

Selected

***California Laws and Regulations
Applicable to Charter Schools***

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California Education Code

PART 26.8 CHARTER SCHOOLS

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CHAPTER 1. GENERAL PROVISIONS

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§ 47600. Title of act

This part shall be known, and may be cited, as the "Charter Schools Act of 1992."
(*Added by Stats.1992, c. 781 (S.B.1448), §1.*)

§ 47601. Legislative intent

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 schoolsite.
 - (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.
- (*Added by Stats.1992, c. 781 (S.B.1448), §1. Amended by Stats.1998, c. 34(A.B.544), §1.*)

§ 47602. Limit on number; report on effectiveness; private school

(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.

(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.

(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.

(Added by Stats.1992, c. 781 (S.B.1448), §1. Amended by Stats.1993, c. 589 (A.B.2211), § 44; Stats.1996, c. 849 (S.B.1883), §1; Stats.1998, c. 34 (A.B.544), § 2; Stats.1998, c. 673 (A.B.2417), § 1; Stats.2002, c. 1058 (A.B.1994), §3.)

§ 47603. Construction of part; funding or assistance

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.

(Added by Stats.1992, c. 781 (S.B.1448), § 1.)

§ 47604. Operating as or by a nonprofit public benefit corporation; board membership; liability

(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.

(Added by Stats.1998, c. 34 (A.B.544), § 3. Amended by Stats.2003, c. 892 (A.B.1137), §7.)

§ 47604.3. Responding to inquiries

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.

(Added by Stats.1998, c. 34 (A.B.544), § 4. Amended by Stats.2002, c. 1058 (A.B.1994), § 4.)

§ 47604.32. Duties of chartering authority

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.

(Added by Stats.2003, c. 892 (A.B.1137), § 8.)

§ 47604.33. Annual Reports

(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.

(Added by Stats.2003, c. 892 (A.B.1137), § 9.)

§ 47604.4. County superintendent of schools; authority to monitor and investigate charter schools within county

(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.

(Added by Stats.2002, c. 1058 (A.B.1994), § 5; amended by Stats. 2005, c. 357 (S.B. 430), §3.)

§ 47604.5. State Board of Education; revocation of charter

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.

(Added by Stats.1998, c. 34 (A.B.544), § 5.)

CHAPTER 2. ESTABLISHMENT OF CHARTER SCHOOLS

Section

47605.	Petition process to establish charter school; public hearing to review petition; grounds for grant or denial; statewide standards and pupil assessments; requirements for school relating to programs, admissions, practices and operations; information required of petitioners; preferences given to petitioners; notice of approval; denial of petition; criteria for review; oversight responsibilities; teacher qualifications; financial audit report.
47605.1.	Location; geographic and site limitations.
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47605.8.	Petition for operation of state charter school; submission to State Board of Education; approval authority of board; requirements and conditions for approval.
47606.	School district converting all schools to charter schools; conditions; approval by joint action of Superintendent of Public Instruction and State Board of Education.
47607.	Charter term; renewal; criteria; material revision of charter; revocation.
47607.5.	Renewal; application following denial of petition.
47608.	Meetings; compliance with Ralph M. Brown Act.

§ 47605. Petition process to establish charter school; public hearing to review petition; grounds for grant or denial; statewide standards and pupil assessments; requirements for school relating to programs, admissions, practices and operations; information required of petitioners; preferences given to petitioners; notice of approval; denial of petition; criteria for review; oversight responsibilities; teacher qualifications; financial audit report

(a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by 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 one or more persons seeking to establish the converted 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) 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 in which that school district is located, if the school district within the jurisdiction of which 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 such 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:

(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 how 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 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.

(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.

(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 an 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.

(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.

(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.

(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.

(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.

(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 State Department of Education under Section 54032 as it read prior to July 19, 2006.

(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.

(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). A 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 to which it would otherwise be subject if it received approval from the entity to which it originally submitted 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) of Section 47605 and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) of Section 47605 in a way that is consistent with the intent of the Charter Schools Act of 1992. 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 State Department of Education and the state board.

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

(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. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (l) 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 State Department of Education 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.

(Added by Stats.1992, c. 781 (S.B.1448), § 1. Amended by Stats.1993, c. 589 (A.B.2211), § 45; Stats.1996, c. 786 (A.B.3384), § 3; Stats.1998, c. 34 (A.B.544), § 6; Stats.1998, c. 673, (A.B.2417), §2; Stats.1999, c. 828 (A.B.631), § 1; Stats.2000, c. 580 (A.B.2659), § 4; Stats.2001, c. 344 (S.B.675), § 1; Stats.2001, c. 892 (S.B.740), § 1.5; Stats.2002, c. 209 (S.B.1709), § 1; Stats.2002, c. 1058 (A.B.1994), § 6, Stats. 2005, c. 543 (A.B. 1610), §2; Stats. 2007, c. 569 (S.B. 777), § 27; Stats. 2008, c. 179 (S.B. 1498), § 46.)

§ 47605.1. Location; geographic and site limitations

(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.

(Added by Stats. 2002, c. 1058 (A.B. 1994), § 7.)

§ 47605.2. Delta Charter High School; exemption from limitations

The Delta Charter High School, located in the County of Santa Cruz, is exempt from the geographic and site limitations contained in subdivision (a) of Section 47605.

(Added by Stats. 2004, c. 112 (S.B. 1766), § 1.)

§ 47605.3. Eligibility for free or reduced price meals; admissions preferences

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.

(Added by Stats.2002, c. 586 (S.B.2039), § 1, eff. Sept. 19, 2002. Amended by Stats.2003, c. 62 (S.B.600), § 54.)

§ 47605.5. Petition; county board of education

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.

(Added by Stats.1998, c. 34 (A.B.544), § 7).

§ 47605.6. County board of education; authority to approve petition for establishment of a countywide charter school; requirements for approval

(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 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 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 cash-flow and financial projections for the first three years of operation.

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

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

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

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be

required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (l) 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.

(Added by Stats.2002, c. 1058 (A.B.1994), § 8. Amended by Stats. 2005, c. 543 (A.B. 1610), § 3.)

§ 47605.7. Denial of petition for establishment of charter schools

(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.

(Added by Stats.2000, c. 88 (S.B.1914), § 1.)

§ 47605.8. Petition for operation of state charter school; submission to State Board of Education; approval authority of board; requirements and conditions for approval

(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 shall also 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. *(Added by Stats.2002, c. 1058 (A.B.1994), § 9. Amended by Stats. 2007, c. 215 (S.B. 20), § 1.)*

§ 47606. School district converting all schools to charter schools; conditions; approval by joint action of Superintendent of Public Instruction and State Board of Education

(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 districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education. *(Added by Stats.1992, c. 781 (S.B.1448), § 1.)*

§ 47607. Charter term; renewal; criteria; material revision of charter; revocation

(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.

(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.

(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.

(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 of education, and the department.

(Added by Stats.1992, c. 781 (S.B.1448), § 1. Amended by Stats.1998, c. 34 (A.B.544), § 8; Stats.2003, c. 892 (A.B.1137), § 10; Stats. 2005, c. 543 (A.B. 1610), §4; Stats. 2006, c. 757 (A.B. 2030), § 1.)

§ 47607.5. Renewal; application following denial or petition

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.

(Added by Stats.2000, c. 160 (S.B.326), § 1.)

§ 47608. Meetings; compliance with Ralph M. Brown Act

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).
(Added by Stats.1996, c. 786 (A.B.3384), § 4. Amended by Stats.1998, c. 34 (A.B.544), § 9.)

CHAPTER 3. CHARTER SCHOOL OPERATION

Section

47610.	Compliance with charter petition; exemptions.
47610.5	Exemption from compliance with California Building Standards Code; conditions.
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§ 47610. Compliance with charter petition; exemptions

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.
(Added by Stats. 1992, c. 781 (S.B. 1448), § 1. Amended by Stats. 1996, c. 786 (A.B. 3384), § 5; Stats. 1998, c. 34 (A.B. 544), § 10; Stats. 2005, c. 87 (S.B. 1054), § 1; Stats. 2006, c. 538 (S.B. 1852), § 110.)

47610.5. Exceptions to compliance with California Building Standards Code; conditions

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.
(Added by Stats. 2005, c. 87 (S.B. 1054), § 2, Amended by Stats. 2006, c. 538 (S.B. 1852), § 111.)

§ 47611. State Teacher's Retirement Plan; availability; coverage

(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.

(Added by Stats.1992, c. 781 (S.B.1448), § 1. Amended by Stats.1996, c. 608 (A.B.2673), § 57, eff. Sept. 19, 1996, operative July 1, 1996; Stats.1999, c. 939 (S.B.1074), § 89; Stats.2000, c. 1025 (A.B.816), § 40.)

§ 47611.3. Reports; submission

(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.

(Added by Stats.2000, c. 466 (S.B.2105), § 1.)

§ 47611.5. Exclusive public school employer; declaration

(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 to 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.

(Added by Stats. 1999, c. 828 (A.B.631), § 2. Amended by Stats. 2002, c. 135 (A.B.2539), § 45).

§ 47612. Control of charter schools; appropriations; apportionment; school district

(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.

(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.

(Added by Stats. 1992, c. 781 (S.B.1448), § 1. Amended by Stats. 1998, c. 34 (A.B.544), § 11; Stats. 1999, c. 78 (A.B.1115), § 32.2, eff. July 7, 1999; Stats. 2002, c. 36 (A.B.168), § 1. eff. May 10, 2002; Stats. 2003, c. 892 (A. B. 1137), § 11.)

§ 47612.1. Charter school programs providing instruction exclusively in partnership with specified entities

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.

(Added by Stats. 2002, c. 1058 (A.B.1994), § 10.)

§ 47612.5. General Requirements

(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 (l) 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.

(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).

(Added by Stats.1999, c. 162 (S.B.434), § 1. Amended by Stats.2000, c. 135 (A.B.2539), § 46; Stats.2001, c. 586 (S.B.955), § 1, eff. Oct. 7, 2001; Stats.2001, c. 892 (S.B.740), § 2.5, operative Jan. 1, 2002; Stats.2003, c. 892 (A.B.1137), § 13; Stats. 2005, c. 543 (A.B. 1610), §5.)

§ 47612.6. Insufficient instructional minutes; waiver of fiscal penalties; conditions; revocation; legislative intent

(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.

(Added by Stats. 2005, c. 543 (A.B. 1610), § 6.)

§ 47612.7 Center for Advanced Research and Technology; receipt of general-purpose funding

(a) Notwithstanding Section 47612.5 or any other provision of law, the Center for Advanced Research and Technology operating pursuant to a joint powers agreement between the Clovis Unified School District and the Fresno Unified School District, is eligible to receive general-purpose funding, as calculated pursuant to Section 47633, for the 2005-06 and 2006-07 fiscal years for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2005-06 and 2006-07 fiscal years, respectively, and for the 2007-08 fiscal year for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2006-07 fiscal year.

(b) Commencing with the 2008-09 fiscal year, the Center for Advanced Research and Technology, as described in subdivision (a), is not eligible to receive funding pursuant to Chapter 6 (commencing with Section 47630).

