

CALIFORNIA STATE BOARD OF EDUCATION

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AUGUST 2003 INFORMATION MEMORANDUM

DATE: August 1, 2003
TO: Members, State Board of Education
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: Assembly Bill 1994 Implementation Regulations (Programmatic)
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Background

At the June 2003 meeting, the State Board initiated the permanent rulemaking process for the fiscal provisions of Assembly Bill 1994 (Chapter 1058, Statutes of 2002). These fiscal provisions incorporated in statute a requirement for the submission of certain annual financial reports by local education agencies, including charter schools. The proposed regulations will establish important elaboration on the reporting requirement. A public hearing on the proposed regulations – to be conducted by staff in keeping with the State Board’s direction – is scheduled for August 25, 2003.

AB 1994 also contained a number of significant programmatic changes pertaining to charter schools, and the bill requires the State Board to adopt regulations to implement certain aspects of the statutory changes. The attached draft of programmatic implementation regulations is presented for your information and review.

The Advisory Commission on Charter Schools (ACCS) has discussed the AB 1994 programmatic implementation regulations – both in concept and with regard to certain specific elements – on a number of occasions. At its July 2003 meeting, the ACCS indicated that the permanent rulemaking process should be pursued “using the draft as a base, but incorporating corrections and changes as determined appropriate by CDE staff.” In keeping with this recommendation, it is the intention of the CDE to ask the ACCS to continue to review and refine the draft regulations at its September 2003 meeting (which occurs after the State Board’s September 2003 meeting). The goal will be to bring an action item (to begin the formal rulemaking process) to the State Board in November 2003. Based on this projected timeline, the permanent regulations would be anticipated to be operative (i.e., to have completed the rulemaking process and been approved by the Office of Administrative Law) in spring (or possibly summer) 2004.

Analysis

The draft regulations are divided into four major sections. Each major section is identified below (along with the corresponding pages of the attachment), and the highlights of the section are then listed. In the attachment, the actual language of the relevant statute is shown before each of the major sections to help provide context for the draft of proposed regulations that follow.

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Charter School “Numbering System”

Attachment Pages 1-4

- Assigns responsibility for maintenance of a charter school “numbering system” (as specified in AB 1994) with the CDE.
- Envisions CDE “reassigning” charter numbers when charter schools close (or fail to commence operations). Currently charter numbers are not reassigned. Therefore, the highest charter number bears no relationship to how many charter schools are actually operating in the state.
- Specifies that if we ever reach the cap on the number of charter schools that may operate in the state, any additional charters that may be approved will be held in the equivalent of a chronological queue, awaiting space to open up within the cap (e.g., through school closure or through cap expansion).
- Provides some clarification as to when an individual charter school would receive more than one charter number. AB 1994 indicates that multiple charter numbers are to be assigned to a school operating at multiple sites and providing fundamentally different educational programs or serving fundamentally different groups of students at the various sites.

Appeals of Charter Denials

Attachment Pages 5-7

- Clarifies existing regulations to correspond with new statutory requirement that charters denied by local school districts may only be appealed to the State Board after first being appealed to (and denied by) the county board of education.

State Charter Schools

Attachment Pages 8-15

- Elaborates upon the new creation of AB 1994: state charter schools. A petition to establish a state charter school is to be submitted directly to the State Board of Education. A key provision of statute is that a state charter school must provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county.
- Specifies that a state charter school must initially commence operations in at least two sites, and that the sites must be in different school districts and different counties.
- Provides for the orderly expansion of a state charter school. This is done in accordance with a list of sites (described by general location) approved at the same time the charter is approved. Specific sites added in accordance with the list are signed-off by the CDE (with administrative decisions appealable to the State Board). Modification of the list itself requires State Board approval.

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- Requires petitioners to make their case for “statewide benefit” based upon uniqueness of the educational program and the demonstration of benefit to pupils, communities, the state, and (as applicable) the school itself.
- Requires that petitions include a variety of key educational and operational elements, including a description of how the school and its various sites will participate in one or more special education local plan areas (SELPAs).
- Requires that any petitions for state charter schools be reviewed first by the Advisory Commission on Charter Schools, then forwarded with recommendations to the State Board. If the State Superintendent has different recommendations, they too are presented to the State Board.
- Establishes funding specifications for state charter schools that are approved by the State Board, including the assignment of various fiscal duties to a county office of education.

