

# A Workshop on the Basics of California Charter Schools Q&A

Tuesday, August 21, 2018  
Marin County Office of Education

Presented by:  
Fiscal Crisis & Management Assistance Team (FCMAT) and  
School Services of California (SSC)

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**Question #1:** How can the public assure that a charter is being correctly overseen? Ours is not and we have clearly documented issues with them, what can we do?

**Answer #1:** Complaints should first be addressed to the charter school. If the problem is not resolved at a specific charter school, the charter school's authorizing entity should be contacted. Charter schools receiving specific funds are subject to provisions of the Uniform Complaint Procedures (UCP). More information on UCP can be found at:  
<https://www.cde.ca.gov/re/cp/uc/>

**Question #2:** What are the responsibilities of the charter authorizer? Especially with regard to a state authorizer and impact to local tax dollars and accountability? Example: Enforcement of more conditions such as conflict of interest, Brown Act, etc. What recourse does community have if not fulfilling?

**Answer #2:** The charter authorizing entity is responsible for ensuring the charter school operates in compliance with all applicable laws and the terms of its charter. Education Code Section 47604.32 identifies the duties of a charter authorizing entity. Specifically, the charter authorizing entity must:

- Identify at least one staff member as a contact person for the charter school.
- Visit each charter school at least annually.
- Ensure that each charter school under its authority complies with all reports required of charter schools by law.
- Monitor the fiscal condition of each charter school under its authority.
- Provide timely notification to the department if the charter is revoked or if the charter school will cease operation for any reason.

In addition to the oversight responsibilities described above, "supervision" includes providing the charter school with general guidance and assistance on various issues, such as funding and compliance. A charter school may opt to contract with its charter authorizing

entity or other sources to provide additional services such as administrative, insurance, maintenance, payroll, etc., on a fee-for-service basis.

If there are complaints about charter schools or authorizers, they should first be addressed to the charter school or authorizer. If a charter school complaint is not resolved, the charter school's authorizing entity should be contacted. Charter schools receiving specific funds are subject to provisions of the Uniform Complaint Procedures (UCP). More information on UCP can be found at: <https://www.cde.ca.gov/re/cp/uc/>

**Question #3:** If a state authorized charter consistently misrepresents projected enrollment, what recourse is there for a district with limited facilities?

**Answer #3:** To be eligible for facilities under Proposition 39 provisions, charter schools must provide "reasonable projections" of their average daily attendance (ADA) of at least 80 in-district students. In addition, there are other eligibility requirements as well as a number of dates that must be met by the authorizer and the charter school. If during the process, the district does not feel the enrollment projections are reasonable, that would need to be communicated within the eligible timelines and the reasoning for that determination explained clearly as to how that conclusion was reached.

In addition, California Code of Regulations, Title 5, Section 11969.8, allows a school district providing facilities under Proposition 39 to charge a per-pupil rate for over-allocated space if the charter school's actual in-district classroom average daily attendance (ADA) is less than the projected in-district classroom ADA upon which the facility allocation was based subject to certain requirements.

**Question #4:** Does the CDE ever deny a petition? If it has denied any charter petitions, then how many have they denied?

**Answer #4:** The State Board of Education relies on the California Department of Education's staff for advice on how to rule on petitions. The State Board, an 11-member panel appointed by the Governor, may reverse the decision made by a district and a county if it determines that the findings made by those authorizers "are not supported by substantial evidence." In February 2018, EdSource reported that "over the past five years, the state board has overruled district and county boards in 25 of 36 appeals, giving those charter schools the right to operate". FCMAT and SSC have not substantiated, nor track, this information. The article can be found at: <https://edsources.org/2018/understanding-californias-charter-schools-division-a-quick-guide/593442>

**Question #5:** When LAUSD leased land, did it own the charter building once the lease was up? Charters are often trying to take district land for ultimate private gain – how can a district protect itself from this?

**Answer #5:** Without knowing the exact transaction to which the questions refer, it is not possible to provide a definitive answer. However, in general, ownership of the buildings on leased property would depend on the source of funds utilized to construct the building. There are some funding sources that require ownership by the authorizing district, while others would allow the charter to hold title to the buildings. The same is true of the specific agreement executed by the charter and the authorizing district. Any agreement between the two parties should include provisions regarding ownership of the buildings in case the charter ceases to operate or is revoked. It is unlikely that a charter school which constructed a building on leased district land would not continue to utilize the site as long as their charter continues to be valid. The agreement for the lease of the land should dictate how the land will be utilized and by whom so that the land and buildings cannot be sold, subleased, etc., without the authorizing district's knowledge or approval.