(c) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added by Stats. 2007, c. 524 (S.B. 345), § 4, eff. Oct. 12, 2007. Amended by Stats. 2008, c. 762 (A.B. 2246), § 2, eff. Sept. 30, 2008.)

§ 47613. Supervisorial oversight; costs

(a) Except as set forth in subdivision (b), a chartering authority may charge for the actual costs of supervisorial 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 supervisorial 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 supervisorial oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the actual costs of supervisorial 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 provide.
- (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.

(Formerly § 47613.7, added by Stats.1998, c. 34 (A.B.544), § 14. Renumbered § 47613 and amended by Stats.1999, c. 78 (A.B.1115), § 32.6, eff. July 7, 1999. Amended by Stats.2003, c. 892 (A.B.1137), § 14; Stats. 2007, c. 650 (S.B. 537), § 1.)

§ 47613.1. Apportionment for charter schools electing not to be funded pursuant to block grant funding model set forth in § 47633

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.

(Added by Stats.1999, c. 646 (A.B.1600), § 22.7. Amended by Stats.2002, c. 1058 (A.B.1994), § 11.)

§ 47613.2. Charter schools; determination of revenue limit of elementary school district

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.

(Added by Stats.2002, c. 932 (S.B.1397), § 1.)

§ 47614. Facilities; school district provision

(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.

(Added by Stats.1998, c. 34 (A.B.544), § 15. Amended by Initiative Measure (Prop. 39, § 6, operative Nov. 8, 2000, approved Nov. 7, 2000).)

§ 47614.5. Charter School Facility Grant Program; establishment; administration; duties and functions of the department

(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.

(Added by Stats.2001, c. 892 (S.B.740), § 3. Amended by Stats.2002, c. 586 (S.B.2039), § 2, eff. Sept. 19, 2002; Stats.2003, c. 62 (S.B.600), § 55, Stats. 2007, c. 215 (S.B. 20), § 20.)

CHAPTER 4. NOTICE

Section

47615. Legislative findings.
47616.5. Evaluation of effectiveness.
47616.7. Analysis of funding system for charter schools that offer nonclassroom-based instruction; funding approval process for non-classroom based instruction; evaluation of effectiveness.

§ 47615. Legislative findings

(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.

(Added by Stats. 1998, c. 34 (A.B.544), § 16.)

§ 47616.5. Evaluation of effectiveness

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 noncredentialed 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 noncharter schools.
- (o) The role and impact of collective bargaining on charter schools.
(Added by Stats.1996, c. 767 (A.B.2135), § 1. Amended by Stats.1998, c. 34 (A.B.544), § 17; Stats.1998, c. 673 (A.B.2417), § 4.)

§ 47616.7. Analysis of funding system for charter schools that offer nonclassroom-based instruction; funding approval process for nonclassroom-based instruction; evaluation of effectiveness

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.
(Added by Stats.2001, c. 892 (S.B.740), § 4.)

CHAPTER 5. UNIVERSITY CHARTER SCHOOLS

Section

47620. Elementary school at University of California at Los Angeles; application to become charter school.
47621. Method of application; petition to local school district's governing board.
47622. Method of application; petition to State Board of Education.
47623. State apportionments and funding.
47624. Continued ownership and liability by University of California.
47625. Operative date of charter.
47626. Public school employer.

§ 47620. Elementary school at University of California at Los Angeles; application to become charter school

An elementary school that has been operated by the University of California at the Los Angeles campus prior to January 1, 1994, may apply to become a charter school under this chapter. The school may apply under either Section 47621 or Section 47622. If a charter is granted under this chapter, the resulting charter school shall be part of the public school system.

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47621. Method of application; petition to local school district's governing board

An elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the governing board of the local school district and otherwise following the procedures and requirements contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610).

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47622. Method of application; petition to State Board of Education

As an alternative to Section 47621, an elementary school that meets the requirements of Section 47620 may apply to become a charter school by petitioning the State Board of Education. Under this section, the petition shall be signed by not less than 50 percent of the school's currently employed teachers. All other procedures and requirements, other than those prescribed in subdivision (a) of Section 47605, that are contained in Chapter 2 (commencing with Section 47605) and Chapter 3 (commencing with Section 47610) are applicable to a petition filed pursuant to this section except that references to "governing board" shall mean the State Board of Education.

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47623. State apportionments and funding

If an elementary school petitions either the governing board of the local school district or the State Board of Education to become a charter school, as specified in Section 47621 or 47622, that school shall receive state apportionments equal to the statewide average revenue limit for elementary schools plus funding as specified in paragraphs (2) and (3) of subdivision (a) of Section 47612.

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47624. Continued ownership and liability by University of California

If a charter is granted under this chapter, the University of California shall continue to own and be liable for the resulting charter school to the same extent as before the granting of the charter.

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47625. Operative date of charter

A charter granted pursuant to Section 47620 shall not become operative before July 1, 1995.

(Added by Stats.1994, c. 118 (S.B.819), § 1.)

§ 47626. Public school employer

(a) Notwithstanding Section 47611.5, a charter school operated by the University of California in facilities owned by the Regents of the University of California shall declare in its charter that it is the employer of the employees at the charter school for the purposes of Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code. The provisions of Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code shall apply to the charter school. A charter school operated by the University of California in facilities owned by the Regents of the University of California may not be deemed a public school employer for the purposes of this chapter.

(b) By March 31, 2000, an existing charter school operated by the University of California shall amend its charter to comply with this section.

(Added by Stats.1999, c. 828 (A.B.631), § 4.)

CHAPTER 6. FUNDING

ARTICLE 1. GENERAL PROVISIONS

Section

47630.	Legislative intent, findings, and declarations.
47630.5	Application of chapter; use of charter school funding method; additional responsibilities.
47631.	Application of Articles 2 and 3; pupils eligible for charter school by reason of parental request.
47632.	Definitions.
47632.5	Revenue limit funding; limitation.

§ 47630. Legislative intent, findings and declarations

(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.

(Added by Stats.1999, c 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47630.5. Application of chapter; use of charter school funding method; additional responsibilities

(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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47631. Application of Articles 2 and 3; pupils eligible for charter school by reason of parental request

(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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47632. Definitions

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 aid 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 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.

(Added by Stats. 1999, c. 78 (A.B. 1115), § 32.8, eff. July 7, 1999. Amended by Stats. 1999, c. 646 (A.B. 1600), § 23; Stats. 2003, c. 62 (S.B. 600), § 56; Stats. 2004, c. 896 (A.B. 2525), § 41, eff. Sept. 29, 2004; Stats. 2006, c. 79 (A.B. 1802), § 10, eff. July 19, 2006.)

§ 47632.5. Revenue limit funding; limitation

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.

(Added by Stats. 1999, c. 78 (A.B. 1115), § 32.8, eff. July 7, 1999.)

ARTICLE 2. CHARTER SCHOOL BLOCK GRANT

Section

47633.	Annual computation of general-purpose entitlement; use of funds.
47634.1	Computation of categorical block grant for 2005-06 fiscal year.
47634.2	Nonclassroom-based instruction; funding determinations and allocations.
47634.3	Computation of average daily attendance.
47634.4	Charter school's individual application for federal and state categorical programs.
47635.	Annual transfer of funding in lieu of property taxes.

§ 47633. Annual computation of general-purpose entitlement; use of funds

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.

(Added by Stats. 1999, c. 78 (A.B. 1115), § 32.8, eff. July 7, 1999.)

§ 47634.1. Computation of categorical block grant for 2005-06 fiscal year

(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 54022. 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 economic impact aid-eligible pupil count 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 economic impact aid-eligible 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 54022.

(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 economic impact aid-eligible pupil count 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 economic impact aid-eligible 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 54022.

(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 economic impact aid-eligible 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.

(Added by Stats. 2005, c. 359 (AB 740), § 4, eff. Sept. 28, 2005. Amended by Stats. 2006, c. 79 (A.B. 1802), § 11, eff. July 19, 2006.)

§ 47634.2. Non classroom based instruction; funding determinations and allocations

(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.

(Added by Stats.2001, c. 892 (S.B.740), § 5. Amended by Stats.2002, c. 664 (A.B.3034), § 62.)

§ 47634.3. Computation of average daily attendance

For purposes of Section 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.

(Added by Stats. 1999, c. 646 (A.B. 1600), § 23. Amended by Stats. 2005, c. 359 (AB 740), §5.)

§47634.4. Charter school's individual 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.

(Added by Stats. 2005, c. 359 (AB 740), §6, eff. Sept. 28, 2005. Amended by Stats. 2006, c. 517 (S.B. 1209), § 30; Stats. 2006, c. 730 (A.B. 1967), § 16.75.)

§ 47635. Annual transfer of funding in lieu of property taxes

(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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999. Amended by Stats.2001, c 586 (S.B.955), § 3, eff. Oct. 7, 2001.)

ARTICLE 3. OTHER OPERATIONAL FUNDING AVAILABLE TO CHARTER SCHOOLS

Section

47636. Application for funding under state or federal categorical programs.
47638. Lottery funds; allocation.

§ 47636. Application for funding under state or federal categorical programs

(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.

(Added by Stats. 2005, c. 359 (A.B. 740), §9, eff. Sept. 28, 2005, operative July 1, 2006.)

§ 47638. Lottery funds; allocation

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

ARTICLE 4. SPECIAL EDUCATION FUNDING

Section

- 47640. Local educational agency.
- 47641. Charter school deemed as local educational agency.
- 47642. State and federal funding; inclusion in allocation plan.
- 47643. Change in allocation plan.
- 47644. School deemed local educational authority; apportionment of funds.
- 47645. Agency review.
- 47646. Special education funding and services.
- 47647. Petition to establish charter school; review by local educational agency.

§ 47640. Local educational agency

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47641. Charter school deemed as local educational agency

(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).

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47642. State and federal funding; inclusion in allocation plan

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999. Amended by Stats.1999, c. 646 (A.B.1600), § 23.4.)

§ 47643. Change in allocation plan

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47644. School deemed local educational authority; apportionment of funds

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47645. Agency review

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47646. Special education funding and services

(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 56200) 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 plan.

(2) Any necessary special education services, including administrative and support services and itinerant services, that is 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 56200) 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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999. Amended by Stats.1999, c. 646 (A.B.1600), § 23.5; Stats.2002, c. 117 (S.B.1708), § 1; Stats. 2007, c. 56 (A.B. 685), § 2.)

§ 47647. Petition to establish charter school; review by local educational agency

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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

ARTICLE 5. APPORTIONMENT OF FUNDS

Section

47650. Charter school deemed a school district; total amount certified.
47651. Receipt of state aid; method.
47652. Charter school in first year of operation; addition of grade levels in subsequent years; funding for advance apportionment; commencement of instruction.

§ 47650. Charter school deemed a school district; total amount certified

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. *(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)*

§ 47651. Receipt of state aid; method

(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. *(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)*

§ 47652. Charter school in first year of operation; addition of grade levels in subsequent years; funding for advance apportionment; commencement of instruction

(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 of Education, estimated average daily attendance shall be approved by, and submitted directly to, and approved by, the State Department of Education. 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 of Education its actual average daily attendance for that first month, and the Superintendent of Public Instruction 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.