County Charter Schools

Attachment Pages 16-20

- Establishes funding specifications for charter schools approved upon direct submission to a county board of education. [AB 1994 provides for direct submission of petitions to county boards of education. Such petitions, if denied, are not appealable to the State Board.]

Contacts for Additional Information

If you have any questions about this document or about the attached draft of proposed regulations, please contact:

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[Attachment](#)

**Draft of Proposed Implementation Regulations
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1

Charter School "Numbering System"

EC 47602(a)(1) does not explicitly require regulations, but it is implied and probably necessary. The section reads in pertinent part:

"...Each number assigned by the state board on or after January 1, 2003, shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. The State Board of Education shall develop a numbering system for charter schools that identifies each school associated with a charter and that operates within the existing limit on the number of charter schools that can be approved each year. For purposes of this section, sites that share educational programs and serve similar pupil populations may not be counted as separate schools. Sites that do not share a common educational program shall be considered separate schools for purposes of this section. ..."

2

3 **Section 11968 (Maximum Number of Charters) of Title 5 of the California Code of**
4 **Regulations is amended to read:**

5 §11968. (a) If a charter school ceases to operate ~~through~~ for any reason, including, but
6 not limited to, voluntary surrender, revocation, or non-renewal of its charter, the charter
7 school's number or numbers will lapse and will ~~not~~ be reassigned in the numbering
8 system maintained by the California Department of Education pursuant to Section 11969.
9 The purpose of reassignment of numbers shall be to ensure, to the extent practicable, that
10 the highest charter number assigned at any given time corresponds to the total number of
11 charters that may provide instruction to pupils in this state. The reassignment of charter
12 numbers shall be accomplished so as to avoid any confusion that might otherwise arise
13 from a current charter school being assigned a number that formerly was assigned to a
14 different charter school.

15 (b) On July 1, 1999, and on each succeeding July 1, the ~~limit on the total number of~~
16 ~~allowable charter petitions~~ maximum number of charter schools authorized to operate in
17 this state will be increased by 100.

18 (c) Whenever the ~~statutory limit on the permissible~~ maximum number of charter ~~school~~
19 ~~petitions~~ schools authorized to operate in this state is reached, ~~requests for new numbers~~
20 ~~will be placed on a list in the order received by the State Board of Education as~~
21 determined by the numbering system maintained pursuant to Section 11969, then no

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1 charter school assigned a charter number thereafter is authorized to operate until one of
2 the following occurs:

3 (A) The maximum number is increased sufficiently to accommodate the school; or

4 (B) The ceasing to operate of an existing charter school or schools for any reason
5 (including, but not limited to, voluntary surrender, revocation, or non-renewal) creates
6 sufficient capacity within the maximum number to accommodate the school.

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

9
10 **Section 11969 (Numbering of Charter School Petitions) of Title 5 of the California**
11 **Code of Regulations is amended to read:**

12 ~~§11969.—Each charter petition granted pursuant to subdivision (j) of Section 47605 of the~~
13 ~~Education Code and each charter notice received by the State Board of Education~~
14 ~~pursuant to subdivision (i) and paragraph (5) of subdivision (j) of Section 47605 shall be~~
15 ~~given one number. For purposes of calculating the maximum total number of charter~~
16 ~~schools authorized to operate in this state, each petition shall be deemed to authorize one~~
17 ~~charter school.~~

18 (a) (1) In accordance with subdivision (a) of Section 47602 of the Education Code, the
19 California Department of Education, on behalf of the State Board of Education, shall
20 establish and administer a numbering system to track the total number of charter schools
21 authorized to operate in the state, based on the chronological order of the receipt of
22 notification of charter approval or, in the case of a charter petition approved by the State
23 Board of Education, the time of the State Board's approval. The purpose of the
24 numbering system shall be to ensure that the maximum number of charter schools that
25 may provide instruction to pupils in this state is not exceeded at any time.