**Question #6:** Do you foresee a change in charter law that would support local authorization and oversight versus the system we have now, which allows the SBE - an appointed board - to overlook the decisions of publicly elected officials? Why or why not would you support such a change in the law?

**Answer #6:** The State Superintendent recently announced the creation of an Action Team on Charter Schools to review laws governing charter schools and provide recommendations for changes to inform the next State Superintendent, Governor, Board of Education, and the Legislature (a copy of the news release can be found at: <https://www.cde.ca.gov/nr/ne/yr18/yr18rel53.asp>).

**Question #7:** Can you please shed light on the NAACP moratorium on charter school expansion and why does the MCOE not support it?

**Answer #7:** The National Association for the Advancement of Colored People (NAACP) is not a public agency and is able to conduct itself under the bylaws and policies of its association. MCOE, on the other hand, is required to support charter schools as stated under Education Code section 47600 et. seq.

**Question #8:** If the district is required to provide equipment to Charter, and the Charter closes, does the district get that equipment or does the Charter-entity own it?

**Answer #8:** Any equipment provided to a charter school should be accompanied by an agreement between the authorizing district and charter school that would detail how the

equipment is maintained, replaced, returned, etc., and the circumstances under which each would take place. The terms of this agreement would determine whether or not the equipment is the property of the authorizing district or the charter entity.

**Question #9:** Can you provide a description of the monthly, quarterly, or annual enrollment and fund disbursement process? What is a district's liability if they enter into an alternative facility arrangement and the charter is not renewed in five (5) years?

**Answer #9:** If a charter school is leasing or owns private facilities, and the authorizing agency has conducted its oversight, the district does not have any liability if the charter is not renewed. If a charter school is leasing facilities from a school district and the charter is not renewed, the question is not one of liability. The facilities revert to the school district for their use. Again, an agreement between the two entities for the use of the facilities should be executed that would determine how (e.g., the condition, payment of fees, etc.) the property would be relinquished to the district.

**Question #10:** If Charters are about providing more choice, why isn't it a requirement of authorization that the school proves it is actually providing something materially different than what is already offered in the district? Only talks about harm and benefit but not choice (pg. 22)?

**Answer #10:** The California Legislature enacted the Charter Schools Act of 1992 to authorize the establishment of charter schools for the following purposes (as specified in Education Code Section 47601):

1. Improve pupil learning.
2. Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils identified as academically low achieving.
3. Encourage the use of different and innovative teaching methods.
4. Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
5. Provide parents and students with expanded educational opportunities within the public school system without the constraints of traditional rules and structure.
6. Provide schools a way to shift from a rule-based to a performance-based system of accountability.
7. Provide competition within the public school system to stimulate improvements in all public schools.

The charter school's initial petition, and subsequent renewals, must describe the educational program, as well as many other elements. When describing the educational program, details must be included in the petition on how the charter school will at least do one of the seven purposes listed above. A charter school proving it is providing something

materially different than what is already offered in the district is not part of the above requirements.

Education Code Section 47604.32 identifies the duties of a charter authorizing entity. However, the Education Code does provide some language with regards to differences in the program offered by a county office and that of a charter school in the case of a countywide charter school. Education Code Section 47605.6 states that “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.*” Emphasis added.

**Question #11:** Since the public cannot vote to change an independent charter board, what recourse does the public have if a school is not complying with its legal agreements and the charter agency is not holding the school accountable? Is legal action the only recourse?

**Answer #11:** Complaints should first be addressed at the charter school. If the problem is not resolved at a specific charter school, the charter school’s authorizing entity should be contacted. Charter schools receiving specific funds are subject to provisions of the Uniform Complaint Procedures (UCP). More information on UCP can be found at:

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**Question #12:** Revocation: Does operating out of compliance with any of the 15+ charter or MOU provisions qualify as a reason to revoke under the “Violating any provision of the law” provision?

**Answer #12:** Education Code Section 47605(b) states that a local educational agency shall not deny the approval of a charter petition (which would include renewal) unless it makes written factual findings, specific to the particular petition, that:

1. The charter school presents an unsound educational program.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the required number of signatures.
4. The petition does not contain an affirmation of each of the conditions described in Education Code Section 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of all required elements.