(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.

(Added by Stats.1999, c. 646 (A.B.1600), § 23.6. Amended by Stats.2000, c. 71 (S.B.1667), § 15, eff. July 5, 2000; Stats.2002, c. 1058 (A.B.1994), § 12; Stats. 2006, c. 139 (S.B. 604), § 1.)

ARTICLE 6. COMPUTATIONS AFFECTING SPONSORING LOCAL EDUCATIONAL AGENCIES

Section

- 47660. Enrollment and average daily attendance; general purpose entitlement determination.
- 47662. Property tax revenues; reduction.
- 47663. Pupil eligible to attend school district other than basic aid school district; apportionment of revenue; eligibility for pro rata share of funding.
- 47664. Election to use funding method provided for by this chapter.

§ 47660. Enrollment and average daily attendance

(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 of a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b)(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 that school district that converted to charter status on or after 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 operating 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. 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.

(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 the unified school district 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 the unified school district 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 for a school within the unified school district that converted to charter status on or after July 1, 2005, shall be deemed to be the amount computed pursuant to subdivision (c).

(e) A unified school district that is the sponsoring local educational agency as defined in subdivision (i) of Section 47632 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).

(h) For purposes of this section and Section 42241.3, "operating" means that pupils are attending, and receiving instruction at the charter school.

(Added by Stats. 1999, c. 78 (A.B. 1115), § 32.8, eff. July 7, 1999. Amended by Stats. 1999, c. 646 (A.B. 1600), § 23.7; Stats. 2005, c. 355 (S.B. 319), §2; Stats. 2006, c. 538 (S.B. 1852), § 112; Stats. 2006, c. 730 (A.B. 1967), § 17.)

§ 47662. Property tax revenues; reduction

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.
(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

§ 47663. Pupil eligible to attend school district other than basic aid school district; apportionment of revenue; eligibility for pro rata share of funding

(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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999. Amended by Stats.2001, c. 586 (S.B.955), § 4, eff. Oct. 7, 2001.)

§ 47664. Election to use funding method provided for by this chapter

(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.

(Added by Stats.1999, c. 78 (A.B.1115), § 32.8, eff. July 7, 1999.)

OTHER APPLICABLE PROVISIONS OF CODE
CALIFORNIA EDUCATION CODE

PART 1, CHAPTER 2. EDUCATIONAL EQUITY
ARTICLE 6. ALTERNATIVE SCHOOLS, CHARTER SCHOOLS, AND SCHOOL CHOICE

§ 235. Prohibition of discrimination

There shall be no discrimination on the basis of the characteristics listed in Section 220 in any aspect of the operation of alternative schools or charter schools.

(Formerly § 58508, added by Stats. 1976, c. 1010, § 2. Renumbered § 235 and amended by Stats. 1998, c. 914 (A.B. 499), § 48. Amended by Stats. 2007, c. 569 (S.B. 777), § 13.)

PART 2, CHAPTER 2. COUNTY SUPERINTENDENTS OF SCHOOLS
ARTICLE 2. DUTIES, RESPONSIBILITES, AND GENERAL POWERS

§ 1241.5. Audit by County Superintendent

(a) At any time during a fiscal year, the county superintendent may audit the expenditures and internal controls of school districts he or she determines to be fiscally accountable, and shall conduct this audit in a timely and efficient manner. The county superintendent shall report the findings and recommendation to the governing board of the district within 45 days of completing the audit. The governing board shall, no later than 15 days after receipt of the report, notify the county superintendent of schools of its proposed actions on the county superintendent's recommendation. Upon review of the governing board report, the county superintendent, at his or her discretion, may revoke the authority for the district to be fiscally accountable pursuant to Section 42650.

(b) At any time during a fiscal year, the county superintendent may review or audit the expenditures and internal controls of any school district in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner. The county superintendent shall report the findings and recommendations to the governing board of the school district at a regularly scheduled school district board meeting within 45 days of completing the review, audit, or examination. The governing board of the school district shall, no later than 15 calendar days after receipt of the report, notify the county superintendent of its proposed actions on the county superintendent's recommendations. Upon review of the school district governing board report, the county superintendent, at his or her discretion, and consistent with law, may disapprove an order for payment of funds consistent with Section 42638.

(c) At any time during a fiscal year, the county superintendent may review or audit the expenditures and internal controls of any charter school in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The Review or audit conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner. The county superintendent shall report the findings and recommendations to the governing board of the charter school at a regularly scheduled meeting, and provide a copy of the information to the chartering authority of the charter school, within 45 days of completing the review, audit, or examination. The governing board of the charter school shall, no later than 15 calendar days after receipt of the report, notify the county superintendent and its chartering authority of its proposed response to the recommendations.

(Amended by Stats. 2005, c. 357 (SB 430), §1.)

PART 10, CHAPTER 12.5. LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998
ARTICLE 12. CHARTER SCHOOLS

§ 17078.52. Charter Schools Facilities Program; establishment; Charter Schools Facilities Accounts; definitions; transfer of funds

(a) There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.

(b)(1) The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(2) The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(3) The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) As used in this article, the following terms have the following meanings:

(1) "Authority" means the California School Finance Authority established pursuant to Section 17172.

(2) "Account" means the pertinent account established under subdivision (b).

(3) "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the applicable requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Section 17078.22 to 17078.30, inclusive.

(4) "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at least 24 months of documented experience, as measured by criteria established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

(d) The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 8; Stats. 2006, c. 35 (A.B. 127), § 6, eff. May 20, 2006, operative Nov. 7, 2006.)

§ 17078.53. Initial preliminary applications; deadline; subsequent application periods; submission of preliminary applications; contents; consideration; approval; pupil attendance

(a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

(g)(1) The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2)(A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 9; Stats. 2006, c. 35 (A.B. 127), § 7, eff. May 20, 2006, operative Nov. 7, 2006; Stats. 2007, c. 130 (A.B. 299), § 53.)

§ 17078.54. New construction or rehabilitation funding; maximum amount of funding under this article; requirements; local share matching obligations; administrative costs

(a) An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

(b) The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

(c) To be funded under this article, a project shall comply with all of the following:

(1) It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

(2) Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section 17281 which shall be complied with in the same manner as any other project under this chapter.

(3) The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.

(d) Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.

(e) The authority may charge its administrative costs against the respective 2002, 2004, or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 10; Stats. 2006, c. 35 (A.B. 127), § 8, eff. May 20, 2006, operative Nov. 7, 2006.)

§ 17078.56. Approval of projects; criteria; preference

(a) The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments only to financially sound applicants in accordance with all of the following criteria:

(1) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.

(2) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.

(3) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.

(4) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicants throughout the state.

(b) While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 11; Stats. 2006, c. 35 (A.B. 127), § 9, eff. May 20, 2006, operative Nov. 7, 2006.)

§ 17078.57. Adoption of regulations

(a) The authority, in consultation with the board, shall adopt regulations establishing uniform terms and conditions that shall apply equally to all projects for funding in accordance with Section 17078.58, including, but not limited to, all of the following:

(1) The process for determining the manner in which the applicant will pay its local matching share, including the method for determining lease payments to be made in lieu of the local matching share. The regulations shall comply with all of the following criteria:

(A) The payment process set forth in Section 17199.4 may be used.

(B) The payment process shall permit lump-sum local matching payments and shall permit establishment of a schedule for lease payments to be made in lieu of the local matching share.

(C) The lease payment schedule shall be calculated by amortizing one-half of the total approved project costs, minus lump-sum payments, over the entire payment period as set forth in Section 17078.58.

(D) The payment schedule for payments in lieu of the local matching funds pursuant to this section shall be based upon payment, within a reasonable period of time not to exceed a 30-year period, of one-

half of the total eligible project costs, and shall be calculated in a manner that is designed to result in full payment of that portion, together with interest thereon at a rate set by the authority. The interest rate shall be set using the lower of the following:

(i) The rate paid on moneys in the Pooled Money Investment Account as of the date of disbursement of the funding.

(ii) A rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, and the interest rate shall be computed according to the true interest cost method.

(E) Notwithstanding paragraph (D), the authority shall not set the interest rate on a loan at a rate lower than 2 percent. Program participants that have locked in an interest rate before January 1, 2009, may reset their payment schedule based on the interest rate set pursuant to subparagraph (D) as of January 1, 2009. Program participants executing an agreement on and after January 1, 2009, shall have their interest rate set at the time the funding agreement is executed and shall not renegotiate interest rates without prior approval of the authority.

(2) The method for determining whether a charter school is financially sound. In the case of a charter school chartered by a school district that is located outside of the school district that chartered it, the method developed by the authority shall include, but shall not be limited to, a site visit to the school facility currently being used by the charter school during hours when pupils are present and instruction is being provided.

(3)(A) Security provisions, including, but not limited to, the requirement that title to project facilities be held by the school district in which the facility is to be physically located, in trust, for the benefit of the state public school system.

(B) The authority shall adopt a mechanism whereby a person or entity who provides a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of as set forth in paragraph (5) of subdivision (b) of Section 17078.62.

(4) The method for integrating funding pursuant to this article with the general procedures of the authority pursuant to subdivision (i) of Section 17180 for otherwise funding projects eligible for funding under this chapter, if appropriate.

(b) The authority may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 12; Stats. 2008, c. 273 (A.B. 2033), § 1.)

§ 17078.58. Maximum amount of funding; collection of local share equivalent in the form of lease payments

(a) Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility as set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs, as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed

the maximum costs that would otherwise be allowable for a new construction project funded under this article.

(b) The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

(c) Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

(d) When a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004, or 2006 Charter School Facilities Account for use by the board for any purpose related to charter school facilities pursuant to this article. *(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 13; Stats. 2006, c. 35 (A.B. 127), § 10, eff. May 20, 2006, operative Nov. 7, 2006.)*

§ 17078.62. Continued use of facility; effect of ceasing to utilize facility for charter school purposes

(a) As a first priority, the existing charter school shall be permitted to continue to use the facility until it is no longer needed by the charter school for charter school purposes.

(b) If the charter school occupying a facility funded pursuant to this article ceases to utilize the facility for a charter school purpose, all of the following apply:

(1) If the charter school is no longer using the facility because the school district in which the charter school is located has revoked or declined to renew the charter, the school district, as a necessary component of the first priority established in subdivision (a), may not immediately occupy the facility, but shall allow a reasonable time, not to exceed six months, for completion of the review process contemplated in Section 47607 or 47607.5.

(2) As a second priority, any qualifying successor charter school shall be permitted to meet its facility needs by occupying the facility on equal terms as the prior charter school occupant.

(3) As a third priority, the school district in which the charter school is physically located may notify the authority and take possession of the facility and make the facility available for continued use as a public school facility.