26 (2) Whenever the maximum number of charter schools authorized to operate in the
27 state is reached as determined by the numbering system, the provisions of subdivision (c)
28 of Section 11968 shall apply.

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1 (3) To determine whether any additional site that a chartering entity allows a charter
2 school to open is within the maximum number of charter schools authorized to operate in
3 the state, the provisions of subdivision (c) shall be applied.

4 (b) (1) When the State Board of Education approves a charter petition or receives notice
5 that a charter petition has been approved by a local education agency, the State Board
6 shall assign the school described in the petition one charter number, unless both of the
7 following conditions are met:

8 (A) The school will operate at multiple sites; and

9 (B) Among the multiple sites, one or more of the sites shall offer different
10 educational programs or serve different pupil populations than the other site(s). For
11 purposes of this subparagraph, “different pupil populations” shall include, but not be
12 limited to, pupils in different grade levels and pupils who have different educational
13 characteristics or needs.

14 (2) If an approved charter petition meets the conditions set forth in subparagraphs (A)
15 and (B) of paragraph (1) in the judgment of the State Board of Education, then the State
16 Board shall assign the school (to be established under the approved petition) multiple
17 charter numbers, as the State Board determines appropriate, but no more than one charter
18 number per site.

19 (3) As necessary, the petitioner or petitioners for a charter school that has been
20 approved by a local education agency shall provide the California Department of
21 Education information regarding the applicability to the school of the conditions
22 specified in subparagraphs (A) and (B) of paragraph (1) for purposes of assisting the
23 State Board of Education in determining the appropriateness of assigning the school a
24 single charter number or multiple charter numbers.

25 (4) The State Board of Education shall also assign multiple charter numbers to a
26 charter school when the provisions of subdivision (c) apply.

27 (c) (1) When the chartering entity of an existing, numbered charter school allows the
28 school to open one or more additional sites, the charter school shall notify the California
29 Department of Education within 30 days (of the chartering entity’s action being taken) in

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1 order for a determination to be made as to whether one or more additional charter
2 numbers must be assigned to the school.

3 (2) As necessary, the charter school shall provide the California Department of
4 Education information to assist the State Board of Education in determining whether the
5 additional site(s) meet the conditions described in subparagraphs (A) and (B) of
6 paragraph (1) of subdivision (b) and, thus, whether the school must be assigned one or
7 more additional charter numbers.

8 (3) If the State Board of Education determines that the additional site(s) meet the
9 conditions specified in subparagraphs (A) and (B) of paragraph (1) of subdivision (b),
10 then the State Board shall assign one or more additional charter numbers to the school in
11 keeping with paragraph (4) of subdivision (b), but no more than one charter number per
12 site.

13 (4) This subdivision shall not apply if a charter school moves from one site to
14 another, provided the total number of sites operated by the school does not increase.

15 (5) This subdivision shall not apply if a charter school is requested or required by the
16 school's chartering entity to break up a single site into multiple sites, e.g., to better utilize
17 available facilities. In such a case, the affected school will retain a single charter number
18 for the multiple sites so created.

19
20 Note: Authority cited: Section 33031, Education Code. Reference: Section 47602,
21 Education Code.

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Appeals of Charter Denials

This proposal is to amend existing regulations to conform to the provisions of AB 1994 regarding appeals on charter denials. [See Education Code Section 47605(j).] The amendments are largely technical and reflect the new requirement that a district-denied charter may be appealed to the State Board of Education only after appeal to the county office of education.

2

3 **Section 11967 (Appeals of charter Petitions That Have Been Denied) of Title 5 of the**
4 **California Code of Regulations is amended to read:**

5 §11967. (a) A charter school petition that has been previously denied by the governing
6 board of a school district must be received by the county board of education ~~or the State~~
7 ~~Board of Education~~ not later than 180 calendar days after the denial. A charter school
8 petition that has been previously denied by a county board of education must be received
9 by the State Board of Education not later than 180 calendar days after the denial. Any
10 petition received by the county board of education or State Board of Education more than
11 180 days after denial shall not be acted upon by the county board of education or State
12 Board of Education.