Although California law describes the evidence basis on which authorizers must make renewal determinations, including “documented and clear and convincing data” and “information submitted by the charter school”, the requirements are not as explicit, but it is inferred, that the requirements of renewal are the same as a new petition. This would

include a reason for not approving the renewal including not complying with the required elements.

As to revocation, a charter may be revoked by the authorizer if there is substantial evidence of violation of terms of the charter; failure to meet or pursue pupil outcomes; fiscal mismanagement or failure to engage in accepted accounting principles; violation of law; or failure to show increases in pupil achievement for all groups of students. There is a clear process in the law where an authorizer must not only notify a charter school of potential revocation, but also provide reasonable opportunity for the school to remedy identified problems, except in case of severe and imminent threat to student health or safety. It requires a public hearing prior to any revocation decision.

**Question #13:** In how many cases do authorizers provide facilities, maintenance, Special Ed and nursing for free?

**Answer #13:** It is rare for authorizers to provide facilities, maintenance, special education and nursing for free to their charter schools. But there are some, including one in Marin, that does receive services over and above their standard formulaic funding provided for in statute.

**Question #14:** What are some typical reasons for requesting a charter school be established?

**Answer #14:** The California Legislature enacted the Charter Schools Act of 1992 to authorize the establishment of charter schools for the following purposes (as specified in Education Code Section 47601):

1. Improve pupil learning.
2. Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils identified as academically low achieving.
3. Encourage the use of different and innovative teaching methods.
4. Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.
5. Provide parents and students with expanded educational opportunities within the public school system without the constraints of traditional rules and structure.
6. Provide schools a way to shift from a rule-based to a performance-based system of accountability.
7. Provide competition within the public school system to stimulate improvements in all public schools.

**Question #15:** A charter school board benefits from its own private financing how does that relate to its needs for money for the district?

**Answer #15:** SSC and FCMAT are not able to answer this question as we are not sure what is truly being asked.

**Question #16:** If authorizer can offer "Take it or leave it" MOU or deny petition, how does that conform to requirement that petition be approved if petition complies with all elements of the 1992 charter law?

**Answer #16:** An authorizer cannot deny a petition for reasons other than those included in law. An MOU should be a document that provides clarity and detail regarding the relationship between a charter school and its authorizer. Therefore, while not executing the agreement is not a reason for denial, its terms provide a basis on which the charter will operate and provides insight to the charter authorizer on the charter school's ability to successfully implement the program that it proposes.

**Question #17:** Signatures on petitions: are non-citizens eligible?

**Answer #17:** The petition must be signed by a minimum number of parents or teachers. The requirements are different for start-up charter schools and conversion charter schools. For start-up charter schools, the petition must be signed by "a number of parents or legal 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" or "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." For conversion charter schools, the petition must be "signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted". Since a parent or guardian does not need to be a citizen to send their child to school in California, a non-citizen can sign a petition.

**Question #18:** In the five-year/renewal of MOU are you, as district, required to meet the amount of support that was originally contracted? In what cases might you re-negotiate less money and privileges?

**Answer #18:** With the exception of the in lieu of property tax transfer, in which a school district transfers to a charter school a proportionate share of property tax revenues, there is no requirement for a district to support a charter school. Any support, whether financial or providing of services, is an agreement between the charter school and the authorizing agency and therefore, can be renegotiated at the expiration of the term or at times agreed upon in the original MOU.

**Question #19:** Introduction said that charter students are public school students – this is not true as public schools are overseen by elected officials. Charters constantly argue in court that they are not public. How can you say they are “public” when they are not?

**Answer #19:** Charter schools are part of the public school system, per Education Code Section 47615 which specifically states:

- (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.

**Question #20:** The rationale to allow charter schools for creativity and flexibility is clear. The problem is that “human nature” being what it is, we are now faced with:

Nationwide push to “privatize” education for the fortunate (vouchers + charters) and marginalize the residual public non – charters. Public educators used to be a great equalizer. Comments?

There is a strong push to create the business of charter schools – are investment opportunity capitalism. For-profit manipulator are public educators. What is the remedy?

**Answer #20:** FCMAT and SSC are not able to offer remedies. Our goal is simply to clarify and explain the current law about charter schools.