(4) If the school district in which the charter school is physically located elects to take possession of a facility pursuant to paragraph (3), it shall pay the balance of the unpaid local matching share or demonstrate that it is willing and able to continue to make the lease payments in lieu of the local matching share on the same terms. However, the payments shall be reduced or eliminated, as appropriate, if the school district complies with all of the following:

(A) It demonstrates that it would have been eligible for hardship funding under Article 8 (commencing with Section 17075.10) at the time that the application for funding the facility under this article was originally submitted.

(B) It certifies to the board that it will utilize the facilities for public school purposes for a period of at least five years from the date that it occupies the facility.

(5) If the school district declines to take possession pursuant to paragraph (3), or if the facility is subsequently no longer needed for public school purposes, the school district shall dispose of the facilities in a manner otherwise applicable to the disposal of surplus public schoolsites. Any unpaid

matching share shall be paid from the net proceeds, if any, of the disposition and shall be deposited into the respective 2002 or 2004 Charter School Facilities Account. To the extent that funds remain from the proceeds of the disposition after repayment of the local matching share, any security interest granted to a person or entity pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 17078.57 shall be satisfied.

(6) If the lease payments in lieu of the local matching share are fully paid, the school district shall continue to hold title to the facility, in trust, for the benefit of the state public school system. The school district shall permit continued use of the facility for charter school purposes as long as the facility is needed for those purposes.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 14.)

§ 17078.64. Election to use general funding provisions of this chapter rather than this article; adoption of regulations to implement this article; application of article.

(a) In lieu of applying for funding under this article, a school district may elect to include facilities for a charter school that would be physically located within its geographical jurisdiction within its application for funding pursuant to the general provisions of this chapter, other than this article. However, the project would be outside the scope of this article, would not be subject to its provisions, and shall comply with this chapter in the same manner as any noncharter project. Any per-pupil eligibility that is used for that project shall not, also, support any project under this article.

(b) Except for those provisions in which the authority is expressly required or authorized to adopt regulations pursuant to this article, the board in consultation with the authority shall adopt regulations to implement this article. The board may adopt, amend, or repeal rules and regulations pursuant to this article as emergency regulations. Until July 1, 2004, the adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

(c) This article is not applicable to projects funded with the proceeds of state general obligation bonds approved by the voters prior to January 1, 2002.

(Added by Stats. 2002, c. 935 (A.B. 14), § 14. Amended by Stats. 2003, c. 587 (S.B. 15), § 16.)

§ 17078.66. Joint report to State Allocation Board and California School Finance Authority

The State Allocation Board and the California School Finance Authority shall jointly report to the Legislature by July 1, 2005, regarding all of the following:

(a) The implementation of this article, including, but not limited to, a description of the projects funded pursuant to this article from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(b) A description of the process whereby the board provides funding for charter school facilities under provisions of this chapter other than this article.

(c) Recommendations, if any, regarding statutory changes needed to facilitate and streamline the process described in subdivision (b).

(Added by Stats. 2003, c. 587 (S.B. 15), § 16.)

PART 10, CHAPTER 18.
CALIFORNIA SCHOOL FINANCE AUTHORITY

§ 17170. Short title

This chapter shall be known and may be cited as the California School Finance Authority Act.
(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17171. Legislative findings

The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts, charter schools, and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 1.)

§ 17172. Establishment of authority

There is in the state government the California School Finance Authority. The authority is a public instrumentality, and the exercise by the authority of the powers conferred by this chapter is an essential public function.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17173. Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with the board's consent, on behalf of one or more school districts for any purpose of this chapter, the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with the Board of Governors' consent, on behalf of one or more community college districts for any purpose of this chapter, and the school district, county office of education, or other chartering entity acting with the consent of, and on behalf of, one or more charter schools for any purpose of this chapter.

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) "Bonds" or "revenue bonds" means bonds, notes, lease obligations, certificates of participation, commercial paper, and any other evidences of indebtedness.

(e) "Cost," as applied to all or part of a project financed or refinanced pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing or refinancing charges, including, but not limited to, credit enhancement costs, and prepayment penalties.

(6) Interest prior to, during, and for a period following, the completion of any construction or improvement determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing or refinancing under this chapter.

(f) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools, including charter schools, or community colleges, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.

(3) Student centers.

(4) Administrative offices.

(5) Sports facilities.

(6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) "Participating party" means a school district, charter school, county office of education, or community college district that undertakes, itself or through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. "Participating party" shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district, charter school, county office of education, or community college district for any purpose of this chapter.

(h) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating parties.

(i) "Working capital" means funds to be used by, or on behalf of, a participating party to pay maintenance or operating expenses, or any other costs that would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.

(2) Interest for a period not to exceed two years on any loan for working capital made pursuant to this chapter.

(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

(4) Payments made by a participating party for the rent or lease of an educational facility.

(j) "Certificate of participation" means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating party or parties.

(k) "Charter school" means a school established pursuant to Part 26.8 (commencing with Section 47600). *(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 2.)*

§ 17174. Composition of authority; representatives of members; reimbursement of expenses

(a) The authority shall be comprised of the following members:

(1) The Treasurer, who shall serve as chairperson.

(2) The Director of the State Department of Finance.

(3) The Superintendent of Public Instruction.

(b) Each member of the authority may designate an individual from the member's department or agency to act for the member and represent the member at all meetings.

(c) Members of the authority or their designees shall serve without compensation, but may be reimbursed by the authority for necessary and reasonable expenses incurred in the discharge of their duties. *(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)*

§ 17175. Vice chairperson and secretary-treasurer; executive director

(a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

(b) On behalf of the authority, the chairperson shall appoint an executive director, who shall not be a member of the authority, and who shall serve at the pleasure of the authority. The executive director shall

receive the compensation fixed for that purpose by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.
(Added by Stats.1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17176. Legal counsel

(a) Except as otherwise provided by subdivision (b), the Attorney General shall be the legal counsel for the authority.

(b) Upon the approval of the Attorney General, which shall not be unreasonably withheld, the authority may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions of the authority pursuant to this chapter, including, but not limited to, the employment of bond counsel in connection with the issuance of bonds.

(Added by Stats.1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17177. Records and documents

The executive director or other person designated by resolution of the authority shall maintain a record of the proceedings of the authority, and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or the designee may cause copies to be made of all minutes and other records and documents of the authority, and may certify under the official seal of the authority that the copies are true copies, and all persons dealing with the authority may rely upon that certification.

(Added by Stats.1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17178. Quorum; open meetings; resolutions; delegation of powers and duties

Two members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director any powers and duties as it may deem proper.

(Added by Stats.1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17179. Administration of chapter; necessary powers

The provisions of this chapter shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this chapter.

(Added by Stats.1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17180. Powers of authority

The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed or refinanced under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating party as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating party as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state that the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating party as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating party, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, or purchase all or part of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Section 17070.10). The purchase of all or part of any rights to, or possibilities regarding, the state contribution for funding for school facilities approved by the State Allocation Board shall be limited to amounts approved and funded or amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued. Loans or purchases completed pursuant to this section may be used to finance or refinance a project or provide working capital. A loan to finance or refinance a project shall not exceed the total cost of the project, as determined by the participating party and approved by the authority.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed or refinanced pursuant to this chapter to a participating party, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating party of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the participating party's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating parties its administrative costs and expenses incurred pursuant to this chapter.

(l)(1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating party.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

(o) Adopt guidelines for grants, bonds, and other evidences of indebtedness.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 1999, c. 718 (A.B. 636), § 1, eff. Oct. 10, 1999; Stats. 2000, c. 193 (A.B. 2586), § 1; Stats. 2006, c. 325 (A.B. 2717), § 3.)

§ 17180.5. Duties relating to funding for facilities for charter school pupils; controlling provisions

(a) In addition to the powers authorized pursuant to Section 17180, the authority shall perform its duties under the Charter School Facilities Program to provide funding for facilities for charter school pupils as set forth in Article 12 (commencing with Section 17078.50) of Chapter 12.5.

(b) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 17197, with regard to the authority's implementation of funding for charter school facilities, Article 12 (commencing with Section 17078.50) shall control over conflicting provisions, if any, in this chapter.

(Added by Stats. 2006, c. 935 (A.B. 14), § 15.)

§ 17181. California school finance authority fund

(a) The California School Finance Authority Fund is hereby created in the State Treasury, to be administered by the authority. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds pursuant to this chapter. For that purpose, or as necessary or convenient to the accomplishment of any other purpose of this chapter, the authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this chapter from any source shall be deposited in the fund.

(b) Subject to any priorities created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and to reasonable administrative costs incurred by the authority in implementing this chapter, all moneys in the fund, regardless of the source, shall be held in trust for the security and payment of bonds of the authority, and shall not be used or pledged for any other purpose while any bonds are outstanding and unpaid. Nothing in this subdivision shall be construed to limit the power of the authority to make loans with bond proceeds in accordance with the terms of the resolution authorizing the issuance of those bonds.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage the assets, revenues, or moneys in the manner prescribed by the agreements.

(d) From time to time, the authority may direct the Treasurer to do any of the following:

(1) Invest moneys in the fund which are not required for its current needs, including, but not limited to, proceeds from the sale of any bonds in eligible securities specified in Section 16430 of the Government Code and designated by the authority, or in any other securities or obligations designated by the authority, in the resolution authorizing the issuance of the bonds payable or secured by the moneys.

(2) Deposit moneys in the fund in interest bearing accounts in state or national banks or other financial institutions having principal offices in the state.

(3) Transfer moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 4 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest or other earnings resulting from an investment or deposit pursuant to this subdivision shall be deposited in the fund.

(e) Except as otherwise provided in paragraph (3) of subdivision (d), no moneys in the fund shall be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17182. Expenses; funds; loans

(a) Except as otherwise provided in subdivision (b), all expenses incurred by the authority in implementing this chapter shall be payable solely from funds appropriated for purposes of this chapter, and the authority shall not incur liabilities in excess of the amount of those funds.

(b) The authority may request a loan by the Pooled Money Investment Board from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, and may execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. The loan shall be deposited in the fund for the purposes of carrying out the provisions of this chapter. The amount of the loan shall not exceed the amount of the unsold bonds that the authority by resolution, has authorized to be sold for the purposes of this chapter.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17183. Revenue bonds; issuance; source of payment; sale; immunity from personal liability; purchase by authority; other means of financing; commercial paper

(a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

- (1) A single project or financing of working capital for a single participating party.
- (2) A series of projects or financings of working capital for a single participating party.
- (3) A single project or financing of working capital for several participating parties.
- (4) Several projects or financing of working capital for several participating parties.
- (5) A joint venture school facilities construction project undertaken pursuant to Article 5 (commencing with Section 17060) of Chapter 12.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

- (1) The date or dates of the bonds.
- (2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.
- (3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.
- (4) When the bonds are payable.
- (5) The denominations of the bonds.
- (6) The form of the bonds, which shall be either bearer or registered.
- (7) The registration privileges of the bonds.
- (8) The manner in which the bonds are to be executed.
- (9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating party or parties, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds that shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing that statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the participating party or parties. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

(k) The authority may by resolution issue its revenue bonds in the form of commercial paper.
(Formerly § 17883, added by Stats. 1997, c. 893 (S.B. 161), § 93. Renumbered § 17183 and amended by Stats. 1998, c.485 (A.B. 2803), § 48. Amended by Stats. 2006, c. 325 (A.B. 2717), § 4.)