13 (b) When filing a petition with the county board of education or the State Board of
14 Education for the establishment of a charter school, petitioner(s) shall provide the
15 following:

16 (1) A complete copy of the charter petition as denied, including the signatures
17 required by Education Code section 47605.

18 (2) A copy of the governing board's action of denial of the petition and the governing
19 board's written factual findings specific to the particular petition, as required by
20 Education Code section 47605(b).

21 (3) A signed certification of compliance with applicable law.

22 (4) A description of any changes to the petition necessary to reflect the county ~~office~~
23 board of education or the State Board of Education as the chartering entity.

24 ~~—(c) The county board of education or State Board of Education shall deny a petition for~~
25 ~~the establishment of a charter school only if it makes written factual findings, specific to~~

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1 ~~the particular petition, setting forth specific facts to support one or more of the grounds~~
2 ~~for denial set forth in Education Code section 47605(b)(1)-(5).~~

3 (c) (1) Following the denial of a charter petition by a district governing board, and upon
4 the submission of a charter petitioner as described in Education Code section 47605(j)(1),
5 a county board of education shall review the petition pursuant to Education Code section
6 47605(b).

7 (2) Following the denial of a petition by a county board of education, and upon the
8 filing of a charter petitioner as described in Education Code section 47605(j)(1), the State
9 Board of Education shall review the petition in accordance with Education Code section
10 47605(b) and the criteria adopted pursuant to Education Code section 47605(j)(2).

11 (d) Not later than 60 days after receiving a complete petition package pursuant to
12 Education Code section 47605(j)(1), and following review of the petition and a public
13 hearing, ~~the~~ a county board of education shall grant or deny the charter petition. This date
14 may be extended by an additional 30 days if the county board of education and the
15 petitioner(s) agree to the extension.

16 (e) Not later than 90 days after receiving a complete petition package pursuant to
17 Education Code section 47605(j)(1), and following review of the petition and a public
18 hearing, the State Board of Education shall schedule, at its next regular board meeting, an
19 action item to grant or deny the charter petition. This date may be extended by an
20 additional 30 days if the State Board of Education and the petitioner(s) agree to the
21 extension. If, in the process of reviewing the petition, the Advisory Commission on
22 Charter Schools established in keeping with Education Code section 47634.2(b) holds a
23 public hearing, the State Board of Education need not hold an additional public hearing
24 before taking action. The State Board is obligated to hear public comment on each
25 agenda item it considers in accordance with the Bagley-Keene Open Meeting Act.

26 ~~—(f) In considering charter petitions that have been previously denied, by a school district~~
27 ~~the county board of education or State Board of Education shall not limit its review to the~~
28 ~~reasons for denial stated by the school district, but review the charter school petition~~
29 ~~pursuant to Education Code section 47605(b).~~

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- 1 Note: Authority cited: Sections 33031 and 47605(j)(5), Education Code. Reference:
- 2 Section 47605(j)(~~4~~), Education Code.

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1

State Charter Schools (New Sections)

AB 1994 added EC 47605.8 which reads:

47605.8. (a) A petition for the operation of a state charter school may be submitted directly to the State Board of Education, and the board shall have the authority to approve a charter for the operation of a state charter school that may operate at multiple sites throughout the state. The State Board of Education shall adopt regulations, pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) for the implementation of this section. Any regulations adopted pursuant to this section shall ensure that a charter school approved pursuant to this section meets all requirements otherwise imposed on charter schools pursuant to this part, except that a charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools.

(b) The State Board of Education may not approve a petition for the operation of a state charter school under this section unless the State Board of Education finds that the proposed state charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county. The finding of the board in this regard shall be made part of the public record of the board's proceedings and shall precede the approval of the charter.

