



# CHARTER SCHOOLS ACT OF 1992

As amended through the end of the 2007 regular legislative session  
03.29.08

**This annotated compilation of charter school laws is prepared to assist the reader to quickly identify those laws that will constitute California's Charter Schools Act and several other frequently cited charter laws, as effective January 1, 2007. The Education Code sections included here constitute the core of California's charter school laws, but exclude many other laws that may also govern charter schools. Though we have made extensive efforts to identify the most recent statutory text available, current through the end of the 2006 regular legislative session, CSDC assumes no liability for any errors or omissions. This compilation should not be regarded as legal counsel. Unless specified otherwise, any annotations or notes are not part of the official statutes and were added by the author to aid the reader.**

## **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.
- (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.

## **Caps on numbers of charter schools**

**47602(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 or Section 47605.8 and to each charter notice it receives pursuant to this part, based on the chronological order in which the notice is received. 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. The limits contained in this paragraph may not be waived by the State Board of Education pursuant to Section 33050 or any other provision of law

### **State study of charter schools**

(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.

### **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.

*Note: The State Board of Education partially clarified the definition of "private school" for this section in Title V of the California Administrative Code Section 11965.*

**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.

### **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) An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

### **State superintendent 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, the county office of education that has jurisdiction over the school's chartering authority, or from the Superintendent of Public Instruction and shall consult with the chartering authority, the county office of education, or the Superintendent of Public Instruction regarding any inquiries.

### **Mandated charter oversight activities**

**47604.32.** Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

(a) Identify at least one staff member as a contact person for the charter school.

- (b) Visit each charter school at least annually.
- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law.
- (d) Monitor the fiscal condition of each charter school under its authority.
- (e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
  - (1) A renewal of the charter is granted or denied.
  - (2) The charter is revoked.
  - (3) The charter school will cease operation for any reason.
- (f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

**Mandated financial reporting**

**47604.33(a)** Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering authority:

- (1) On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to subdivision (g) of Section 47605 satisfies this requirement.
- (2) On or before December 15, an interim financial report. This report shall reflect changes through October 31.
- (3) On or before March 15, a second interim financial report. This report shall reflect changes through January 31.
- (4) On or before September 15, a final unaudited report for the full prior year.
- (b) The chartering authority shall use any financial information it obtains from the charter school, including, but not limited to, the reports required by this section, to assess the fiscal condition of the charter school pursuant to subdivision (d) of Section 47604.32.
- (c) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

**County superintendent authority to investigate and monitor; Location of school**

**47604.4(a)** In addition to the authority granted by Sections 1241.5 and 47604.3, a county superintendent of schools may, based upon written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within that county and conduct an investigation into the operations of that charter school. If a county superintendent of schools monitors or investigates a charter school pursuant to this section, the county office of education shall not incur any liability beyond the cost of the investigation.

(b) A charter school shall notify the county superintendent of schools of the county in which it is located of the location of the charter school, including the location of each site, if applicable, prior to commencing operations.

**State Board of Education oversight authority**

**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.

### **Charter development and approval process**

47605. (a) (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. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. 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 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.

(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) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (b) of Section 41365 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 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 legal 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.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) Notwithstanding subdivision (a), a charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district within whose jurisdiction the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(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 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. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that 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 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:

**Required charter elements:**

(A) (i) 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.

(ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(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 governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(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.

(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.

(H) Admission requirements, if applicable.

(I) The manner in which 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.

(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 public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(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.

(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.

(O) 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).

(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

### **State standards and assessments required**

(c)(1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 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, legal guardians, and teachers regarding the school's educational programs.

### **Public operating principles**

(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 the characteristics listed in Section 220.

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 legal 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.

### **Student enrollment and admissions**

(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 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 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 pupil demand.

### **Notice requirements when student is expelled or leaves school**

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

### **Student and staff choice**

(e) The governing board of a school district shall not require any employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require any pupil enrolled in the school district to attend a charter school.

### **Required district impact statement and financial plan**

(g) The governing board 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 description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

### **Preference for low-achieving students**

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district 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 department under Section 54032.

State Board notification of charter approval (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 applicable county superintendent of schools, the department, and the state board.

### **“Appeal” process and review criteria if charter petition is denied by local board**

(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 the county board of education. The county board of education 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, and the state board may approve the petition, in accordance with subdivision (b). Any charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location that it would otherwise be subject to if it receives approval from the entity to whom it originally submits its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board 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.

(5) The state board shall adopt regulations implementing this subdivision.

(6) 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 department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisorial and oversight responsibilities for a charter school approved by the state board 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.

(3) A charter school that has been granted its charter through an appeal to the state board 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 for renewal of its charter.

### **Teachers' qualifications**

(l) Teachers in charter schools shall 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 are 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.

*Note: The above section is subject to widely varying interpretation. Its drafters intended that it be interpreted in a very flexible fashion, that it permit noncore and/or noncollege preparatory teachers to teach without a credential or permit, and that any form of CTC-issued credential or permit would suffice for any instructional setting, subject or grade level. Subsequent to its enactment, various parties, most notably the California Department of Education, have changed their interpretation to be much more restrictive. In addition, federal laws governing teacher qualifications have been enacted that may affect charter schools.*

### **Required audit transmittal to state**

(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 its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

### **Geographic limitations**

**47605.1(a) (1)** Notwithstanding any other provision of law, a charter school that is granted a charter from the governing board of a school district or county office of education after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, shall locate in accordance with the geographic and site limitations of this part.

(2) Notwithstanding any other provision of law, a charter school that is granted a charter by the State Board of Education after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, based on the denial of a petition by the governing board of a school district or county board of education, as described in paragraphs (1) and (2) of subdivision (j) of Section 47605, may locate only within the geographic boundaries of the chartering entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from a governing board of a school district, a county office of education, or the State Board of Education prior to July 1, 2002, but does not commence

operations until after January 1, 2003, shall be subject to the geographic limitations of the part, in accordance with subdivision (e).

**(b)** Nothing in this section is intended to affect the admission requirements contained in subdivision (d) of Section 47605.

**(c)** Notwithstanding any other provision, a charter school may establish a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized if the following conditions are met:

**(1)** The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.

**(2)** The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the school is authorized.

**(d)** Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

**(1)** The school has attempted to locate a single site or facility to house the entire program but such a facility or site is unavailable in the area in which the school chooses to locate.

**(2)** The site is needed for temporary use during a construction or expansion project.

**(e)(1)** For a charter school that was granted approval of its charter prior to July 1, 2002, and provided educational services to pupils before July 1, 2002, this section shall only apply to any new educational services or schoolsites established or acquired by the charter school on or after July 1, 2002.

**(2)** For a charter school that was granted approval of its charter prior to July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section shall only apply upon the expiration of a charter that is in existence on January 1, 2003.

**(3)** Notwithstanding other implementation timelines in this section, by June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools shall be required to comply with this section for schoolsites at which education services are provided to pupils prior to or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition prior to July 1, 2002. To achieve compliance with this section, a charter school shall be required to receive approval of a charter petition in accordance with this section and Section 47605.

**(4)** Nothing in this section is intended to affect the authority of a governmental entity to revoke a charter that is granted on or before the effective date of this section.

**(f)** A charter school that submits its petition directly to a county board of education, as authorized by Sections 47605.5 or 47605.6, may establish charter school operations only within the geographical boundaries of the county in which that county board of education has jurisdiction.

**(g)** Notwithstanding any other provision of law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

**(1)** The federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.).

**(2)** Federally affiliated Youth Build programs.

**(3)** Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

**(4)** The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code.

**(5)** Instruction provided to juvenile court school pupils pursuant to subdivision (c) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

**47605.3.** Notwithstanding subdivision (d) of Section 47605, a charter school with a schoolsite physically located in the attendance area of a public elementary school in which 50 percent or more of the pupil enrollment is eligible for free or reduced price meals may give a preference in admissions to pupils who are

currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located. This section is not intended to affect the requirement contained in subdivision (d) of Section 47605 that a public school converting partially or entirely to a charter school adopt and maintain a policy that gives an admission preference to pupils who reside within the former attendance area of that public school.