§ 17183.5. Financial feasibility of project

In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating party to be financially feasible. In demonstrating financial feasibility, the participating party may take into account all of its funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be construed to imply that any project is required to produce revenue in order to be financed under this chapter.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 5.)

§ 17184. Revenue bonds; trust agreements, indentures, or resolution security provisions

(a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating party or parties.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 6.)

§ 17185. Revenue bonds; not liability or pledge of faith and credit of state or political subdivision

(a) Notwithstanding any other provision of law, revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 7.)

§ 17186. Revenue bonds; right of action to enforce rights or duties

(a) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any rights conferred under state law, by this chapter, or under the terms of any trust agreement, indenture, or resolution, except to the extent that these rights may be otherwise restricted by any resolution authorizing the issuance of these bonds, or by any trust agreement or indenture securing these bonds.

(b) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may enforce and compel the performance of all duties required under this chapter, or by any trust agreement, indenture, or resolution, to be performed by the authority, or by any officer, employee, or agent of the authority.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17187. Moneys received as trust funds; depository as trustee

All moneys received under this chapter, whether received as proceeds from the sale of revenue bonds or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer, bank, or trust company with whom those moneys have been deposited, shall act as trustee of those moneys and shall hold and apply them for those purposes, subject to the requirements of this chapter and the resolution authorizing the bonds of any issue, or the trust agreement or indenture securing those bonds, may provide.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17188. Revenue bonds; issuance; use of proceeds

(a) The authority may provide for the issuance of the revenue bonds of the authority for the purpose of refunding any bonds, or any series or issue of the revenue bonds of the authority then outstanding, and may include the payment of any redemption premium for those bonds and any interest accrued or to accrue to the date of redemption and purchase or maturity of those bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity of the outstanding bonds on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof, or paid to a third person to assume the authority's obligation to make those payments, and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on any date or dates as may be determined by the authority.

(c) Any escrowed proceeds, pending such use may be invested and reinvested in obligations or securities authorized by resolution of the authority, maturing at any time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any investment may also be applied to the payment of the outstanding bonds to be so refunded or of interest in the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest, income profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) All refunding bonds are subject to the provisions of this chapter, in the same manner and to the same extent, as other bonds issued pursuant to this chapter.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17189. Revenue bonds; legal investments; legal deposits

(a) Revenue bonds issued by the authority under this chapter shall be designated as securities in which all banks, bankers, savings banks, trust companies, and other persons engaged in a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; any administrators, executors, guardians, trustees, and other fiduciaries; and any other persons who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(b) Revenue bonds issued by the authority under this chapter, other notes or securities, or obligations are hereby made securities which may properly and legally be deposited with, and received by, any state or municipal officer, or agency of the state for any purpose for which the deposit of bonds or other obligations of the state are, or may hereafter be, authorized by law.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17190. Freedom from taxation; bonds; property and income of authority

(a) Any bonds issued under this chapter, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(b) The authority is not required to pay any taxes or assessments upon, or with respect to, any project or property acquired by or for the authority under this chapter, or upon any income therefrom, or on or from any other assets or operations of the authority.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17191. State pledged to fulfill bond agreements and not impair rights or remedies

(a) The State of California pledges and agrees with the holders of the bonds issued pursuant to this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the authority to finance educational facilities. The State of California pledges and agrees to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, and pledges and agrees not to impair the

rights or remedies of the holders of any revenue bonds or any parties until the bonds, together with interest, are fully paid and discharged and any contracts are fully performed on the part of the authority.

(b) The authority shall have the right to include the pledges made pursuant to this section in its revenue bonds and contracts.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17192. Pledges

(a) Pledges by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, or other rights to payment of any other kind made by or to the authority pursuant to this chapter shall be valid and binding from the time the pledge is made for the benefit of the pledges, and the successors thereto.

(b) The revenues, moneys, accounts, accounts receivable, and other rights to payment of any other kind pledged by or to the authority or its assignees, shall immediately be subject to the lien of the pledge without physical delivery, or any further act. The lien of any pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The trust agreement, indenture, resolution, or other instrument by which any pledge is created need not be recorded.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17193. Rents; pledge of revenues; additional revenue bonds; leases or agreements with participating parties

(a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating party, and each agreement, note, or other instrument evidencing the obligations of a participating party to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating party shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves that may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating party for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds that may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating party may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 8.)

§ 17193.5. Public credit provider; credit enhancement for evidences of indebtedness; required conditions; apportionment

(a) For purposes of this section, "public credit provider" means any financial institution or combination of financial institutions, that consists either solely, or has as a member or participant, a public retirement system. Notwithstanding any other provision of law, a public credit provider may, in connection with providing credit enhancement for bonds, notes, certificates of participation, or other evidences of indebtedness of a participating party, require the participating party to agree to the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, notes, certificates of participation, or other evidence of indebtedness and identify the public credit provider that provided credit enhancement. The notice shall be provided not later than the date of issuance of the bonds.

(2) If, for any reason a public credit provider is required to make principal or interest payments or both pursuant to a credit enhancement agreement, the public credit provider shall immediately notify the Controller of that fact and of the amount paid out by the public credit provider.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the public credit provider in the amount of the payments made by the public credit provider for the purpose of reimbursing the public credit provider for its expenditures made pursuant to the credit enhancement agreement. The Controller shall make that apportionment only from moneys designated for apportionments to a school district pursuant to Section 42238 or to a county office of education pursuant to Section 2558 or to the community college district pursuant to Section 84750, or in the case of a charter school, pursuant to Section 47633.

(b) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) or Section 8 of Article XVI of the California Constitution. For purposes of computing revenue limits or revenue levels pursuant to Section 42338 for any school district or pursuant to Section 2558 for any county office of education or pursuant to Section 84750 for any community college district, the revenue limit or revenue level for any fiscal year in which funds are apportioned for the district or for the county office of education pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraph (3) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) of subdivision (a). *(Added by Stats. 1998, c. 1076 (S.B. 2126), § 1. Amended by Stats. 2006, c. 325 (A.B. 2717), § 9.)*

§ 17194. Participating party as agent for authority

The authority may authorize any participating party to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. The authorizations may include, but are not necessarily limited to, all of the following:

(a) The selection of school or college sites.

(b) The securing of appraisals.

(c) Contracts for architectural services.

(d) The advertisement for construction bids and the entry into contracts for construction.

(e) The purchase of furniture and equipment.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 10.)

§ 17195. Release of interest in project to participating parties

Whenever the principal and interest on bonds issued by the authority to finance the cost of a project or working capital, or to refinance the outstanding indebtedness of one or more participating parties, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating parties.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 2006, c. 325 (A.B. 2717), § 11.)

§ 17196. Applicability of other laws

(a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt a project from any of the requirements of law which are otherwise applicable to the project.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17197. Inconsistency with other laws

To the extent that the provisions of this chapter are inconsistent with any other provisions of any general statute, or a special act or parts thereof, the provisions of this chapter shall be deemed controlling.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17198. Net earnings of authority beyond that necessary to retire obligations

Any net earnings of the authority beyond that necessary for the retirement of any obligations issued by the authority, or to implement the purposes of this chapter, may inure only to the benefit of the State of California or the authority.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17199. Dissolution of authority; disposition of property

Upon the dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if the successor authority meets the requirements of Section 103 of the federal Internal Revenue Code of 1954, as amended, and its implementing regulations, as an authority entitled to issue obligations on behalf of the State of California, the interest from which is

exempted from federal income taxation. In the event that a successor authority is not created, title to all property owned by the authority shall vest in the State of California.
(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17199.1. Financing agreements with authority; liquidity or credit enhancement; agents; applicability of other laws

(a) Any participating party, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance, by the authority, of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may:

(1) sell to the authority all or part of any rights to or possibilities regarding the state's share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Sec. 17070.10) including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued;

(2) issue bonds to the authority; or

(3) borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, in each case at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other transfer, assignment, payment, security, default, remedy, and other terms or provisions as may be specified in the sale of rights agreement or the bonds of the participating party or a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating party, subject to the following conditions:

(A) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other funds received by the participating party, which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the participating party.

(B) In computing the maximum amount that may be borrowed in any fiscal year pursuant to subparagraph (A), the participating party may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the participating party which has a term scheduled to terminate during that fiscal year.

(C) A participating party that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan, including interest, within 15 months of the loan date.

(D) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cashflow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating party must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating party will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating party may take into account all funds received by the participating party and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Notwithstanding Sections 700, 703, and 1045 of the Civil Code, the rights and possibilities that a participating party may have or obtain in the future to an approved state contribution to funding for school facilities pursuant to Chapter 12.5 (commencing with Sec. 17070.10) that remains unfunded pending the issuance of state bonds already authorized by the electors shall constitute property for all purposes and may be transferred as provided in subdivision (a). In the case of any transfer or assignment of rights or

possibilities relating to funds for which bonds have been approved by the voters but are not yet available, the transfer or assignment shall be approved by resolution of the State Allocation Board prior to becoming effective.

(c) Any participating party may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any participating party or parties may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, note, installment sale, lease, or other agreement of the participating party.

(d) A school district may by resolution authorize any county or city board of education or superintendent of schools, a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, and a charter school may by resolution authorize its chartering entity or educational management organization, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district, charter school, or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent on behalf of the school district, charter school, or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district, charter school, or community college district, to the same extent as if duly authorized, executed, and delivered by the school district, charter school, or community college district.

(e) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the sale or transfer of any rights to or possibilities regarding the state share of funding for school facilities approved by the State Allocation Board including amounts apportioned and funded and amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued, issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the transfer of any rights to or possibilities regarding the state contribution for funding for school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10), including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued, or the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district, charter school, or community college district, or by a county or city board of education or superintendent of schools, or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges, or the governing board of a charter school, chartering entity, or educational management organization. *(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998. Amended by Stats. 1999, c. 718 (A.B. 636), § 2, eff. Oct. 10, 1999; Stats. 2000, c. 193 (A.B. 2586), § 2; Stats. 2006, c. 325 (A.B. 2717), § 12.)*

§ 17199.2. Actions to determine validity of authority proceedings

An action may be commenced under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds, the loan of the proceeds thereof, the sale, purchase, or lease of facilities under this chapter, or the legality and validity of any proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds, for the use of the proceeds thereof, or for the payment of the principal and interest thereon.

(Added by Stats. 1996, c. 277 (S.B. 1562), § 2, operative Jan. 1, 1998.)

§ 17199.3. Amount of revenue bonds outstanding; restriction

(a) The total amount of revenue bonds which may be issued and outstanding at any time for purposes of this chapter, other than those revenue bonds issued under Section 17199.4, shall not exceed four hundred million dollars (\$400,000,000).

(b) The total amount that may be outstanding at any time under this chapter, for purposes of Section 17199.4 only, shall not exceed four billion dollars (\$4,000,000,000).