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

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

2

3 **New Section #1 is added to Title 5 of the California Code of Regulations to read:**

4 New Section #1. (a) This section governs petitions to establish state charter schools
5 pursuant to Education Code section 47605.8. Any such petition shall:

6 (1) Provide that the proposed school will meet all requirements otherwise imposed on
7 charter schools pursuant to Part 26.8 of the Education Code, except those requirements
8 relating to geographic and site limitations.

9 (2) Be approved only after the State Board of Education makes a finding in the public
10 record that the proposed school will provide instructional services of statewide benefit

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1 that cannot be provided by a charter school operating in only one school district and only
2 one county.

3 (3) Be reviewed by the State Board in keeping with Education Code section 47605(b),
4 the criteria adopted pursuant to Education Code section 47605(j)(2), and the provisions of
5 this section.

6 (b) A petition shall include provisions for the instruction of pupils at sites in more than
7 one school district and more than one county, subject to the following conditions:

8 (1) The school shall initially commence instruction of pupils in at least two of the
9 planned sites, which shall be in at least two different school districts and two different
10 counties.

11 (2) Any subsequent modification to the charter related to site information required in
12 paragraph (9) of subdivision (c) shall require approval of the State Board of Education.
13 The charter school may also add additional sites upon completion of the requirements in
14 paragraphs (3), (4), (5), (9), (10), and (11) of subdivision (c) and approval of the State
15 Board of Education.

16 (3) Commencement of instruction of pupils at each site shall be subject to an
17 administrative determination by the California Department of Education as to the
18 completion of site-related requirements in subdivision (c) and compliance of the site with
19 any conditions the State Board of Education may prescribe in its approval of the charter
20 petition. In addition, the charter school shall submit the following:

21 (A) Fire marshal inspection and approval of all facilities proposed for use.

22 (B) Certificate of occupancy that is consistent with the number of students proposed
23 at each facility.

24 (C) Documentation that the site complies with local zoning ordinances or has gone
25 through local procedures and has obtained a variance to local zoning ordinances.

26 (D) A lease agreement signed by all parties or other documentation indicating
27 ownership of property and/or facilities.

28 (E) Other local inspections and permits, as applicable, including but not limited to
29 construction permits and inspections.

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1 (4) The school shall notify the California Department of Education within 60 days of
2 proposed commencement of instruction at each site identified in the charter, including
3 submission of all documentation required in paragraph (3). Within 30 days of the receipt
4 of a complete and documented request for an administrative determination pursuant to
5 this paragraph, the California Department of Education shall evaluate the adequacy and
6 appropriateness of the facilities for the proposed educational program and notify the
7 charter petitioner(s) and any affected local education agency of its determination. The
8 charter petitioner(s) or any affected local education agency may appeal the administrative
9 determination within 10 days of the California Department of Education's notification. If
10 an appeal is filed, the administrative determination is temporarily stayed, and the matter
11 will be placed on the agenda of the next meeting of the State Board of Education
12 (consistent with the requirements of the Bagley-Keene Open Meeting Act). The State
13 Board of Education may approve, amend and approve, or reject the administrative
14 determination of the California Department of Education. If no action is taken by the
15 State Board of Education, the administrative determination of the California Department
16 of Education shall stand.

17 (5) A school site in its first year of operation may only commence instruction between
18 July 1 and September 30 of that year.

19 (c) A petition package shall, at a minimum, include all of the following components:

20 (1) A complete copy of the charter petition.

21 (2) The information specified in Education Code section 47605(g).

22 (3) Signatures either of parents or guardians or of teachers in keeping with Education
23 Code section 47605(a)(1) for each site that is identified in the petition.

24 (4) For each site that is identified in the petition, evidence that the petitioner has
25 notified the superintendent of each school district (on behalf of the district's governing
26 board) and the superintendent of schools of each county (on behalf of the county board of
27 education) in which the charter school identifies a site will be located. The notifications
28 shall express the intent of the petitioner to submit the petition to the State Board of
29 Education and include both a copy of the petition as then developed and the petitioner's
30 plan for solicitation of local community input as provided for in paragraph (5).