**County board charter granting authority**

**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.

**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), 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)(i)** A description of the educational program of the school, designed, among other things, to identify those pupils 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.
  - (ii)** If the proposed charter school will enroll high school pupils, a description of the manner in which the manner in which the charter school will inform parents regarding the transferability of courses to other public high schools. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered to be transferable to other public high schools.
  - (iii)** If the proposed charter school will enroll high school pupils, information as to the manner in which the charter school will inform parents as to whether each individual course offered by the charter school meets college entrance requirements. Courses approved by the University of California or the California State University as satisfying their prerequisites for admission may be considered as meeting college entrance requirements for purposes of this clause.
- (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 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).
- (N)** Admission requirements, of the charter school, if applicable.

**(O)** The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.

**(P)** A description of the rights of an employee of the county office of education, upon leaving the employment of the county office of education, to be employed by the charter school, and a description of any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.

**(Q)** A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of public records.

**(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 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 cashflow 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.

#### **May not deny charter petition based on special education costs**

**47605.7(a)** A petition for the establishment of a charter school shall not be denied based on the actual or potential costs of serving individuals with exceptional needs, as that term is defined pursuant to Section 56026.

**(b)** Notwithstanding subdivision (a), this section shall not be construed to prevent a school district from meeting its obligation to ensure that the proposed charter school will meet the needs of individuals with exceptional needs in accordance with state and federal law, nor shall it be construed to limit or alter the reasons for denying a petition for the establishment of a charter school pursuant to subdivision (b) of Section 47605.

#### **State Board authority to grant "statewide" charters**

**47605.8.** (a) A petition for the operation of a state charter school may be submitted directly to the state board, and the state 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. 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 state charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools. The petitioner shall submit a copy of the petition, for notification purposes, to the county superintendent of schools of each county in which the petitioner proposes to operate the state charter school. The petitioner also shall ensure that the governing board of each school district in which a site is proposed to be located is notified no later than 120 days prior to the commencement of instruction at each site, as applicable.

(b) The state board shall not approve a petition for the operation of a state charter school pursuant to this section unless the state board makes a finding, based on substantial evidence, 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 state board in this regard shall be made part of the public record of the proceedings of the state board and shall precede the approval of the charter.

(c) The state board, as a condition of charter petition approval, may 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 state charter school. The state board may prescribe the aspects of the operations of the state charter school to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the state charter school to the state board.

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

47605.6.

**"District-wide" charters**

**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 district wide 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, a county board of education or the state board, may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period 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.

**Charter renewal and revision**

(2) Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever date occurs later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4)(A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent shall review the materials and make recommendations to the chartering authority based on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

(D) A charter renewal may not be granted to a charter school prior to 30 days after that charter school submits materials pursuant to this paragraph.

(5) Has qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

### **Charter Revocation**

(c) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds, through a showing of substantial evidence, 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.
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter.
- (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
- (4) Violated any provision of law.

(d) 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 remedy 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.

(e) Prior to revoking a charter for failure to remedy a violation pursuant to subdivision (d), and after expiration of the school's reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke and notice of facts in support of revocation to the charter school. No later than 30 days after providing the notice of intent to revoke a charter, the chartering authority shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, the chartering authority shall issue a final decision to revoke or decline to revoke the charter, unless the chartering authority and the charter school agree to extend the issuance of the decision by an additional 30 days. The chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings.

### **Appeal of Charter Revocation**

(f)(1) If a school district is the chartering authority and it revokes a charter pursuant to this section, the charter school may appeal the revocation to the county board of education within 30 days following the final decision of the chartering authority.

(2) The county board may reverse the revocation decision if the county board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The school district may appeal the reversal to the state board.

(3) If the county board does not issue a decision on the appeal within 90 days of receipt, or the county board upholds the revocation, the charter school may appeal the revocation to the state board.

(4) The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence. The state board may uphold the revocation decision of the school district if the state board determines that the findings made by the chartering authority under subdivision (e) are supported by substantial evidence.

(g)(1) If a county office of education is the chartering authority and the county board revokes a charter pursuant to this section, the charter school may appeal the revocation to the state board within 30 days following the decision of the chartering authority.

(2) The state board may reverse the revocation decision if the state board determines that the findings made by the chartering authority under subdivision (e) are not supported by substantial evidence.

(h) If the revocation decision of the chartering authority is reversed on appeal, the agency that granted the charter shall continue to be regarded as the chartering authority.

(i) During the pendency of an appeal filed under this section, a charter school, whose revocation proceedings are based on paragraph (1) or (2) of subdivision (c), shall continue to qualify as a charter school for funding and for all other purposes of this part, and may continue to hold all existing grants, resources, and facilities, in order to ensure that the education of pupils enrolled in the school is not disrupted.

(j) Immediately following the decision of a county board to reverse a decision of a school district to revoke a charter, the following shall apply:

- (1) The charter school shall qualify as a charter school for funding and for all other purposes of this part.
- (2) The charter school may continue to hold all existing grants, resources, and facilities.

(3) Any funding, grants, resources, and facilities that had been withheld from the charter school, or that the charter school had otherwise been deprived of use, as a result of the revocation of the charter shall be immediately reinstated or returned.

(k) A final decision of a revocation or appeal of a revocation pursuant to subdivision (c) shall be reported to the chartering authority, the county board, and the department.

#### **"Appeal" of non-renewal of charter**

**47607.5.** If either a school district governing board or a county board of education, as a chartering agency, does not grant a renewal to a charter school pursuant to Section 47607, the charter school may submit its application for renewal pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (j) of Section 47605.

#### **District, county board meetings subject to Brown Act**

**47608.** All meetings of the governing board of the school district 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 54950) of Division 2 of Title 5 of the Government Code).

#### **Charter "mega waiver"**

**47610.** A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts except 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.

(d) The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.

(e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

#### **Charter building code exemptions**

**47610.5.** A charter school facility is exempt from the requirements of subdivision (d) of Section 47610 if either of the following conditions apply:

(a) The charter school facility complies with Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.

(b) The charter school facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

#### **Retirement systems**

**47611(a)** If a charter school chooses to make the State Teacher's Retirement Plan available, all employees of the charter school who perform creditable service shall be entitled to have that service covered under the plan's Defined Benefit Program or Cash Balance Benefit Program, and all provisions of Part 13 (commencing with Section 22000) and Part 14 (commencing with Section 26000) shall apply in the same manner as the provisions apply to other public schools in the school district that granted the charter.

**(b)(1)** If a charter school offers its employees coverage by the State Teachers' Retirement System or the Public Employees' Retirement System, or both, the charter school shall inform all applicants for positions within that charter school of the retirement system options for employees of the charter school.

**(2)** The information shall specifically include whether the charter school makes available to employees coverage under the State Teachers' Retirement System, the Public Employees' Retirement System, or both systems, and that accepting employment in the charter school may exclude the applicant from further coverage in the applicant's current retirement system, depending on the retirement options offered by the charter of the charter school.

### **STRS and PERS reporting**

**47611.3(a)** At the request of a charter school, a school district or county office of education that is the chartering authority of a charter school shall create any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System. The county superintendent of schools, employing agency, or school district that reports to those systems pursuant to Section 23004 of this code or Section 20221 of the Government Code shall submit the required reports on behalf of the charter school. The school district or county office of education may charge the charter school for the actual costs of the reporting services.

**(b)** As a condition of creating and submitting reports for the State Teachers' Retirement System and the Public Employees Retirement System, the school district or county office of education shall not require a charter school to purchase payroll processing services from the chartering authority. Information submitted on behalf of the charter school to the State Teachers' Retirement System, the Public Employees' Retirement System, or both, shall be in a format conforming to the requirements of those systems.

### **Collective bargaining and labor relations (unions)**

**47611.5(a)** Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code shall apply to charter schools.

**(b)** A charter school charter shall contain a declaration regarding whether or not the charter school shall be deemed the exclusive public school employer of the employees at the charter school for the purposes of Section 3540.1 of the Government Code. If the charter school is not so deemed a public school employer, the school district where the charter is located shall be deemed the public school employer for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of the Government Code.

**(c)** If the charter of a charter school does not specify that it shall comply with those statutes and regulations governing public school employers that establish and regulate tenure or a merit or civil service system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees.

**(d)** The Public Employment Relations Board shall take into account the Charter Schools Act of 1992 (Part 26.8 (commencing with Section 47600)) when deciding cases brought before it related to charter schools.