(c) For purposes of subdivisions (a) and (b), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17188.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

(Added by Stats. 1997, c. 893 (S.B. 161), § 94. Amended by Stats. 1998, c. 741 (A.B. 89), § 1.)

§ 17199.4. Financing of projects; guarantee or payment of bonds under specified conditions; application to authority; priorities; report to legislature

(a) Notwithstanding any other law, any participating party, in connection with securing financing or refinancing of projects, or working capital pursuant to this chapter, may elect to guarantee or provide for payment of the bonds in accordance with the following conditions:

(1) If a participating party adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, and any other costs necessary or incidental to financing pursuant to this chapter, and identify a trustee appointed by the participating party or the authority for purposes of this section. The notice shall be provided not later than the date of issuance of the bonds or 60 days prior to the next payment, whichever date is later. The participating party shall update the notice at least annually if there is a change in the required payment for any reason, including, but not limited to, providing for new or increased costs necessary or incidental to the financing.

(2) If, for any reason, the participating party will not make a payment at the time the payment is required, the participating party shall notify the trustee of that fact and of the amount of the deficiency. If the trustee receives this notice from the participating party, or does not receive any payment by the date that payment becomes due, the trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee on the date shown in the schedule in the amount of the deficiency for the purpose of making the required payment. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to a school district pursuant to Section 42238 or to the county office of education pursuant to Section 2558, or in the case of a charter school, pursuant to Section 47633.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating party may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation in paragraph (3), make apportionments to the

trustee of those amounts on the specified date for the purpose of making those transfers. The authority may require a participating party to proceed under this subdivision.

(b)(1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) For purposes of computing revenue limits pursuant to Section 42238 for any school district or pursuant to Section 2558 for any county office of education, the revenue limit for any fiscal year in which funds are apportioned for the participating party pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a).

(3) For the purposes of computing the general-purpose entitlement of a charter school pursuant to Section 47633, that entitlement shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a). The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned to the trustee by the Controller pursuant to paragraph (3) and (4) of subdivision (a), or to the funds apportioned to by the Controller to the trustee under any other provision of this section.

(c)(1) Participating parties that elect to participate under this section shall apply to the authority. The authority shall consider each of the following priorities in making funds available:

(A) First priority shall be given to school districts, charter schools, or county offices of education that apply for funding for instructional classroom space.

(B) Second priority shall be given to school districts, charter schools, or county offices of education that apply for funding of modernization of instructional classroom space.

(C) Third priority shall be given to all other eligible costs, as defined in Section 17173.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for the purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(d) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California Constitution or otherwise, except as expressly provided in this section.

(e) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

(Added by Stats. 1997, c. 893 (S.B. 161), § 95. Amended by Stats. 1998, c. 741 (A.B. 89), § 2; Stats. 2006, c. 325 (A.B. 2717), § 13.)

§ 17199.5. Credit enhancement agreement; payment by public credit provider; apportionment allocation

Notwithstanding Section 17199.4, if the bonds were subject to a credit enhancement agreement provided by a public credit provider pursuant to Section 17193.5 for which a payment for principal or interest, or both, has been made by the public credit provider, the Controller shall allocate to the public credit provider, rather than the trustee, the percentage of the apportionment to be made pursuant to this paragraph equal to the percentage of the outstanding indebtedness which is subject to the credit enhancement agreement.

(Added by Stats. 1998, c. 1076 (S.B. 2126), § 2.)

PART 10.5, CHAPTER 1. SCHOOLSITES
ARTICLE 1. GENERAL PROVISIONS

§ 17215. Site near airport

(a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of schoolsites, before acquiring title to or leasing property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, or a charter school, shall give the State Department of Education written notice of the proposed acquisition or lease and shall submit any information required by the State Department of Education if the site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.

(b) Upon receipt of the notice required pursuant to subdivision (a), the State Department of Education shall notify the Department of Transportation in writing of the proposed acquisition or lease. If the Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition or lease for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

(c) The Department of Transportation shall investigate the site and, within 30 working days after receipt of the notice, shall submit to the State Department of Education a written report of its findings including recommendations concerning acquisition or lease of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the site. The Department of Transportation shall adopt regulations setting forth the criteria by which a site will be evaluated pursuant to this section.

(d) The State Department of Education shall, within 10 days of receiving the Department of Transportation's report, forward the report to the governing board of the school district or charter school. The governing board or charter school may not acquire title to or lease the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition or lease of the property for a schoolsite or an addition to a present schoolsite, the governing board or charter school may not acquire title to or lease the property. If the report does favor the acquisition or lease of the property for a schoolsite or an addition to a present schoolsite, the governing board or charter school shall hold a public hearing on the matter prior to acquiring or leasing the site.

(e) If the Department of Transportation's recommendation does not favor acquisition or lease of the proposed site, state funds or local funds may not be apportioned or expended for the acquisition or lease of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

(f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(Amended by Stats. 2005, c. 229 (AB 1358), §1.)

PART 21, CHAPTER 2. GOVERNING BOARDS
ARTICLE 13. EXCURSIONS AND FIELD TRIPS

§ 35330. Excursions and field trips

(a) The governing board of a school district or the county superintendent of schools of a county may:

(1) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for pupils enrolled in elementary or secondary schools. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for pupils.

(2) Engage instructors, supervisors, and other personnel to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(3) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of pupils, instructors, supervisors or other personnel to and from places in the state, another state, the District of Columbia, or a foreign country where those excursions and field trips are being conducted, provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(4) Provide supervision of pupils involved in field trips or excursions by certificated employees of the district.

(b)(1) No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need.

(2) No group shall be authorized to take a field trip or excursion authorized by this section if a pupil who is a member of an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

(3) No expenses of pupils participating in a field trip or excursion to other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds. Expenses of instructors, chaperones, and other personnel participating in a field trip or excursion authorized by this section may be paid from school district funds, and the school district may pay from school district funds all incidental expenses for the use of school district equipment during a field trip or excursion authorized by this section.

(c)(1) The attendance or participation of a pupil in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from a field trip or excursion shall be limited to the amount of attendance that would have accrued had the pupils not been engaged in the field trip or excursion.

(2) Credited attendance shall not exceed 10 schooldays except in the case of pupils participating in a field trip or excursion in connection with courses of instruction, or school-related educational activities, and which are not social, cultural, athletic, or school band activities.

(d) All persons making the field trip or excursion shall be deemed to have waived all claims against the district, a charter school, or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all

parents or guardians of pupils taking out-of-state field trips or excursions shall sign a statement waiving all claims.

No transportation allowances shall be made by the Superintendent for expenses incurred with respect to field trips or excursions that have an out-of-state destination. A school district that transports pupils, teachers, or other employees of the district in schoolbuses within the state and to destinations within the state, pursuant to the provisions of this section, shall report to the Superintendent on forms prescribed by him or her the total mileage of schoolbuses used in connection with educational excursions. In computing the allowance to a school district for regular transportation there shall be deducted from that allowance an amount equal to the depreciation of schoolbuses used for the transportation in accordance with rules and regulations adopted by the Superintendent.

(Stats 1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats. 1977, c. 36, § 132, eff. April 29, 1977, operative April 30, 1977; Stats. 2007, c. 23 (A.B. 766), § 1.)

PART 24, CHAPTER 3. STATE SCHOOL FUND
ARTICLE 4. LOANS AND ADVANCES

§ 41365. Charter School Revolving Loan Fund

(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.
(Added by Stats.1996, c. 786 (A.B.3384), § 2. Amended by Stats.1999, c 736 (S.B.267), § 1, eff. Oct. 10, 1999; Stats.2000, c. 429 (S.B1728), § 1, eff. Sept. 13, 2000; Stats.2000, c. 586 (S.B.1759), § 1.5.)

§ 41366.5. Interest rate of loaned moneys from the Charter School Revolving Loan Fund

(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.

(Added by Stats.2000, c. 586 (S.B.1759), § 2.)

§ 41366.7. Monitoring of amount of funds in the Charter School Security Fund

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.

(Added by Stats.2000, c. 586 (S.B.1759), § 3.)

§ 41367. Charter School Security Fund; creation

(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.

(Added by Stats.2000, c 586 (S.B.1759), § 4.)

PART 24, CHAPTER 3.2
CATEGORICAL EDUCATION BLOCK GRANT FUNDING
ARTICLE 4. TEACHER CREDENTIALING BLOCK GRANT

§ 41520. Establishment; apportionment; legislative finding and intent; credentialing authority; expenditure of funds; "school district" defined

(a) There is hereby established the teacher credentialing block grant. Commencing with the 2005-06 fiscal year, the Superintendent of Public Instruction shall apportion block grant funds to a school district or charter school offering approved programs pursuant to Section 41521 based on the number of eligible participants in each of those programs.

(b) (1) The Legislature finds that the Superintendent and the Commission on Teacher Credentialing established requirements for reviewing and approving teacher induction programs. The Legislature further finds that 135 of 150 programs are jointly approved as of July 1, 2004. It is the intent of the Legislature that these requirements remain in effect until the Superintendent and the Commission on Teacher Credentialing jointly agree to modify them. The Superintendent and the Commission on Teacher Credentialing shall jointly review new programs developed pursuant to paragraph (1) of subdivision (a) based on established approval requirements.

(2) As provided for in Section 44259, the Commission on Teacher Credentialing retains authority to issue credentials to candidates who complete an induction program that meets the Standards of Program Quality and Effectiveness adopted by the commission. A previously approved program that is deemed as no longer meeting the Standards of Program Quality and Effectiveness shall be considered a new program for purposes of becoming an approved program pursuant to this article.

(3) A school district or charter school may expend funds received pursuant to this article for any purpose authorized by the programs listed in Section 41521, as the statutes governing those programs read on January 1, 2004, for the purpose of providing equivalent program services for beginning teachers. For the purpose of statewide program support and accountability, equivalent program services include regional support and technical assistance that existed under the Beginning Teacher Support and Assessment system on January 1, 2004.

(c) For purposes of this article, "school district" includes a consortia of school districts, a consortia of school districts and county offices of education, and a county office of education if county offices of education are eligible to receive funds for the programs that are listed in Section 41521.

(Added by Stats. 2004, c. 871 (A.B. 825), § 7. Amended by Stats. 2006, c. 517 (S.B. 1209), § 1.)

§ 41521. Funding included in teacher credentialing block grant; approval of programs by Commission on Teacher Credentialing

(a) The teacher credentialing block grant shall include funding previously apportioned to school districts for purposes of beginning teacher support and assessment as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25.

(b) For purposes of issuing teaching credentials, certificates, or other authorizations, the Commission on Teacher Credentialing shall approve the programs described by subdivision (a). To ensure the Superintendent has the requisite information to allocate funding based on the number of participating credential candidates pursuant to this article, the commission shall inform the Superintendent on an ongoing basis of the approval status of these programs and numbers of participating candidates in each approved program.

(Added by Stats. 2004, c. 871 (A.B. 825), § 7. Amended by Stats. 2005, c. 677 (S.B. 512), § 15, eff. Oct. 7, 2005.)