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1 (5) A description of how the petitioner(s) or representatives of the petitioner(s) have
2 solicited local community input for each site where the charter identifies the school will
3 operate. Satisfaction of this paragraph shall involve the holding of at least one publicly
4 noticed meeting for each site, with a summary of the input received at the meeting(s)
5 being included in the petition package.

6 (6) A description of how the charter school will provide instructional services of
7 statewide benefit that cannot be provided by a charter school operating in only one school
8 district, or only in one county. Neither a description of administrative or operational
9 benefit to a charter operator, nor an expression of desire by a charter operator to provide
10 services in more than one district and county, shall be considered sufficient to constitute a
11 statewide benefit. The description may include, but is not limited to:

12 (A) The unique factors and circumstances related to the school's educational
13 program that make the school best able to meet its educational mission as a statewide
14 charter, rather than as a district- or county-authorized charter.

15 (B) How the charter school's approval as a state charter school, rather than a locally
16 approved charter school, will be of benefit to:

17 (i) the pupils who will attend the school;

18 (ii) the communities (including the school districts and the counties) in which the
19 school sites will be located (e.g., in terms of pupil demographics and performance);

20 (iii) the state; and

21 (iv) to the extent applicable, the school itself (e.g., in fund raising, community
22 partnerships, or relationships with institutions of higher education).

23 (C) Other information to help the State Board determine that the petition is uniquely
24 positioned to be a state charter, rather than a locally approved charter and that approval
25 will result in a state charter school that is both fully compliant with the requirements of
26 law and likely to be a successful school.

27 (7) An acknowledgement that an annual independent audit of the school must be
28 conducted in keeping with applicable statute and regulation and an indication of how the
29 school's individual sites will be appropriately included in the audit process.

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1 (8) An acknowledgement that the school must pay charges for oversight costs in
2 keeping with statute, and that the State Board may delegate oversight and monitoring of
3 the school's operation to a third party.

4 (9) A list of each site that will be operated by the school that includes:

5 (A) A timeline for the commencement of instruction at each site;

6 (B) The general location of each site and the school district and county in which
7 each site is to be located;

8 (C) A description of the potential facilities to be used at each site; and

9 (D) The approximate number of pupils that can safely be accommodated at each
10 site.

11 (10) Consistent with the proposed charter, an assurance that the educational program
12 described in the charter will be essentially similar at each site and, thus, that each pupil's
13 educational experience will be reasonably the same with regard to instructional methods,
14 instructional materials, staffing configuration, personnel requirements, course offerings
15 and class schedules.

16 (11) A description of how the school and each of its sites will participate in a special
17 education local plan area (SELPA) pursuant to Education Code section 47641,
18 recognizing the critical role of a SELPA in:

19 (A) Distributing special education funding;

20 (B) Ensuring that pupils are being appropriately identified and referred for special
21 education; and

22 (C) Once individualized education programs have been established, ensuring that
23 pupils are receiving necessary programs and services.

24 (12) A plan for operations of the school that describes the distinction between
25 centralized and site level responsibilities and includes a staffing plan to implement the
26 activities at the designated level. The plan shall address all topics of school operations
27 including, but not limited to: facilities and site operations, legal and programmatic
28 compliance, financial administration, governance, and decision-making authority.

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1 (d) (1) The State Board of Education is not required to approve any petition pursuant to
2 Education Code section 47605.8. The State Board may deny a petition for any of the
3 reasons set forth in Education Code section 47605.6(b).

4 (2) Unless otherwise specified by statute or regulations, if the State Board of
5 Education does approve a petition pursuant to Education Code section 47605.8, the
6 resulting state charter school, regardless of the number of sites, shall be considered one
7 school for all purposes, including, but not limited to, compliance monitoring, data
8 reporting, data collection, grant eligibility, oversight, and apportionments.

9 (e) (1) Unless otherwise agreed to by the petitioner(s), not later than 150 days after
10 receiving a complete petition package and following review of a petition and a public
11 hearing, the State Board of Education shall consider an action item to grant or deny the
12 petition.