**(e)** The approval or a denial of a charter petition by a granting agency pursuant subdivision (b) of Section 47605 shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board.

**(f)** By March 31, 2000, all existing charter schools must declare whether or not they shall be deemed a public school employer in accordance with subdivision (b), and such declaration shall not be materially inconsistent with the charter.

*Note: The provisions listed above apply the Education Employment Relations Act (EERA), a set of laws in the California Government Code governing the formation of labor unions and the collective bargaining process to charter schools. The Charter Schools Development Center offers cassette audio tapes of a workshop providing a comprehensive overview of these laws. Call (916/278-6069) for information on how to order these materials. In the interest of brevity, the EERA is not included in this compilation.*

### **Constitutional status,**

**47612(a)** 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 this chapter.

### **Minimum and maximum age of students, residency requirement**

**(b)** The average daily attendance in a charter school may not, in any event, 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."

(c) A charter school shall be deemed to be a "school district" for purposes of Article 1 (commencing with Section 14000) of Chapter 1 of Part 9, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Chapter 5 of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

*Note: Title 5 of the California Administrative Code, Section 11965 includes additional provisions that partially clarify the term "satisfactory progress." In a very controversial move, the State Board of Education revised these regulations, effective in the 2004 school year, to limit enrollment of students over age 19 in charter schools unless they were continuously enrolled in school prior to enrolling in the charter school.*

**47612.1.** Except for the requirement that a pupil be a California resident, subdivision (b) of Section 47612 shall not apply to a charter school program that provides instruction exclusively in partnership with any of the following:

(a) The federal Workforce Investment Act of 1998 (Pub. L. No.105-220; 29 U.S.C. Sec. 2801, et seq.).

(b) Federally affiliated Youth Build programs.

(c) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(d) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14406 or 14507.5 of the Public Resources Code.

#### **Minimum annual instructional minutes, attendance accounting, & independent study**

**47612.5(a)** Notwithstanding any other provision of law and as a condition of apportionment, a charter school shall do all of the following:

(1) For each fiscal year, offer, at a minimum, the following number of minutes of instruction:

(A) To pupils in kindergarten, 36,000 minutes.

(B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.

(C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.

(D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.

(2) Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.

(3) Certify that its pupils have participated in the state testing programs specified in Chapter 5 (commencing with Section 60600) of Part 33 in the same manner as other pupils attending public schools as a condition of apportionment of state funding.

(b) Notwithstanding any other provision of law and except to the extent inconsistent with this section and Section 47634.2, a charter school that provides independent study shall comply with Article 5.5

(commencing with Section 51745) of Chapter 5 of Part 28 and implementing regulations adopted

thereunder. The State Board of Education shall adopt regulations that apply this article to charter schools. To the extent that these regulations concern the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (1) of Section 47605.

(c) A reduction in apportionment made pursuant to subdivision (a) shall be proportional to the magnitude of the exception that causes the reduction. For purposes of paragraph (1) of subdivision (a), for each charter school that fails to offer pupils the minimum number of minutes of instruction specified in that paragraph, the Superintendent shall withhold from the charter school's apportionment for average daily attendance of the affected pupils, by grade level, the sum of that apportionment multiplied by the percentage of the minimum number of minutes of instruction at each grade level that the charter school failed to offer..

*Note: The State Board of Education has promulgated regulations to govern how the above-referenced independent study-related laws apply to charter schools.*

### **Restrictions on Non Classroom-Based Instruction**

**(d)(1)** Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

**(2)** Except as provided in paragraph (2) of subdivision (b) of Section 47634.2, a charter school that receives a determination pursuant to subdivision (b) of Section 47634.2 is not required to reapply annually for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board.

Notwithstanding any provision of law, the State Board of Education may require a charter school to provide updated information at any time it determines that a review of that information is necessary. The State Board of Education may terminate a determination for funding if updated or additional information requested by the board is not made available to the board by the charter school within a reasonable amount of time or if the information otherwise supports termination. A determination for funding pursuant to Section 47634.2 may not exceed five years.

**(3)** A charter school that offers nonclassroom-based instruction in excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2 to receive funding each time its charter is renewed or materially revised pursuant to Section 47607. A charter school that materially revises its charter to offer nonclassroom-based instruction in excess of the amount authorized by paragraph (1) of subdivision (e) is subject to the determination for funding requirement of Section 47634.2.

**(e)(1)** Notwithstanding any other provision of law, and as a condition of apportionment, "classroom-based instruction" in a charter school, for the purposes of this part, occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification in accordance with subdivision (l) of Section 47605. For purposes of calculating average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by the charter school shall be at the schoolsite, and the charter school shall require the attendance of all pupils for whom a classroom-based apportionment is claimed at the schoolsite for at least 80 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Section 47612.5.

**(2)** For the purposes of this part, "nonclassroom instruction" or "nonclassroom-based instruction" means instruction that does not meet the requirements specified in paragraph (1). The State Board of Education may adopt regulations pursuant to paragraph (1) of subdivision (d) specifying other conditions or limitations on what constitutes nonclassroom-based instruction, as it deems appropriate and consistent with this part.

- (3) For purposes of this part, a schoolsite is a facility that is used principally for classroom instruction.
- (4) Notwithstanding any other provision of law, neither the State Board of Education, nor the Superintendent may waive the requirements of paragraph (1) of subdivision (a).

*Note: The State Board of Education has promulgated an extensive set of regulations to implement the above section regarding “non classroom-based” schools. See also, Section 47634.2, below.*

**State Board Authority to Waive Instructional Minute Fiscal Penalties  
47612.6.**

- (a) The State Board of Education may waive fiscal penalties calculated pursuant to subdivision (c) of Section 47612.5 for a charter school that fails to offer the minimum number of instructional minutes required pursuant to subdivision (a) of Section 47612.5 for the fiscal year.
- (b) For fiscal penalties incurred as a result of providing insufficient instructional minutes in the 2002-03 fiscal year, or any fiscal year thereafter, the State Board of Education may grant a waiver only upon the condition that the charter school agrees to maintain minutes of instruction equal to those minutes of instruction it failed to offer and the minimum number of instructional minutes required pursuant to subdivision (a) of Section 47612.5 for twice the number of years that it failed to maintain the required minimum number of instructional minutes for the fiscal year. Compliance with the condition shall commence no later than the school year following the fiscal year that the waiver was granted and shall continue for each subsequent school year until the condition is satisfied.
- (c) Compliance with the condition set forth in subdivision (b) shall be verified in the report of the annual audit of the charter school for each fiscal year in which it is required to maintain additional time pursuant to subdivision (b). If the audit report for a year in which the additional time is required to be maintained does not verify that the additional time was provided, the waiver granted pursuant to subdivision (b) shall be revoked and the charter school shall repay the fiscal penalty calculated pursuant to subdivision (c) of Section 47612.5, in accordance with subdivision (a) of Section 41344.
- (d) It is the intent of the Legislature that charter schools make every effort to make up any instructional minutes lost during the fiscal year in which the loss occurred rather than seek a waiver pursuant to this section.

**Caps on district “supervisory oversight” charges**

47613. (a) Except as set forth in subdivision (b), a chartering authority 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 authority 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 authority.
- (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 actual costs of supervisory oversight, and administrative costs necessary to secure charter school funding. A charter school that is charged for costs under this subdivision may not be charged pursuant to subdivision (a) or (b).
- (d) This section does not prevent the charter school from separately purchasing administrative or other services from the chartering authority or any other source.
- (e) For purposes of this section, a chartering authority means a school district, county board of education, or the state board, that granted the charter to the charter school.
- (f) For purposes of this section, “revenue of the charter school” means the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of Section 47632. (g) (1) The California Research Bureau of the California State Library shall prepare and submit to the Legislature on or before January 8, 2009, a report on the key elements and actual costs of charter school oversight. For purposes of the report, the bureau shall define fiscal and academic oversight and shall include any financial relationship between a charter school and its chartering authority that has the effect of furthering the operations of the

charter school and that may provide opportunities to oversee the charter school. The report, at a minimum, shall address all of the following issues:

(A) The range of annual activities that entities providing supervisory oversight of charter schools are expected to perform.

(B) Staff time spent on reviewing charter petitions measured by the size of school districts and the number of charter petitions reviewed.