§ 41522. Adjustment of funding amount for inflation and growth

(a) The amount of funding a school district or charter school receives pursuant to this article shall be adjusted for changes in the number of participating credential candidates in each approved program, and the amount per candidate shall be adjusted annually for inflation pursuant to Section 42238.1.

(b) For purposes of calculating the amount of funding a school district or charter school receives pursuant to this article, the Superintendent shall include funding for up to 10 percent of credential candidates who complete the program early in accordance with paragraph (2) of subdivision (e) of Section 44468 for the time period that the candidate would regularly participate in the program, but not to exceed two fiscal years. In administering this subdivision, the Superintendent shall comply with subdivision (b) of Section 44386.

(Added by Stats. 2004, c. 871 (A.B. 825), § 7. Amended by Stats. 2006, c. 517 (S.B. 1209), § 2.)

PART 24, CHAPTER 3.2
CATEGORICAL EDUCATION BLOCK GRANT FUNDING
ARTICLE 6. TARGETED INSTRUCTIONAL IMPROVEMENT BLOCK GRANT

§ 41540. Establishment; apportionment and expenditure; “school district” defined.

(a) There is hereby established the targeted instructional improvement block grant. Commencing with the 2005-06 fiscal year, the Superintendent shall apportion block grant funds to a school district in the same relative statewide proportion that the school district received in the 2003-04 fiscal year for the programs listed in Section 41541.

(b) If a school district is not in violation of a court order regarding desegregation, the school district may expend funds received pursuant to this article for any purpose authorized by the programs listed in Section 41541 as the statutes governing those programs read on January 1, 2004.

(c) For purposes of this article, "school district" includes a county office of education if county offices of education are eligible to receive funds for the programs that are listed in Section 41541. The block grant of a county office of education shall be based only on those programs for which it was eligible to receive funds in the 2003-04 fiscal year.

(d) A school that received funding in the 2000-01 fiscal year, or any fiscal year thereafter, from a desegregation program or a targeted instructional improvement grant program pursuant to Chapter 2.5 (commencing with Section 54200) of Part 29, that was allocated by a school district as part of a court-ordered desegregation program before the school converted to a charter school, shall continue to receive its proportionate share of funding from the school district through the block grant established pursuant to this section if all of the following conditions are met:

- (1) The charter school continues to serve the same general population.
- (2) The charter school implements the intended goals of the court order.
- (3) The court order remains in effect.

(e) On and after July 1, 2006, subdivision (d) shall not apply to charter schools that receive funds through the Charter School Categorical Block Grant established pursuant to Section 47634.1.

(Added by Stats. 2004, c. 871 (A.B. 825), § 7. Amended by Stats. 2005, c. 359 (A.B. 740), §2, eff. Sept. 28, 2005; Stats. 2006, c. 730 (A.B. 1967), § 10.5.)

PART 24, CHAPTER 6.
FINANCIAL STATEMENTS OF SCHOOL DISTRICTS
ARTICLE 2. BUDGET REQUIREMENTS

§ 42127.8. County office fiscal crisis and management assistance team; governing board; expenditures; assessments; administrative reimbursements; insurance coverage; regional teams

(a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, telecommunications, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, and personnel administration, organization, and staffing. The Superintendent may appoint one employee of the department to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent and the Secretary for Education.

(b) The unit established under subdivision (a) shall be selected and governed by a 25-member governing board consisting of one representative chosen by the California County Superintendents Educational Services Association from each of the 11 county service regions designated by the association, 11 superintendents of school districts chosen by the Association of California School Administrators from each of the 11 county service regions, one representative from the State Department of Education chosen by the Superintendent of Public Instruction, the Chancellor of the California Community Colleges or his or her designee, and one member of a community college district governing board chosen by the chancellor. The governing board of the County Office Fiscal Crisis and Management Assistance Team shall select a county superintendent of schools to chair the unit.

(c)(1) The Superintendent may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, Section 33132, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, Section 42127.9, and subdivision (a) of Section 42238.2, and to review the fiscal and administrative condition of any county office of education, school district, or charter school.

(2) A county superintendent of schools may request the unit to review the fiscal or administrative condition of a school district or charter school under his or her jurisdiction.

(3) The Board of Governors of the California Community Colleges may request the unit to provide the assistance described in Section 84041.

(d) In addition to the functions described in subdivision (c), the unit shall do all of the following:

(1) Provide fiscal management assistance, at the request of any school district, charter school, or county office of education, or, pursuant to subdivision (g) of Section 84041, at the request of any community college district. Each school district, charter school, or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district, charter school, and county office of education.

(2) Facilitate training for members of the governing board of the school district, district and county superintendents, chief financial officers within the district, and schoolsite personnel whose primary responsibility is to address fiscal issues. Training services shall emphasize efforts to improve fiscal accountability and expand the fiscal competency of local agencies. The unit shall use state professional associations, private organizations, and public agencies to provide guidance, support, and the delivery of any training services.

(3) Facilitate fiscal management training through the 11 county service regions to county office of education staff to ensure that they develop the technical skills necessary to perform their fiduciary. The governing board established pursuant to subdivision (b) shall determine the extent of the training that is necessary to comply with this paragraph.

(4) Produce a training calendar, to be disseminated semiannually to each county service region, that publicizes all of the fiscal training services that are being offered at the local, regional, and state levels.

(e) The governing board shall reserve not less than 25 percent, nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to school districts or county superintendents of schools in which the board determines that a fiscal emergency exists.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents (\$0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the department, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts, charter schools, and county superintendents of schools.

(h) When employed as a fiscal adviser by the department pursuant to Section 1630, employees of the unit established pursuant to subdivision (a) shall be considered employees of the department for purposes of errors and omissions liability insurance.

(i)(1) The unit shall request and review applications to establish regional teams of education finance experts throughout the state.

(2) To the extent that funding is provided for purposes of this subdivision in the annual Budget Act or through another appropriation, regional teams selected by the Superintendent, in consultation with the unit, shall provide training and technical expertise to school districts, charter schools, and county offices of education facing fiscal difficulties.

(3) The regional teams shall follow the standards and guidelines of and remain under the general supervision of the governing board established under subdivision (b).

(4) It is the intent of the Legislature that, to the extent possible, the regional teams be distributed geographically throughout the various regions of the state in order to provide timely, cost-effective expertise to school districts, charter schools, county offices of education, and community college districts throughout the state.

(Amended by Stats. 2005, c. 357 (SB 430), §2; Stats. 2005, c. 360 (A.B. 1366), § 1.5.)

PART 24, CHAPTER 7.
LOCAL TAXATION BY SCHOOL DISTRICTS
ARTICLE 2. APPORTIONMENTS AND REVENUE CONTROL

Text of section operative July 1, 2007:

§ 42238.51.. Average daily attendance for charter school block grant; computation

(a) For purposes of paragraph (1) of subdivision (a) of Section 42238.5, a sponsoring school district's average daily attendance shall be computed as follows:

(1) Compute the sponsoring school district's regular average daily attendance in the current year, excluding the attendance of pupils in charter schools.

(2) (A) Compute the regular average daily attendance used to calculate the second principal apportionment of the school district for the prior year, excluding the attendance of pupils in charter schools.

(B) Compute the attendance of pupils who attended one or more noncharter school of the school district between July 1, and the last day of the second period, inclusive, in the prior year, and who attended a charter school sponsored by the school district between July 1, and the last day of the second period, inclusive, in the current year. For the purposes of this paragraph, a pupil enrolled in a grade at a charter school sponsored by the school district shall not be counted if the school district does not offer classes for pupils enrolled in that grade. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the charter school in the current year.

(C) Compute the attendance of pupils who attended a charter school sponsored by the school district in the prior year and who attended one or more noncharter schools of the school district in the current year. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the school district in the current year.

(D) From the amount determined pursuant to subparagraph (B), subtract the amount determined pursuant to subparagraph (C). If the result is less than zero, the amount shall be deemed to be zero.

(E) The prior year average daily attendance determined pursuant to subparagraph (A) shall be reduced by the amount determined pursuant to subparagraph (D).

(3) To the greater of the amounts computed pursuant to paragraphs (1) and (2), add the regular average daily attendance in the current year of all pupils attending charter schools sponsored by the district that are not funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.

(b) For the purposes of this section, a "sponsoring school district" shall mean a "sponsoring local educational agency," as defined in Section 47632.

(c) This section shall become operative on July 1, 2007.

(Added by Stats. 2006, c. 653 (S.B. 1446), § 2, operative July 1, 2007.)

* * *

§ 42241.3. Revenue limit funding for specified unified school districts; increase or decrease for 2005-06 fiscal year

(a) This section applies only to the funding generated by the average daily attendance of pupils attending a charter school that has operated as a charter school since prior to July 1, 2005, if a unified school district has been the sponsoring local educational agency as defined in subdivision (i) of Section 47632, and if the unified school district was governed by Section 47660 as that section read on December 31, 2005.

(b) For the 2005-06 fiscal year only, the revenue limit funding 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 be increased or decreased to reflect half of the difference between the funding provided for the base revenue limit per unit of average daily attendance of the unified school district as set forth in Section 42238 and the general-purpose entitlement per unit of average daily attendance of the charter school as set forth in Section 47633.

(Added by Stats. 2005, c. 355 (S.B. 319), §1. Amended by Stats. 2006, c. 730 (A.B. 1967), § 15.)

PART 25, CHAPTER 2. TEACHER CREDENTIALING
ARTICLE 8. CERTIFICATES AND CREDENTIALS

§ 44350. Credentials; timely application processing; time period for submitting application; time periods not applicable to fitness review

(a) Each credential issued shall contain its date of expiration, be issued on a form prescribed by the commission, and bear the signatures of the executive director and the chair of the commission or their facsimile signatures.

(b) In order to ensure the timely processing of an application for a credential, either electronically or by printed copy, the commission shall process an application within 50 business days of receipt.

(c) A school district, county office of education, nonpublic school, charter school, or institution of higher education submitting an application for a credential, certificate, permit, or other document shall submit the application to the commission not more than three months after the issuance date of the document requested.

(d) The processing time set forth in subdivision (b) does not apply to an application subject to a fitness review by the commission pursuant to Article 3 (commencing with Section 44240) of Chapter 2, or an application subject to a fitness review based on allegations of unfitness pursuant to Article 1 (commencing with Section 44420) of Chapter 3.

(Stats. 1976, c.1010, § 2, operative April 30, 1977. Amended by Stats. 2007, c. 133 (A.B. 469), § 1.)

PART 25, CHAPTER 4.
EMPLOYMENT—CERTIFICATED EMPLOYEES
ARTICLE 5. SALARIES

§ 45038.. Number of payments

(a) The governing board of a school district or charter school may arrange to pay the persons in positions requiring certification qualifications employed by it, or any one or more of those employees or one or more groups or categories of those employees, in either 10, 11, or 12 equal payments instead of by the school month.

(b) In lieu of the arrangement in subdivision (a), orders for the payment of salary, and payroll orders for the payment of salary and warrants for the payment of salary of employees employed in positions requiring certification qualifications may be drawn once each two weeks, twice a month, or once each four weeks as determined by the governing board.