13 (2) Prior to consideration by the State Board of Education, the petition shall be
14 considered by the Advisory Commission on Charter Schools established pursuant to
15 Education Code section 47634.2(b). If the Advisory Commission holds a public hearing
16 in conjunction with its consideration of the petition, then the State Board need not hold an
17 additional public hearing before taking action. The State Board is obligated to hear
18 public comment on each agenda item it considers in accordance with the Bagley-Keene
19 Open Meeting Act.

20 (3) The California Department of Education shall review the petition and provide an
21 analysis, along with any recommendation(s), to the members of the Advisory
22 Commission and to the petitioner(s) at least 10 days prior to the petition's consideration
23 by the Advisory Commission on Charter Schools. The California Department of
24 Education's analysis and recommendations are subject to clarification or revision prior to
25 (or at) the meeting of the Advisory Commission as may be necessary in the judgment of
26 the California Department of Education.

27 (4) Following its submission, a petition or any other element of a petition package
28 may be modified only with the consent of the State Board of Education.

29 (5) A recommendation to grant or to deny a petition by the Advisory Commission on
30 Charter Schools and/or by the California Department of Education may include a

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1 recommendation to allow modifications and may specify any recommended conditions of
2 approval.

3 (6) Any findings and any recommendation by the Advisory Commission on Charter
4 Schools shall be reported to the State Board of Education by the California Department of
5 Education.

6 (f) A petition shall be subject to the provisions of Education Code section 47607
7 regarding charter term, renewal, material revision, and revocation.

8 (g) A petition approved pursuant to this section may provide for independent study if
9 all of the following conditions are met:

10 (1) Any instruction provided through independent study complies with all
11 requirements of law.

12 (2) If the school provides nonclassroom-based instruction that exceeds the percentage
13 specified in Education Code section 47612.5, it shall be funded only in keeping with a
14 determination of funding separately approved pursuant to Education Code section
15 47634.2. Approval of a determination of funding for a state charter school may not be
16 incorporated in a petition.

17 (3) The provision for independent study in the charter is express. A charter that does
18 not expressly provide for independent study may not be interpreted as allowing
19 independent study.

20
21 **New Section #2 is added to Title 5 of the California Code of Regulations, to read:**

22 New Section #2. (a) For the purpose of funding charter schools approved pursuant to
23 Education Code Section 47605.8 and New Section #1, the following shall apply.

24 (1) The charter school shall be funded pursuant to Chapter 6 of Part 26.8 of the
25 Education Code (commencing with Section 47630) and shall receive its funding directly.

26 (2) There is no "sponsoring local education agency" as defined in Education Code
27 Section 47632.

28 (3) In the computation of the charter school's general-purpose entitlement pursuant to
29 Education Code section 47633, there is no local revenue, and the total amount of the
30 charter school's general-purpose entitlement shall be fully funded from state aid.

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1 (4) The warrant for the charter school shall be drawn in favor of the superintendent of
2 schools of the county office of education assigned in subdivision (b) of this section.

3 (b) (1) For charter schools approved pursuant to Education Code Section 47605.8 and
4 New Section #1, the State Board of Education may assign any county office of education
5 (with the consent of the county office) the responsibility for establishing the appropriate
6 funds or accounts in the county treasury and for making the necessary arrangements for
7 participation in the State Teachers' Retirement System and/or the Public Employees
8 Retirement System as requested by the charter school. The county office may charge the
9 charter school for the actual cost of services in accordance with Education Code Section
10 47611.3.

11 (2) Preference shall be given in any assignment made pursuant to paragraph (1) of
12 this subdivision to the county office of education in the county that the charter school
13 identifies as the principal location of its business records.

14 (3) If no county office of education is willing to accept the responsibilities described
15 in paragraph (1), then the county office of education in the county that the charter school
16 identifies as the principal location of its business records shall be assigned by the State
17 Board of Education.

18 (4) The State Board of Education may send part of any oversight fee it may collect for
19 a statewide charter school to the county office of education assigned pursuant to this
20 subdivision.