(C) Staff time spent on oversight responsibilities measured by the size of school districts and the number of charter schools.

(D) Best practices for charter school oversight measured by efficiency and effectiveness. A cost analysis of those best practices after being measured by efficiency and effectiveness.

(E) Comparison of school district costs and revenues attributable to charter school oversight.

(F) Administrative services provided to a charter school by a chartering authority, such as human resources, that may be useful in the oversight of the charter school and chartering authority revenues attributable to those services.

(G) Length of time required to review a single charter petition.

(H) Recommendations for structuring charter school oversight and accountability in California, including an assessment of whether or not the associated costs specified in subdivisions (a) and (b) and subparagraph (F) are adequate to support appropriate supervisory oversight.

(2) In preparing its report, the California Research Bureau shall consult with an advisory panel to ensure technical accuracy.

#### **Apportionments for “all-charter” districts that “opt out” of new funding model**

**47613.1.** The Superintendent of Public Instruction shall make all of the following apportionments on behalf of a charter school in a school district in which all schools have been converted to charter schools pursuant to Section 47606, and that elects not to be funded pursuant to the block grant funding model set forth in Section 47633 in each fiscal year that the charter school so elects:

(a) 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 current fiscal year 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.

(b) 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.

(c) 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.

**47613.2.** Notwithstanding Sections 47613.1 and 47661, for the 2000-01 fiscal year, the revenue limit of an elementary school district may be determined using either the current or prior year second principal apportionment average daily attendance, whichever is greater, if all the schools in the district were converted to charter schools in the 2000-01 fiscal year and the district continued to be funded through the base revenue limit method.

#### **Rent-free use of district facilities, district provision of facilities (“Proposition 39”)**

**47614(a)** The intent of the people in amending Section 47614 is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.

(b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school’s in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the

charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

(1) The school district may charge the charter school a pro rata share (based on the ratio of space allocated by the school district to the charter school divided by the total space of the district) of those school district facilities costs which the school district pays for with unrestricted general fund revenues. The charter school shall not be otherwise charged for use of the facilities. No school district shall be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter school students.

(2) Each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education.

(3) Each school district's responsibilities under this section shall take effect three years from the effective date of the measure which added this subparagraph, or if the school district passes a school bond measure prior to that time on the first day of July next following such passage.

(4) Facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district.

(5) The term "operating," as used in this section, shall mean either currently providing public education to in-district students, or having identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year.

(6) The State Department of Education shall propose, and the State Board of Education may adopt, regulations implementing this subdivision, including but not limited to defining the terms "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," "facilities costs," as well as defining the procedures and establishing timelines for the request for, reimbursement for, and provision of, facilities.

*Note: Extensive regulations govern many of the details of the application of the above laws governing the provision of facilities to charter schools. Both the laws and regulations are also the subject of a growing body of litigation.*

### **Charter School Facilities Funding Program**

47614.5. (a) The Charter School Facility Grant Program is hereby established and shall be administered by the department. The grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools.

(b) Subject to the annual Budget Act, eligible schools shall receive an amount of up to, but not more than, seven hundred fifty dollars (\$750) per unit of average daily attendance, as certified at the second principal apportionment, to reimburse an amount of up to, but not more than, 75 percent of the annual facilities rent and lease costs for the charter school. In any fiscal year, if the funds appropriated for the purposes of this section by the annual Budget Act are insufficient to fund the approved amounts fully, the Superintendent shall apportion the available funds on a pro rata basis.

(c) For purposes of this section, the department shall do all of the following:

(1) Inform charter schools of the grant program.

(2) Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced price meals, and a preference in admissions, as appropriate. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. Charter schoolsites are eligible for funding pursuant to this section if the charter schoolsite meets either of the following conditions:

(A) The charter schoolsite is physically located in the attendance area of a public elementary school in which 70 percent or more of the pupil enrollment is eligible for free or reduced priced meals and the schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary

school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.

(B) Seventy percent or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced price meals.

(3) Inform charter schools of their grant eligibility.

(4) Reimburse charter schools for eligible expenditures in a timely manner.

(5) No later than June 30, 2005, report to the Legislature on the number of charter schools that have participated in the grant program pursuant to the expanded eligibility prescribed in paragraph (2). In addition, the report shall provide recommendations and suggestions on improving the grant program.

(d) Funds appropriated for purposes of this section shall not be apportioned for any of the following:

(1) Units of average daily attendance generated through nonclassroom-based instruction as defined by paragraph (2) of subdivision (d) of Section 47612.5 or that does not comply with conditions or limitations set forth in regulations adopted by the state board pursuant to this section.

(2) Charter schools occupying existing school district or county office of education facilities.

(3) Charter schools receiving reasonably equivalent facilities from their chartering authority pursuant to Section 47614.

(e) Funds appropriated for purposes of this section shall be used for costs associated with facilities rents and leases, consistent with the definitions used in the California School Accounting Manual. These funds also may be used for costs, including, but not limited to, costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, and improving sites.

(f) If an existing charter school located in an elementary attendance area in which less than 50 percent of pupil enrollment is eligible for free or reduced price meals relocates to an attendance area identified in paragraph (2) of subdivision (c), admissions preference shall be given to pupils who reside in the elementary school attendance area into which the charter school is relocating.

(g) The Superintendent annually shall report to the state board regarding the use of funds that have been made available during the fiscal year to each charter school pursuant to the grant program.

(h) It is the intent of the Legislature that not less than eighteen million dollars (\$18,000,000) annually be appropriated for purposes of the grant program on the same basis as other elementary and secondary education categorical programs.

### **Legislative declarations**

**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.

### **State "evaluation" of charter schools**

**47616.5.** The Legislative Analyst shall contract for a neutral evaluator to conduct an evaluation of the effectiveness of the charter school approach authorized under this part. On or before July 1, 2003, the neutral evaluator shall report directly to the Legislature and the Governor with recommendations to modify, expand, or terminate the charter school approach. 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 non credentialed 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.

*Note: The RAND Corporation was commissioned to perform this study which is posted to their web site ([www.rand.org](http://www.rand.org)).*

**47616.7.** The evaluation provided for in Section 47616.5 shall include an analysis of the funding system for charter schools that offer nonclassroom-based instruction. The evaluation shall also examine the effectiveness of the State Board of Education's process, as provided for in Sections 47612.5 and 47634.2, for approving funding for charter schools offering nonclassroom-based instruction.

*Sections 47620-26 regarding University of California sponsored charter schools omitted for brevity.*

**Charter school funding system, block grant, direct funding**

*Note: The following code sections established a new system for funding charter schools, starting in the 1999-2000 fiscal year. Many of these sections are very technical in nature and may not be comprehensible to the lay reader. For a non-technical explanation, see "California Charter School Finance" by Eric Premack and the CSDC web site ([www.cacharterschools.org/finance.html](http://www.cacharterschools.org/finance.html)).*

- 47630(a)** It is the intent of the Legislature that each charter school be provided with operational funding that is equal to the total funding that would be available to a similar school district serving a similar pupil population, except that a charter school may 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 Legislature finds and declares that the funding method established by this chapter provides for simple and, at the option of the charter school, local or direct allocation of funds to charter schools in a manner that is consistent with state and federal law.

**47630.5(a)** This chapter applies to the calculation of operational funding for charter schools. Except as otherwise provided in this chapter, this chapter shall apply to all charter schools without regard to their sponsoring local education agency.

**(b)** For the 1999-2000, 2000-01, and 2001-02 fiscal years in the case of a charter school that was assigned a number by the State Board of Education prior to June 1, 1999, the use of the charter school funding method established by this chapter shall be at the discretion of that charter school. A charter school that elects to have its funding determined pursuant to the method established by this chapter shall notify the State Department of Education by June 1 prior to the affected fiscal year. An election to be funded pursuant to the method established by this chapter is irrevocable.

**(c)** Additional legal or fiscal responsibilities on the part of a county superintendent of schools are not imposed by this chapter, except as specifically provided in this chapter.

**47631(a)** Article 2 (commencing with Section 47633) and Article 3 (commencing with Section 47636) may not apply to a charter granted pursuant to Section 47605.5.

