California Department of Education

Executive Office

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# MEMORANDUM

**DATE:** May 29, 2020

**TO:** MEMBERS, State Board of Education

**FROM:** Tony Thurmond, State Superintendent of Public Instruction

**SUBJECT: Implementation Update: AB 1505 and AB 1507**

## Summary of Key Issues

This memo provides information and background on the ongoing work of the California Department of Education (CDE) in conjunction with State Board of Education (SBE) Staff pertaining to the implementation of Assembly Bill 1505.

AB 1505 changes the submission process of new charter school petitions to school districts, county boards of education, and the SBE. It also modifies the level of review for requested renewal petitions based on California School Dashboard data, including a presumption for renewal for high performing charters, presumption for non-renewal for low performing charters, and a standard for those charters who fall in between. AB 1505 also significantly changes the standard under which the SBE reviews most types of charter appeals.

The effective date of AB 1505 is July 1, 2020, for purposes of reviewing new charter schools or those who are seeking to be renewed. Due to the new timelines in AB 1505, the CDE does not anticipate the SBE will hear an appeal which must be reviewed under the rules and standards of AB 1505, until early 2021.

A summary of AB 1505, most of which becomes operative July 1, 2020, is available at the following link: <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1505>.

In October 2019, the Charter School Legislation Updates: AB 1505 and AB 1507 memo (memo-eab-csd-oct19item01) provided a legislation update on AB 1505 and AB 1507. This memo is available on the SBE October 2019 Information Memoranda web page at <https://www.cde.ca.gov/be/pn/im/infomemooct2019.asp>.

## Summary of California Department of Education Assembly Bill 1505 and 1507 Implementation Activity

The following section summarizes some of the CDE activities regarding implementation of AB 1505:

### Development of Regulations

CDE staff has been meeting internally to review the need for regulations, and in what areas. Regulations are only needed to implement, interpret, or make specific the law, and while there are many new provisions in AB 1505, it is not readily apparent whether regulations are needed to address all changes.

For example, the law requires a petitioner appealing a denial of a charter petition to the SBE to submit the entire documentary record with the appeal. A regulation might define the specific documents that constitute the documentary record and that must be submitted to the SBE. On the other hand, the law sets forth an abuse of discretion standard. While some of the stakeholders have requested a definition, “abuse of discretion” is a term of art under the law. A regulatory definition may restrict the SBE’s exercise of its discretion and have unintended consequences for either a charter petitioner or a district, depending on the circumstances.

CDE staff has reached out to stakeholders to solicit written feedback on the areas where regulations may be needed and is in the process of reviewing comments. The CDE had intended to conduct stakeholder input sessions, but with the COVID-19 pandemic and shelter-in-place orders, the plan had to be modified and a process for written input was created.

Additionally, CDE staff has identified regulations which will need to be repealed because there is no longer any statutory authority for the regulations. In these instances, the CDE will proceed by way of a Section 100 process, which will not need SBE action.

### Data Analysis

The CDE, Analysis, Measurement, and Accountability Reporting Division (AMARD) has analyzed the renewal criteria in AB 1505 for high-performing, middle-performing, and low-performing charter schools to determine the business rules that will be used to produce a statewide data file. CDE staff plan to create a data file that includes all charter schools that have been in operation for two or more years and provide each school their status under AB 1505 (i.e., High, Middle, or Low Preforming) based on 2018 and 2019 Dashboard data. CDE met with advocates representing charter schools and school districts as well as legislative staff members regarding its analysis and to receive feedback of the renewal criteria outlined in AB 1505 regarding the charter schools in the high-, middle- and low-performing tracks. The CDE will post a list of open charter schools and their respective performance track to the CDE website. Additionally, to support LEAs in the use of the list, the CDE will hold a webinar in June 2020, prior to the public release of the list.

CDE staff have received inquiries regarding the suspension of the administration of statewide assessments in the spring of 2020 as a result of the COVID-19 pandemic. The lack of assessment data will impact the calculation of performance levels and colors for the December 2020 California School Dashboard, which will also impact the determination of charter schools on the high-, middle-, and low-performing renewal tracks.

AB 1505 amended *Education Code* (*EC*)Section 47607(c) and added *EC* Section 47607.2 to specify that a charter school shall have schoolwide performance levels on at least two measurements of academic performance per year in each of the two consecutive years immediately preceding the renewal decision in order to determine the high- and low-performing tracks. A charter school without sufficient performance levels shall be considered in the middle-performing track pursuant to *EC* Section 47607.2. Accordingly, pursuant to AB 1505, all schools will be placed in the middle-performing track absent the production of a 2020 Dashboard.

### Verified Data and Charter Renewals

AB 1505 requires authorizers to consider “verified data” for renewals of charter schools that fall within the low-performing and middle-performing tracks. Pursuant to *EC* 47607.2, “verified data” is defined as data from nationally-recognized, valid, peer-reviewed, and reliable sources that are externally produced. It also includes postsecondary outcomes. The SBE is required to define criteria and adopt an approved list of valid and reliable assessments by January 1, 2021.

The Governor’s proposed 2020-2021 budget provides the CDE $250,000 in one-time funding to contract with an outside vendor to conduct this work. CDE will contract with WestEd and public stakeholder process will occur.

### Anticipated Timing of Assembly Bill 1505 Appeals and Training

As noted above, CDE staff anticipates that the SBE will not consider any charter school appeals under the abuse of discretion standard before January 2021. CDE and SBE staff are planning to provide a presentation, workshop, or training for SBE members at or before the November 2020 SBE meeting and for members of the Advisory Commission on Charter Schools (ACCS) at or before the December 2020 ACCS meeting.

CDE staff and SBE staff will collaborate on the content, which will be designed to explain the CDE’s appeal review process, articulate the role of the ACCS under AB 1505, answer the questions of SBE and ACCS members related to AB 1505, and clarify how the abuse of discretion standard will impact the appeal process for new and existing charter schools considered by the SBE and ACCS.

CDE staff, in conjunction with the SBE staff, are also working on FAQs, forms, and guidance which will be posted to the CDE website.

### AB 1507 Charter Schools Changing Authorizers

*EC* 47605 and 47605.1 require CDE to treat any charter school that was serving students and must change authorizers as a result of the requirements in AB 1507 as “continuing for all purposes.” In order to help identify which charter schools are to be treated as continuing, CDE is in the process of revising the Charter School Numbering Form.

CDE and SBE staff also worked with the Department of Finance to develop proposed statutory amendments regarding the division of state funding and apportionments in the event of an existing charter school changing authorizers and splitting into multiple charter schools. Due to the complexity of state funding, the proposed amendments are quite comprehensive in order to ensure charter schools receive accurate and timely apportionments. Over the spring, CDE and SBE staff convened multiple meetings with stakeholders and legislative staff to review the language which was included in the proposed budget trailer bill.

## Next Steps

This information memorandum serves to provide a high-level overview pertaining to the implementation of AB 1505 and AB 1507. CDE will continue to provide regular updates to the SBE as necessary.