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1

County Charter Schools (New Section)

AB 1994 added EC Section 47605.6 which reads:

47605.6. (a) (1) In addition to the authority provided by Section 47605.5, a county board of education may also approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by a county office of education. A county board of education may only approve a countywide charter if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county. A petition for the establishment of a countywide charter school pursuant to this subdivision may be circulated throughout the county by any one or more persons seeking to establish the charter school. The petition may be submitted to the county board of education for review after either of the following conditions are met:

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

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

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

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

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

(b) No later than 60 days after receiving a petition, in accordance with subdivision (a),

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the county board of education shall hold a public hearing on the provisions of the charter, at which time the county board of education shall consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. Following review of the petition and the public hearing, the county board of education shall either grant or deny the charter within 90 days of receipt of the petition. However, this date may be extended by an additional 30 days if both parties agree to the extension. A county board of education may impose any additional requirements beyond those required by this section that it considers necessary for the sound operation of a countywide charter school. A county board of education may grant a charter for the operation of a school under this part only if the board is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605. The county board of education shall deny a petition for the establishment of a charter school if the board finds, one or more of the following:

- (1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
- (2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- (3) The petition does not contain the number of signatures required by subdivision (a).
- (4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).
- (5) The petition does not contain reasonably comprehensive descriptions of all of the following:
 - (A) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
 - (B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.
 - (C) The method by which pupil progress in meeting those pupil outcomes is to be measured.
 - (D) The location of each charter school facility that the petitioner proposes to operate.
 - (E) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.
 - (F) The qualifications to be met by individuals to be employed by the school.
 - (G) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.
 - (H) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction

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of the school district to which the charter petition is submitted.

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

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

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

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

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

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

(c) A county board of education that approves a petition for the operation of a countywide charter may, as a condition of charter approval, enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report to the county board of education on the operations of the charter school. The county board of education may prescribe the aspects of the charter school's operations to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the county board of education.

(d) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

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

(e) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state.

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

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the county except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the county board of education shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any

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action to impede the charter school from expanding enrollment to meet pupil demand.

(f) No county board of education shall require any employee of the county or a school district to be employed in a charter school.

(g) No county board of education shall require any pupil enrolled in a county program to attend a charter school.

(h) The county board of education shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school, any school district where the charter school may operate and upon the county board of education. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.

(i) In reviewing petitions for the establishment of charter schools within the county, the county board of education shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low-achieving pursuant to the standards established by the State Department of Education under Section 54032.

(j) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the school districts within the county, the Superintendent of Public Instruction and to the State Board of Education.

(k) If a county board of education denies a petition, the petitioner may not elect to submit the petition for the establishment of the charter school to the State Board of Education.

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to the County Office of Education, State Controller and the State Department of Education by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

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2 **New Section #3 is added to Title 5 of the California Code of Regulations, to read:**

3 New Section #3. (a) For the purpose of funding charter schools approved pursuant to

4 Education Code Section 47605.6, the following shall apply.

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1 (1) The charter school shall be funded pursuant to Chapter 6 of Part 26.8 of the
2 Education Code (commencing with Section 47630) and shall receive its funding directly.

3 (2) The “sponsoring local education agencies” as defined in Education Code Section
4 47632 means the pupils’ school districts of residence.

5 (b) (1) The warrant for a charter school approved pursuant to Education Code Section
6 47605.6 shall be drawn in favor of the superintendent of schools of the county office of
7 education that approved the charter. The county superintendent of schools is authorized
8 to establish appropriate funds or accounts in the county treasury for each charter school.

9 (2) For charter schools approved pursuant to Education Code Section 47605.6, the
10 county office of education may make arrangements for participation in State Teachers’
11 Retirement System and/or Public Employees Retirement System as requested by the
12 charter school. The county office may charge the charter school for the actual cost of
13 services in accordance with Education Code Section 47611.3.

14 (c) For the purposes of Education Code Section 47605.6(b)(5)(I), a charter school
15 approved by a county office of education pursuant to Education Code Section 47605.6
16 shall conduct its annual independent audit in keeping with Education Code Section
17 47605(b)(5)(I) and related regulatory provisions. The charter school shall indicate in its
18 petition the manner in which the school’s individual sites will be appropriately included
19 in the audit process.