**(b)** Notwithstanding subdivision (a), a pupil attending a county-sponsored charter school who is eligible to attend that school solely as a result of parental request pursuant to subdivision (b) of Section 1981 shall be funded pursuant to this chapter.

**47632.** For purposes of this chapter, the following terms shall be defined as follows:

**(a)** "General-purpose entitlement" means an amount computed by the formula set forth in Section 47633 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of general-purpose funding from those state and local sources identified in Section 47633 received by school districts of similar type and serving similar pupil populations.

**(b)** "Categorical block grant" means an amount computed by the formula set forth in Section 47634 beginning in the 1999-2000 fiscal year, which is based on the statewide average amounts of categorical aid from those sources identified in Section 47634 received by school districts of similar type and serving similar pupil populations.

**(c)** "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's revenue limit, pursuant to Section 42238.

**(d)** "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.

**(e)** "Economic impact aid-eligible pupils" means those pupils that are included in the economic impact aid-eligible pupil count pursuant to Section 54023. For purposes of applying Section 54023 to charter schools, "economically disadvantaged pupils" means the pupils described in paragraph (2) of subdivision (a) of Section 54026.

**(f)** "Educationally disadvantaged pupils" means those pupils who are eligible for subsidized meals pursuant to Section 49552 or are identified as English learners pursuant to subdivision (a) of Section 306, or both.

**(g)** "Operational funding" means all funding except funding for capital outlay.

**(h)** "School district of a similar type" means a school district that is serving similar grade levels.

**(i)** "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

**(j)** "Sponsoring local educational agency" means the following:

**(1)** If a charter school is granted by a school district, the sponsoring local educational agency is the school district.

**(2)** If a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.

**(3)** If a charter is granted by the state board after having been previously denied by a local educational agency, the sponsoring local educational agency means the local educational agency designated by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.

(4) For pupils attending county-sponsored charter schools who are eligible to attend those schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local educational agency means the pupils' school district of residence.

(5) For pupils attending countywide charter schools pursuant to Section 47605.6 who reside in a basic aid school district, the sponsoring local educational agency means the school district of residence of the pupil. For purposes of this paragraph, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238.

**47632.5.** A charter school that is established through the conversion of an existing public school where the charter is granted by a district other than the district in which the school is located may not generate or receive revenue limit funding in excess of the revenue limit of the school district in which the school was located prior to the conversion to charter status. This limitation shall apply whether the charter converts to charter status a single existing public school or multiple existing public schools.

### **General-purpose funding**

**47633.** The Superintendent of Public Instruction shall annually compute a general-purpose entitlement, funded from a combination of state aid and local funds, for each charter school as follows:

(a) The superintendent shall annually compute the statewide average amount of general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and, grades 9 to 12, inclusive. For purposes of making these computations, both of the following conditions shall apply:

(1) Revenue limit funding attributable to pupils in kindergarten and grades 1 to 5, inclusive, shall equal the statewide average revenue limit funding per unit of average daily attendance received by elementary school districts; revenue limit funding attributable to pupils in grades 6, 7, and 8, shall equal the statewide average revenue limit funding per unit of average daily attendance received by unified school districts; and revenue limit funding attributable to pupils in grades 9 to 12, inclusive, shall equal the statewide average revenue limit funding per unit of average daily attendance received by high school districts.

(2) Revenue limit funding received by school districts shall exclude the value of any benefit attributable to the presence of necessary small schools or necessary small high schools within the school district.

(b) The superintendent shall multiply each of the four amounts computed in subdivision (a) by the charter school's average daily attendance in the corresponding grade level ranges. The resulting figure shall be the amount of the charter school's general-purpose entitlement, which shall be funded through a combination of state aid and local funds. From funds appropriated for this purpose pursuant to Section 14002, the Superintendent shall apportion to each charter school this amount, less local funds allocated to the charter school pursuant to Section 47635.

(c) General-purpose entitlement funding may be used for any public school purpose determined by the governing body of the charter school.

### **Categorical block grant**

**47634.1(a)** Notwithstanding subdivision (a) of Section 47634, a categorical block grant for charter schools for the 2005-06 fiscal year shall be calculated as follows:

(1) The Superintendent shall divide the total amount of funding appropriated for the purpose of this block grant in the annual Budget Act or another statute, less the total amount calculated in paragraph (2), by the statewide total of charter school average daily attendance, as determined at the second principal apportionment for the 2005-06 fiscal year.

(2) The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current fiscal year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is

eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

**(3)** For each charter school, the Superintendent shall multiply the amount calculated in paragraph (1) by the school's average daily attendance as determined at the second principal apportionment for the 2005-06 fiscal year.

**(4)** The Superintendent shall add the amounts computed in paragraphs (2) and (3). The resulting amount shall be the charter school categorical block grant that the Superintendent shall apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute. The Superintendent shall allocate an advance payment of this grant as early as possible, but no later than October 31, 2005, based on prior year average daily attendance as determined at the second principal apportionment or, for a charter school in its first year of operation that commences instruction on or before September 30, 2005, on estimates of average daily attendance for the current fiscal year determined pursuant to Section 47652.

**(b)(1)** For the 2006-07 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be four hundred dollars (\$400) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2006-07 fiscal year. This amount shall be supplemented by the amount calculated in paragraph (2).

**(2)** The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current fiscal year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

**(c)(1)** For the 2007-08 fiscal year, the categorical block grant allocated by the Superintendent for charter schools shall be five hundred dollars (\$500) per unit of charter school average daily attendance as determined at the second principal apportionment for the 2007-08 fiscal year. For each fiscal year thereafter, this per unit amount shall be adjusted for the cost-of-living adjustment, as determined pursuant to Section 42238.1, for that fiscal year. This amount shall be supplemented in the 2007-08 fiscal year and each fiscal year thereafter by the amount calculated in paragraph (2).

**(2)** The statewide average amount, as computed by the Superintendent, of funding per identified educationally disadvantaged pupil received by school districts in the current year, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

**(d)** It is the intent of the Legislature to fully fund the categorical block grant for charter schools as specified in this section and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance and counts of educationally disadvantaged pupils, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29, in charter schools. In any fiscal year in which the department identifies a deficiency in the categorical block grant, the department shall identify the available balance for programs that count towards meeting the requirements of Section 8 of Article XVI of the California Constitution and have unobligated funds for the year. On or before July 1, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency, if any, in the categorical block grant. Within 45 days of the receipt of a notification of deficiency, the Director of Finance shall verify the amount of the deficiency in the categorical block grant and direct the Controller to transfer an amount, equal to the lesser of the amount available or the amount needed to fully fund the categorical block grant, from those programs to the

categorical block grant. The Department of Finance shall notify the Joint Legislative Budget Committee within 30 days of any transfer made pursuant to this section.

(e) Commencing October 1, 2007, the Legislative Analyst's Office shall triennially convene a work group to review, commencing with appropriations proposed for the 2008-09 fiscal year, the appropriateness of the funding level provided by the categorical block grant established in this section.

(f) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

### **State Board authority to cut funding for “non classroom-based” schools**

**47634.2(a)(1)** Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction, as defined by paragraph (2) of subdivision (d) of Section 47612.5, including funding provided on the basis of average daily attendance pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

(2) For the 2001-02 fiscal year only, the amount of funding determined by the State Board of Education pursuant to this section shall not be less than 90 percent of the unadjusted amount to which a charter school would otherwise be entitled on the basis of average daily attendance.

(3) For the 2002-03 fiscal year, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 80 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

(4) For the 2003-04 fiscal year and each fiscal year thereafter, the amount of funding determined by the State Board of Education pursuant to this section shall not be more than 70 percent of the unadjusted amount to which a charter school would otherwise be entitled, unless the State Board of Education determines that a greater or lesser amount is appropriate based on the criteria specified in paragraph (1) of subdivision (a).

(5) This section does not authorize the board to adjust the amount of funding a charter school receives on the basis of average daily attendance generated through classroom-based instruction, as defined for purposes of calculating average daily attendance for classroom-based instruction apportionments by paragraph (1) of subdivision (d) of Section 47612.5.

(b)(1) The State Board of Education shall appoint an advisory committee to recommend criteria to the board in accordance with this section if it has not done so by the effective date of the act adding this section. The advisory committee shall include, but is not limited to, representatives from school district superintendents, charter schools, teachers, parents, members of the governing boards of school districts, county superintendents of schools, and the Superintendent of Public Instruction.

