507, which provide for a number of reforms to the laws governing charter schools.<sup>1</sup> Unless otherwise stated below, changes are effective on July 1, 2020. In summary, the changes are as follows:

- *Approval of Initial Charter School Petitions:* The amended law permits a chartering authority to consider how the charter school would financially impact the community and the neighborhood schools when reviewing a petition for a new charter or a request for an existing charter to expand sites or grade levels. It also permits a chartering authority to deny a petition for a charter school when the district is in “distress,” as determined by the County Superintendent of Schools. In order to deny a charter school based on this criteria, the chartering authority must make specific written factual findings. A chartering authority can only deny an initial petition for this reason; it cannot deny renewal based on this criteria.<sup>2</sup>
- *Material Revisions:* An existing charter school that wants to expand operations to one or more additional sites or additional grade levels must submit to the chartering authority for approval a material revision to the school’s charter.<sup>3</sup>
- *Hearing Procedures:* The amended law clarifies procedures as to petitions for charter schools, including timelines, staff recommendations, and public hearing rights.<sup>4</sup>

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<sup>1</sup> Governor Newsom vetoed a third bill related to charter schools, AB 967, which would have required charter schools to follow the same procedures regarding development of Local Control and Accountability Plans (LCAPs) as school districts, and would have required approval of charter schools’ LCAPs by their chartering authorities.

<sup>2</sup> Education Code § 47605(c)(7).

<sup>3</sup> Education Code § 47605(a)(4).

<sup>4</sup> Education Code §§ 47605(b), 47605.6(b).

- *Pupil Balance*: The amended law requires charter schools to provide the means for which they will achieve a pupil balance reflective of the local community, including racial, ethnic, special education, English learner, and redesignated fluent English proficient students. Additionally, upon renewal, if a charter school that is a school of the chartering authority for special education purposes, the chartering authority may consider “the effect of school placements made by the chartering authority in providing a free and appropriate public education as required by the federal Individuals with Disabilities Education Act (Public Law 101-476), on the balance of pupils with disabilities at the charter school.”<sup>5</sup>
- *County- and State-Board-Approved Charters*: The amended law eliminates statewide benefit charter schools. It transitions charter schools currently authorized by the State Board to oversight at the local level.<sup>6</sup>
- *Charter School Appeals*: The amended law continues to authorize an appeal of denials to the county board of education, but limits appeals to the State Board to situations in which the charter school can show that the school district or county board of education abused its discretion. The amended law adds a number of procedural requirements with regard to appeals. Of note is that the county board of education must remand to the school district any petition submitted on appeal that contains new or different material terms, and the specification that a charter school granted a petition by the county or state board is limited to the geographic location of the chartering authority that originally denied its petition.<sup>7</sup>
- *Waivers*: The amended law prohibits the state board from waiving a majority of the laws governing charter schools.<sup>8</sup>
- *Charter School Teacher Credentials*: The amended law requires teachers at charter schools to have state-level background checks and appropriate credentials for their assignment. By July 1, 2020, all teachers in charter schools shall obtain a certificate of clearance and satisfy the requirements for professional fitness pursuant to Education Code sections 44339, 44340, and 44341.<sup>9</sup> In other words, teachers in charter schools should meet the same eligibility requirements as traditional public school teachers. Teachers employed by a charter school during the 2019-2020 school year have until July 1, 2025, to obtain their required credential/s.<sup>10</sup>
- *Virtual Schools*: The amended law establishes a two-year moratorium on non-classroom based charter schools. From January 1, 2020, through January 1, 2022, subject to several narrow exceptions, no chartering authority may approve the petition for establishment of such a school.<sup>11</sup>

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<sup>5</sup> Education Code §§ 47605(c)(5)(G), 47605.6(b)(5)(H).

<sup>6</sup> Education Code § 47605.9.

<sup>7</sup> Education Code § 47605(k).

<sup>8</sup> Education Code §§ 47605(o), 47605.6(o), 47605(e), 47612.7(c).

<sup>9</sup> Education Code §§ 47605(l), 47605.6(l).

<sup>10</sup> Education Code § 47605.4.

<sup>11</sup> Education Code § 47612.7.



- *Charter School Renewals:* The amended law requires a chartering authority to use the state accountability system as the basis for charter school renewal. A chartering authority now can authorize renewals of high performing charter schools for five to seven years, of middle performing charter schools for five years, and cannot renew low performing charter schools. A chartering authority is required to consider alternative data, as approved by the State Board, for middle- and low-performing schools during a transition period. During this transition period, a chartering authority, with a specific written finding, can rely on that alternative data to renew a low-performing charter school for two years based on alternative data. A chartering authority can close a charter school for fiscal and governance concerns or if the charter school is not serving all student populations. The new law eliminates the requirement that the chartering authority consider academics as the highest priority during renewal and revocation. As stated above, unlike with approval of an initial petition, a chartering authority may not deny a renewal of an existing charter school based on findings that the charter school will not serve the interests of the entire community, or that the school district is not proposed to absorb the fiscal impact of the charter school. However, these criteria may be used to deny a proposed expansion of an existing charter school. Finally, charter schools are entitled to receive differentiated assistance and intervention for academic concerns on the same terms as school districts.<sup>12</sup>
- *Location/Resource Centers:* The amended law revokes the ability of a charter school that is unable to locate within the boundaries of the chartering authority to establish one site outside of the boundaries of the chartering authority but within the county. Any such charter schools can continue operating their sites until the next request for renewal of the charter petition. The amended law also revokes the ability of a charter school to operate a resource center outside of the physical boundaries of the chartering authority. Any resource center that is authorized under current law can continue until renewal of the charter petition. In both situations, at the time of renewal, the charter school can continue to operate the site outside of the chartering authority's physical boundaries if it both obtains approval from the school district in which the site is located and submits a request for renewal of the charter petition to the school district in which the site is located.<sup>13</sup>
- *Data Collection:* The amended law requires the CDE to collect and monitor data on implementation of the law, including patterns in authorizations and appeals.<sup>14</sup>

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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<sup>12</sup> Education Code §§ 47607, 47607.2, 47607.3.

<sup>13</sup> Education Code § 47605(a)(5).

<sup>14</sup> Education Code § 47607.8.