(2) If a charter school submits a substantially complete request for a determination for funding by February 13, 2002, and the State Board of Education does not act on that request by March 19, 2002, full funding is automatically granted for the 2001-02 fiscal year, but the charter school shall reapply for a determination for funding for the 2002-03 fiscal year.

(3) The determination for funding shall be on a percentage basis and the superintendent shall implement the determination for funding by reducing the charter school's reported average daily attendance by the determination for funding percentage specified by the State Board of Education.

(4) If the State Board of Education denies request for a determination for funding or provides a reduction as authorized by subdivision (a), the board shall, in writing, give the reasons for its denial or reduction and, if appropriate, may describe how any deficiencies or problems may be addressed.

(c) Each charter school offering nonclassroom-based instruction shall, in each report provided to the Superintendent of Public Instruction for apportionment purposes, identify the portion of its average daily attendance that is generated through nonclassroom-based instruction as defined in paragraph (2) of subdivision (d) of Section 47612.5.

(d) Notwithstanding any other provision of law, charter schools shall be subject, with regard to subdivisions (c) and (d) of Section 47612.5 and this section, to audits conducted pursuant to Section 41020.

*Note: The above section is the subject of extensive regulations.*

### **Block grant funding, continued**

**47634.3.** For purposes of Sections 47633, the Superintendent shall compute average daily attendance in each of grades 1 through 12, respectively, as follows:

(a) Distribute statewide total ungraded enrollment and average daily attendance among kindergarten and each of grades 1 through 12, inclusive, in proportion to the amounts of graded enrollment and average daily attendance, respectively, in each of these grades.

(b) Multiply enrollment in each of grades 1 through 12, respectively, by the ratio of average daily attendance to enrollment in the applicable grade range: 1 through 3, inclusive, 4 through 6, inclusive; 7 and 8; and 9 through 12, inclusive.

### **Application for federal and state categorical programs**

(a) A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply individually for federal and state categorical programs, not excluded in this section, but only to the extent it is eligible for funding and meets the provisions of the program. For purposes of determining eligibility for, and allocation of, state or federal categorical aid, a charter school that applies individually shall be deemed to be a school district, except as otherwise provided in this chapter.

(b) A charter school that does not elect to receive its funding directly, pursuant to Section 47651, may, in cooperation with its chartering authority, apply for federal and state categorical programs not specified in this section, but only to the extent it is eligible for funding and meets the provisions of the program.

(c) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, a charter school may not apply directly for categorical programs for which services are exclusively or almost exclusively provided by a county office of education.

(d) Consistent with subdivision (c), a charter school may not receive direct funding for any of the following county-administered categorical programs:

(1) American Indian Education Centers.

(2) The California Association of Student Councils.

(3) California Technology Assistance Project established pursuant to Article 15 (commencing with Section 51870) of Chapter 5 of Part 28.

(4) The Center for Civic Education.

(5) County Office Fiscal Crisis and Management Assistance Team.

(6) The K-12 High Speed Network.

(e) A charter school may apply separately for district-level or school-level grants associated with any of the categorical programs specified in subdivision (d).

(f) Notwithstanding any other provision of law, for the 2006-07 fiscal year and each fiscal year thereafter, in addition to the programs listed in subdivision (d), a charter school may not apply for any of the following categorical programs:

(1) Agricultural Career Technical Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Bilingual Teacher Training Assistance Program, as set forth in Article 4 (commencing with Section 52180) of Chapter 7 of Part 28.

(3) California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.

- (4) College preparation programs, as set forth in Chapter 12 (commencing with Section 11020) of Part 7, Chapter 8.3 (commencing with Section 52240) of Part 28, and Chapter 8 (commencing with Section 60830) of Part 33.
- (5) English Language Acquisition Program, as set forth in Chapter 4 (commencing with Section 400) of Part 1.
- (6) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.
- (7) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.
- (8) Home-to-school transportation programs, as set forth in Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 and Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.
- (9) International Baccalaureate Diploma Program, as set forth in Chapter 12.5 (commencing with Section 52920) of Part 28.
- (10) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.
- (11) Principal Training Program, as set forth in Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.
- (12) Professional Development Block Grant, as set forth in Article 5 (commencing with Section 41530) of Chapter 3.2 of Part 24.
- (13) Program to Reduce Class Size in Two Courses in Grade 9 (formerly The Morgan-Hart Class Size Reduction Act of 1989), as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.
- (14) Pupil Retention Block Grant, as set forth in Article 2 (commencing with Section 41505) of Chapter 3.2 of Part 24.
- (15) Reader services for blind teachers, as set forth in Article 8.5 (commencing with Section 45370) of Chapter 5 of Part 25.
- (16) School and Library Improvement Block Grant, as set forth in Article 7 (commencing with Section 41570) of Chapter 3.2 of Part 24.
- (17) School Safety Consolidated Competitive Grant, as set forth in Article 3 (commencing with Section 41510) of Chapter 3.2 of Part 24.
- (18) School safety programs, as set forth in Article 3.6 (commencing with Section 32228) and Article 3.8 (commencing with Section 32239.5) of Chapter 2 of Part 19.
- (19) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.
- (20) State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
- (21) Targeted Instructional Improvement Block Grant, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2 of Part 24.
- (22) Teacher dismissal apportionment, as set forth in Section 44944.
- (23) The deferred maintenance program, as set forth in Article 1 (commencing with Section 17565) of Chapter 5 of Part 10.5.
- (24) The General Fund contribution to the State Instructional Materials Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.
- (25) Year-Round School Grant Program, as set forth in Article 3 (commencing with Section 42260) of Chapter 7 of Part 24.

**Charter school share of funding in lieu of local property taxes**

**47635(a)** A sponsoring local educational agency shall annually transfer to each of its charter schools funding in lieu of property taxes equal to the lesser of the following two amounts:

- (1) The average amount of property taxes per unit of average daily attendance, including average daily attendance attributable to charter schools, received by the local educational agency, multiplied by the charter school's average daily attendance.
- (2) The statewide average general-purpose funding per unit of average daily attendance received by school districts, as determined by the State Department of Education, multiplied by the charter school's average

daily attendance in each of the four corresponding grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and grades 9 to 12, inclusive.

**(b)** The sponsoring local educational agency shall transfer funding in lieu of property taxes to the charter school in monthly installments, by no later than the 15th of each month.

**(1)** For the months of August to February, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes received by the sponsoring local educational agency during the preceding fiscal year, as reported to the Superintendent of Public Instruction for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to the charter school the charter school's estimated annual entitlement to funding in lieu of property taxes as follows:

**(A)** Six percent in August.

**(B)** Twelve percent in September.

**(C)** Eight percent each month in October, November, December, January, and February.

**(2)** For the months of March to June, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the fiscal year, as reported to the Superintendent of Public Instruction for purposes of the first principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to one-sixth of the difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraph (1). An additional one-sixth of this difference shall be included in the amount transferred in the month of March.

**(3)** For the month of July, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the prior fiscal year, as reported to the Superintendent of Public Instruction for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to the remaining difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraphs (1) and (2).

**(4)** Final adjustments to the amount of funding in lieu of property taxes allocated to a charter school shall be made in February, in conjunction with the final reconciliation of annual apportionments to schools.

**(5)** Subdivision (a) and paragraphs (1) to (4), inclusive, of subdivision (b) do not apply for pupils who reside in, and are otherwise eligible to attend a school in, a basic aid school district, but who attend a charter school in a nonbasic aid school district. With regard to these pupils, the sponsoring basic aid district shall transfer to the charter school an amount of funds equivalent to the revenue limit earned through average daily attendance by the charter school for each pupil's attendance, not to exceed the average property tax share per unit of average daily attendance for pupils residing and attending in the basic aid district. The transfer of funds shall be made in not fewer than two installments at the request of the charter school, the first occurring not later than February 1 and the second not later than June 1 of each school year. Payments shall reflect the average daily attendance certified for the time periods of the first and second principal apportionments, respectively. The Superintendent of Public Instruction may not apportion any funds for the attendance of pupils described in this subdivision unless the amount transferred by the basic aid district is less than the revenue limit earned by the charter school, in which event the Superintendent of Public Instruction shall apportion the difference to the charter school from state funds.

#### **Charter school share of federal and other local funding sources**

**47636(a)** This chapter may not be construed to prevent charter schools from applying for, or receiving, operational funding under state or federal categorical programs, the funding of which is not included in the computation of the block grant entitlement. Unless specifically prohibited, a charter school shall only apply for federal or state categorical programs as follows:

**(1)** A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply for federal and state categorical programs individually. Except as otherwise provided in this chapter, for purposes of determining eligibility for, and allocations of federal or state categorical aid, a charter school that applies individually shall be deemed to be a school district.

(2) A charter school that does not elect to receive its funding directly may apply for federal and state categorical programs in cooperation with its authorizing local educational agency.

(b) This chapter may not be construed to prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

(1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.

(2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(4) Ad valorem property taxes received by a school district which exceed its revenue limit entitlement.

(5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution

(c) This section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

#### **Charter school share of federal and other local funding sources**

**47636(a)** This chapter does not prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

(1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.

(2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(4) Ad valorem property taxes received by a school district which exceed its revenue limit entitlement.

(5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution.

(b) This section shall become operative July 1, 2006.

#### **Charter school share of California Lottery funding**

**47638.** For purposes of determining eligibility for, and allocations of, lottery funds, a charter school shall be deemed to be a school district. The State Department of Education shall determine each charter school's appropriate share of statewide total average daily attendance and include this information in its transmittals to the Controller for use in computing allocations of lottery funds.

#### **Special education status and funding**

*Note: The following code sections attempt to "fit" charter schools into California's complex special education system. Unfortunately, the "fit" is a bit like the proverbial "square peg in round hole." For an overview of these matters, see Chapter 3 in "California Charter School Finance."*

**47640.** For the purposes of this article, "local educational agency" means a school district as defined in Section 41302.5 or a charter school that is deemed a local educational agency pursuant to Section 47641. As used in this article, "local educational agency" also means a charter school that is responsible for complying with all provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations as they relate to local educational agencies.

**47641(a)** A charter school that includes in its petition for establishment or renewal, or that otherwise provides, verifiable, written assurances that the charter school will participate as a local educational agency

in a special education plan approved by the State Board of Education shall be deemed a local educational agency for the purposes of compliance with federal law (Individuals with Disabilities Education Act; 20 U.S.C. Sec. 1400 et seq.) and for eligibility for federal and state special education funds. A charter school that is deemed a local educational agency for the purposes of special education pursuant to this article shall be permitted to participate in an approved special education local plan that is consistent with subdivision (a), (b), or (c) of Section 56195.1.

**(b)** A charter school that was granted a charter by a local educational agency that does not comply with subdivision (a) may not be deemed a local educational agency pursuant to this article, but shall be deemed a public school of the local educational agency that granted the charter.

**(c)** A charter school that has been granted a charter by the State Board of Education, and for which the board has delegated its supervisory and oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, and does not comply with subdivision (a), shall be deemed a public school of the local educational agency to which the board has delegated its supervisory and oversight responsibilities.

**(d)** A charter school that has been granted a charter by the State Board of Education, and for which the board has not delegated its supervisory and oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, may not be deemed a local educational agency unless the charter school complies with subdivision (a).

**47642.** Notwithstanding Section 47651, all state and federal funding for special education apportioned on behalf of pupils enrolled in a charter school shall be included in the allocation plan adopted pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, or both, by the special education local plan area that includes the charter school.

**47643.** If the approval of a petition for a charter school requires a change to the allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, the change shall be adopted pursuant to the policymaking process of the special education local plan area.

**47644.** For each charter school deemed a local educational agency for the purposes of special education, an amount equal to the amount computed pursuant to Section 56836.08 for the special education local plan area in which the charter school is included shall be apportioned by the Superintendent of Public Instruction pursuant to the local allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, or both. If the charter school is a participant in a local plan that only includes other charter schools pursuant to subdivision (f) of Section 56195.1, the amount computed pursuant to Section 56836.11, as adjusted pursuant to the incidence multiplier set forth in Section 56836.155, shall be apportioned by the superintendent for each unit of average daily attendance reported pursuant to subdivision (a) of Section 56836.06.

**47645.** An agency reviewing a request by a charter school to participate as a local educational agency in a special education local plan area may not treat the charter school differently from the manner in which it treats a similar request made by a school district. In reviewing and approving a request by a charter school to participate as a local educational agency in a special education local plan area, a local or state agency shall ensure all of the following:

**(a)** The special education local plan area complies with Section 56140.

**(b)** The charter school participates in state and federal funding for special education and the allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05 in the same manner as other local educational agencies of the special education local plan area.

**(c)** The charter school participates in governance of the special education local plan area and benefits from services provided throughout the special education local plan area, in the same manner as other local educational agencies of the special education local plan area.

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations, including Section 300.209 of Title 34 of the Code of Federal Regulations.

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education program.

(2) Any necessary special education services, including administrative and support services and itinerant services, that are provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56205) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school

block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

**47647.** A local educational agency reviewing a petition for the establishment or renewal of a charter school may not refuse to grant the petition solely because the charter might enroll pupils with disabilities who reside in a special education local plan area other than the special education local plan area that includes the local educational agency reviewing the petition.

#### **Direct funding and charter school apportionments**

**47650.** A charter school shall be deemed to be a school district for purposes of determining the manner in which warrants are drawn on the State School Fund pursuant to Section 14041. For purposes of Section 14041, a charter school's "total amount certified" means the state aid portion of the charter school's total general-purpose entitlement and categorical block grant computed pursuant to Sections 47633 and 47634.

**47651(a)** A charter school may receive the state aid portion of the charter school's total general-purpose entitlement and categorical block grant directly or through the local educational agency that either grants its charter or was designated by the State Board of Education.

(1) In the case of a charter school that elects to receive its funding directly, the warrant shall be drawn in favor of the superintendent of schools of the county in which the local educational agency that approved the charter or was designated by the State Board of Education as the oversight agency pursuant to paragraph (1) of subdivision (k) of Section 47605 is located, for deposit to the appropriate funds or accounts of the charter

school in the county treasury. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(2) In the case of a charter school that does not elect to receive its funding directly pursuant to Section 47651, the warrant shall be drawn in favor of the superintendent of schools of the county in which the local educational agency that granted the charter is located or was designated the oversight agency by the board pursuant to paragraph (1) of subdivision (k) of Section 47605, for deposit to the appropriate funds or accounts of the local educational agency.

(3) In the case of a charter school, the charter of which was granted by the State Board of Education, but for which the board has not delegated oversight responsibilities pursuant to paragraph (1) of subdivision (k) of Section 47605, the warrant shall be drawn in favor of the superintendent of schools in the county where the local educational agency is located that initially denied the charter that was later approved by the board. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school.

(b) On or before June 1 of each year, a charter school electing to receive its funding directly shall so notify the county superintendent of schools of the county in which the local educational agency that granted the charter is located or, in the case of charters for which the State Board of Education has designated an oversight agency pursuant to paragraph (1) of subdivision (k) of Section 47605, the county superintendent of schools of the county in which the designated oversight agency is located. An election to receive funding directly shall apply to all funding that the charter school is eligible to receive including, but not limited to, the charter general-purpose entitlements and the categorical block grant computed pursuant to Sections 47633 and 47634, other state and federal categorical aid, and lottery funds.

#### **First year cash flow for new charter schools**

(a) Notwithstanding Section 41330, a charter school in its first year of operation shall be eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located. For charter schools approved by the state board, estimated average daily attendance shall be submitted directly to, and approved by, the department. Not later than five business days following the end of the first 20 schooldays, a charter school receiving funding pursuant to this section shall report to the department its actual average daily attendance for that first month, and the Superintendent shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

(b) In addition to funding received pursuant to Section 41330, a charter school in its second or later year of operation also shall be eligible to receive an advance apportionment pursuant to the process and conditions described in subdivision (a) in any year in which the charter school is adding at least one grade level. The average daily attendance funded for a new grade level shall not exceed the portion of the certified average daily attendance at the second principal apportionment for the prior year that was attributable to pupils in the highest grade served by the charter school.

#### **New charter schools must commence instruction by September 30**

(c) A charter school in its first year of operation may only commence instruction within the first three months of the fiscal year beginning July 1 of that year. A charter school shall not be eligible for an apportionment pursuant to subdivision (a), or any other apportionment for a fiscal year in which instruction commenced after September 30 of that fiscal year.

#### **Financial effect of charter schools on sponsor districts**

**47660(a)** For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily attendance reported by a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(1) Notwithstanding subdivision (a), and commencing with the 2005-06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, or if the pupils reside in the unified school district and attended a charter school of a school district that converted to charter status on or after to July 1, 2005. Only the attendance of the pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238.

(2) Notwithstanding subdivision (a), for the 2005-06 fiscal year only, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606 and is operating them as charter schools, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the unified school district if the pupils attended a charter school established in the unified school district prior to July 1, 2005. Only the attendance of pupils described by this paragraph shall be included in the calculation made pursuant to Section 42241.3.

(c) Commencing with the 2005-06 fiscal year, for the attendance of pupils specified in subdivision (b), the general-purpose entitlement for a charter school that is established through the conversion of an existing public school within a unified school district on or after July 1, 2005, shall be determined using the following amount of general-purpose funding per unit of average daily attendance, in lieu of the amount calculated pursuant to subdivision (a) of Section 47633:

(1) The amount of the actual unrestricted revenues expended per unit of average daily attendance for that school in the year prior to its conversion to, and operation as, a charter school, adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for unified school districts in the year of conversion to and operation as a charter school.

(2) For a subsequent fiscal year, the general-purpose entitlement shall be determined based on the amount per unit of average daily attendance allocated in the prior fiscal year adjusted for the base revenue limit per pupil inflation increase adjustment set forth in Section 42238.1, if this adjustment is provided, and also adjusted for equalization, deficit reduction, and other state general-purpose increases, if any, provided for unified school districts in that fiscal year.

(d) Commencing with the 2005-06 fiscal year, the general-purpose funding per unit of average daily attendance specified for a unified school district for purposes of paragraph (7) of subdivision (h) of Section 42238 shall be deemed to be the amount computed pursuant to subdivision (c).

(e) A unified school district that is the chartering authority of a charter school that is subject to the provisions of subdivision (c) shall certify to the Superintendent the amount specified in paragraph (1) of subdivision (c) prior to the approval of the charter petition by the governing board of the school district. This amount may be based on estimates of the unrestricted revenues expended in the fiscal year prior to the school's conversion to charter status and the school's operation as a charter school, provided that the amount is recertified when the actual data becomes available.

(f) For the purposes of this section, "basic aid school district" means a school district that does not receive from the state an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(g) A school district may use the existing Standardized Account Code Structure and cost allocation methods, if appropriate, for an accounting of the actual unrestricted revenues expended in support of a school pursuant to subdivision (c).

**47662.** For purposes of Section 42238, the property tax revenues received by a sponsoring local educational agency pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code shall be reduced by the amount of funding in lieu of property taxes allocated to a charter school or schools pursuant to Section 47635.

### **Charter school funding in “basic aid” school districts**

**47663(a)** For a pupil of a charter school sponsored by a basic aid school district who resides in, and is otherwise eligible to attend, a school district other than a basic aid school district, the Superintendent of Public Instruction shall apportion to the sponsoring school district an amount equal to 70 percent of the revenue limit per unit of average daily attendance that would have been apportioned to the school district that the pupil resides in and would otherwise have been eligible to attend.

**(b)** A district that loses basic aid status as a result of transferring property taxes to a charter school or schools pursuant to Section 47635 shall be eligible to receive a pro rata share of funding provided by subdivision (a), with the proration factor calculated as the ratio of the following:

**(1)** The amount of property taxes that the district receives in excess of its total revenue limit guarantee, prior to any transfers made pursuant to Section 47635.

**(2)** The total amount of property taxes transferred pursuant to Section 47635 to the charter school or schools that it sponsors.

**(c)** The Superintendent of Public Instruction may not apportion funds for the attendance of a pupil in a charter school of a nonbasic aid school district who resides in, and is otherwise eligible to attend school in, a basic aid school district unless the pupil is subject to the exception set forth in paragraph (5) of subdivision (b) of Section 47635.

**(d)** For purposes of this section, "basic aid school 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.

### **Charter funding system optional for district-wide charters**

**47664(a)** A school district in which all schools have been converted to charter schools pursuant to Section 47606, at the school district's discretion, may use the funding method provided for by this chapter. A school district that elects to have its funding determined pursuant to the method provided for by this chapter shall so notify the Superintendent of Public Instruction by June 1 prior to the affected fiscal year. Once made, an election to be funded pursuant to the method provided for by this chapter is irrevocable.

**(b)** In the case of a school district in which all schools have been converted to charter schools pursuant to Section 47606, and that has not elected to be funded pursuant to the method provided for by this chapter, any increase in district average daily attendance attributable to pupils who reside in, and would otherwise be eligible to attend, a district other than the district sponsoring the charter school shall be funded at the lesser of the following:

**(1)** The sponsoring district's own base revenue limit per unit of average daily attendance.

**(2)** The statewide average base revenue limit per unit of average daily attendance for districts of a similar type. For purposes of this paragraph, increases in average daily attendance shall be measured relative to the 1998-99 fiscal year or the fiscal year in which all schools in the district were converted to charter schools pursuant to Section 47606, whichever fiscal year is later.

**(c)** A school district in which all schools have been converted to charter schools pursuant to Section 47606 and that is the sponsoring entity for a charter school or schools that were previously funded pursuant to the method provided pursuant to this chapter shall have its base revenue limit computed as follows:

**(1)** The average daily attendance of the charter school or schools for the fiscal year prior to the fiscal year in which the conversion is effective shall be multiplied by the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the fiscal year in which the conversion is effective.

**(2)** The school district's remaining average daily attendance for the fiscal year prior to the fiscal year in which the conversion is effective shall be multiplied by the school district's base revenue limit per unit of average daily attendance for the fiscal year in which the conversion is effective. **(3)** The amounts computed in paragraphs (1) and (2) shall be added and this total shall be divided by the district's total average daily attendance, including average daily attendance in charter schools for which it is the sponsoring entity, for the fiscal year prior to the fiscal year in which the conversion is effective.

### **Charter school revolving loan fund**

**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 for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

**(b)** Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. Money loaned to a chartering authority for a charter school, or to a 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 chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars (\$250,000) over the lifetime of the charter school. A charter school may receive money obtained from multiple loans made directly to the charter school or to the school's chartering authority from the Charter School Revolving Loan Fund, as long as the total amount received from the fund over the lifetime of the charter school does not exceed two hundred fifty thousand dollars (\$250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

**(c)** The Superintendent of Public Instruction may consider all of the following when making a determination as to the approval of a charter school's loan application:

**(1)** Soundness of the financial business plans of the applicant charter school.

**(2)** Availability of the charter school of other sources of funding.

**(3)** Geographic distribution of loans made from the Charter School Revolving Loan Fund.

**(4)** The impact that receipt of funds received pursuant to this section will have on the charter school's receipt of other private and public financing.

**(5)** Plans for creative uses of the funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.

**(6)** The financial needs of the charter school.

**(d)** Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs.

**(e)** Commencing with the first fiscal year following the fiscal year the charter school receives the loan, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

**(f)(1)** Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

**(2)** Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the charter school shall be solely liable for repayment of the loan.

**41366.5(a)** Moneys in the Charter School Revolving Loan Fund shall be loaned at the interest rate earned by the money in the Pooled Money Investment Account as of the date of disbursement of the funds to the charter school.

**(b)** A charter school shall pay the interest on any loan from the fund in regular installments withdrawn from the annual apportionment the charter school receives.

**(c)** All interest payments shall be paid into the Charter School Security Fund established pursuant to Section 41367.

**41366.7.** The Director of Finance shall monitor the adequacy of the amount of funds in the Charter School Security Fund and report annually to the Legislature on the need, if any, to adjust the interest rate set forth in Section 41366.5 or to revise any other aspect of the default recovery plan.

**41367(a)** The Charter School Security Fund is hereby created in the State Treasury.

**(b)** Moneys in the fund shall be available for deposit into the Charter School Revolving Loan Fund in case of default on any loan made from the Charter School Revolving Loan Fund

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