(Stats. 1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats. 2007, c. 524 (S.B. 345), § 1, eff. Oct. 12, 2007.)

§ 45039.. Monthly installment payment

If the governing board of a school district or charter school arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, whether or not the persons are actually engaged in teaching during the month.

(Stats. 1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats. 2007, c. 524 (S.B. 345), § 2, eff. Oct. 12, 2007.)

§ 45040.. Authority to withhold part of salary for payment in August and September when annual salary not paid in 12 equal monthly payments

(a) The governing board of a school district or charter school not paying the annual salaries of persons employed by the district or charter school in 12 equal monthly payments may withhold from each payment made to each employee an amount equal to 16 $\frac{2}{3}$ percent thereof.

(b) The total of the amounts deducted from the salary of an employee during a school year shall be paid to him or her in two equal installments, one installment to be paid not later than the fifth day of August net succeeding, and one installment to be paid not later than the fifth day of September, next succeeding.

(c) If an employee leaves the service of the district or charter school by death or otherwise before receiving the moneys that may be due him or her, the amount due him or her shall be paid within 30 days to him or her or to any other person entitled to those moneys by law.

(Stats. 1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats. 2007, c. 524 (S.B. 345), § 3, eff. Oct. 12, 2007.)

PART 27, CHAPTER 7. EMPLOYMENT OF MINORS
ARTICLE 2. PERMITS TO WORK

§ 49110.. Issuance: jurisdiction

(a) It is the intent of the Legislature that school district and charter school personnel responsible for issuing work permits to pupils have a working knowledge of California labor laws as they relate to minors and be trained to provide the pupils practical personal guidance in career education.

(b) The superintendent of any school district in which any minor resides, the chief executive officer, or the equivalent position, of a charter school that a minor attends, a person holding a services credential with a specialization in pupil personnel services authorized by the superintendent or chief executive officer in writing, or a certificated work experience education teacher or coordinator authorized by the superintendent or chief executive officer in writing, may issue work permits to certain minors. If the minor resides in a portion of a county not under the jurisdiction of the superintendent of a school district and does not attend a charter school, the work permit shall be issued by the county superintendent of schools, by a person holding a services credential with a specialization in pupil personnel services authorized by the county superintendent in writing, or a certificated work experience education teacher or coordinator authorized by the county superintendent in writing.

(c) A work permit shall not be issued until the written request therefore from the parent, guardian, foster parent, caregiver with whom the minor resides, or residential shelter services provider, has been filed with the issuing authority. "Residential shelter services" refers to residential and other support services provided to minors by a governmental agency, a person or agency under contract with a governmental agency to provide these services, an agency receiving funding from community funds, or a licensed community care facility or crisis resolution center on a temporary or emergency basis in a facility that services only minors.

(d) If the certificated person designated to issue work permits by the superintendent of a school district, or the chief executive officer, or the equivalent position, of a charter school is not available, and delay in issuing a permit would jeopardize the ability of a pupil to secure work, another person authorized by the school district superintendent or the chief executive officer, or the equivalent position, of a charter school may issue the work permit.

(e) If a school district or charter school does not employ or contract with a person holding a services credential with a specialization in pupil personnel services or with a certificated work experience education teacher or coordinator, the school district superintendent or the chief executive officer, or the equivalent position, of a charter school may authorize, in writing, a person who does not hold that credential to issue work permits during periods of time in which the superintendent is absent from the district or the chief executive officer is absent from the charter school.

(Stats. 1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats. 1977, c. 871, § 1; Stats. 1994, c. 257 (A.B. 2693), § 1; Stats. 2004, c. 896 (A.B. 2525), § 45, eff. Sept. 29, 2004; Stats. 2007, c. 524 (S.B. 345), § 5, eff. Oct. 12, 2007.)

PART 27, CHAPTER 9. PUPIL AND PERSONNEL HEALTH
ARTICLE 2.5. THE PUPIL NUTRITION, HEALTH, AND ACHIEVEMENT ACT OF 2001

§ 49430.7.. Free and reduced-price meal programs; compliance requirements, prohibitions, and guidelines; compliance certification

(a) For purposes of this section, the following terms have the following meanings:

(1) "School" means a school operated and maintained by a school district or county office of education, or a charter school.

(2) "School district" means a school district, charter school, or county office of education.

(3) "Child development program" means a program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

(b) As a condition of receipt of funds pursuant to Section 49430.5, commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a school or school district shall comply with all of the following requirements and prohibitions:

(1) Follow the United States Department of Agriculture (USDA) nutritional guidelines or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school or school district.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat that is prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this paragraph include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(c) Commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a child development program is encouraged to comply with all of the following guidelines:

(1) Meet developmentally and programmatically appropriate meal pattern and meal planning requirements developed by the USDA or menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school, school district, or child development program.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this provision include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(d) The prohibitions and requirements of this section regarding food items sold or served by a school or school district apply to raw bulk USDA commodity foods ordered by schools or school districts and sent to commercial processors for conversion into ready to use end products, but do not apply to other USDA commodity foods until the scheduled 2009 reauthorization of the USDA National School Lunch Program is complete or ingredient and nutrition information is available for all USDA commodity foods, whichever is earlier.

(e) As a condition of receipt of funds pursuant to Section 49430.5, by no later than June 30, 2008, and annually thereafter, schools and school districts shall provide the department with an annual certification of compliance with the provisions of this section.

(f) This section shall become operative only upon an appropriation for its purposes in the annual Budget Act or another statute.

(Added by Stats. 2007, c. 174 (S.B. 80), § 7, eff. Aug. 24, 2007. Amended by Stats. 2007, c. 730 (S.B. 132), § 26; Stats. 2008, c. 223 (A.B. 2057), § 9.)

PART 28, CHAPTER 5.
AUTHORIZED CLASSES AND COURSES OF INSTRUCTION
ARTICLE 5.5. INDEPENDENT STUDY

Section

51745.	Independent study authorized; curriculum; restrictions.
51745.6	Ratio of independent study pupils to certificated employees responsible for independent study.
51746.	Services and resources.
51747.	Apportionments for independent study by pupils; policy requirements.
51747.3.	Restrictions on apportionments; residency requirements.
51747.5.	Coordination, evaluation and supervision of independent study; apportionment credit.
51748.	Written records for apportionments.
51749.	Statewide profile of independent study pupils.
51749.3.	Rules and regulations.

§ 51745 Independent study authorized; curriculum; restrictions

(a) Commencing with the 1990-91 school year, the governing board of a school district or a county office of education may offer independent study to meet the educational needs of pupils in accordance with the requirements of this article. Educational opportunities offered through independent study may include, but shall not be limited to, the following:

- (1) Special assignments extending the content of regular courses of instruction.
- (2) Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum.
- (3) Individualized alternative education designed to teach the knowledge and skills of the core curriculum. Independent study shall not be provided as an alternative curriculum.
- (4) Continuing and special study during travel.
- (5) Volunteer community service activities that support and strengthen pupil achievement.

(b) Not more than 10 percent of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, shall be eligible for apportionment credit for independent study pursuant to this article. A pupil who is pregnant or is a parent who is the primary caregiver for one or more of his or her children shall not be counted within the 10 percent cap.

(c) No individual with exceptional needs, as defined in Section 56026, may participate in independent study, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation.

(d) No temporarily disabled pupil may receive individual instruction pursuant to Section 48206.3 through independent study.

(e) No course included among the courses required for high school graduation under Section 51225.3 shall be offered exclusively through independent study.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990. Amended by Stats.1998, c. 461 (A.B.1736), § 1.)

§ 51745.6. Ratio of independent study pupils to certificated employees responsible for independent study

(a) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other education programs operated by the school district. The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county. The computation of those ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent of Public Instruction.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts, and Section 2558, for county offices of education. Nothing in this section shall prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratio described in subdivision (a), except that those additional units shall not be funded pursuant to Section 42238.5 or Section 2558.

(c) The calculations performed for purposes of this section shall not include either of the following:

(1) The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.

(2) The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24.

(d) The pupil-teacher ratio described in subdivision (a) in a unified school district participating in the class size reduction program pursuant to Chapter 6.10 (commencing with Section 52120) may, at the school district's option, be calculated separately for kindergarten and grades 1 to 6, inclusive, and for grades 7 to 12, inclusive.

(e) The pupils-to-certificated-employee ratio described in subdivision (a) may, in a charter school, be calculated by using a fixed pupils-to-certificated-employee ratio of 25 to one, or by being a ratio of less than 25 pupils per certificated employee. All charter school pupils, regardless of age, shall be included in pupil-to-certificated-employee ratio calculations.

(Added by Stats. 1990, c. 1263 (A.B. 2875), § 19. Amended by Stats. 1998, c. 60 (A.B. 1327), § 1; Stats. 2005, c. 543 (A.B. 1610), §7.)

§ 51746. Services and resources

It is the intent of the Legislature that school districts and county offices of education offering independent study shall provide appropriate existing services and resources to enable pupils to complete their independent study successfully and shall ensure the same access to all existing services and resources in the school in which the pupil is enrolled pursuant to Section 51748 as is available to all other pupils in the school. In addition, the services and resources may include, but need not be limited to, any of the following:

(a) A designated learning center or study area staffed by appropriately trained personnel.

(b) The services of qualified personnel to assess the achievement, abilities, interests, aptitudes, and needs of participating pupils to determine each of the following:

- (1) Whether full-time independent study is the most appropriate alternative for the pupil being referred.
- (2) If the answer to paragraph (1) is affirmative, the determination of the most appropriate individualized plan and resources to be made available to pupils enrolled in full-time independent study.
(Added by Stats. 1989, c. 1089, § 5, operative July 1, 1990.)

§ 51747. Apportionments for independent study by pupils; policy requirements

A school district or county office of education shall not be eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction, that include, but are not limited to, all of the following:

(a) The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.

(b) The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether he or she should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be maintained in the pupil's permanent record.

(c) A requirement that a current written agreement for each independent study pupil shall be maintained on file including, but not limited to, all of the following:

(1) The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.

(2) The objectives and methods of study for the pupil's work, and the methods utilized to evaluate that work.

(3) The specific resources, including materials and personnel that will be made available to the pupil.

(4) A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of missed assignments allowed prior to an evaluation of whether or not the pupil should be allowed to continue in independent study.

(5) The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one semester, or one-half year for a school on a year-round calendar.

(6) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

(7) The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.

(8) Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of

independent study, and all persons who have direct responsibility for providing assistance to the pupil. For purposes of this paragraph "caregiver" means a person who has met the requirements of Part 1.5 (commencing with Section 6550) of the Family Code.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990. Amended by Stats.1992, c. 759 (A.B.1248), § 21, eff. Sept. 21, 1992; Stats.1995, c. 530 (A.B. 967), § 24 ; Stats. 2004, c. 896 (A.B. 2525), § 50, eff. Sept. 29, 2004.)

§ 51747.3. Restrictions on apportionments; residency requirements

(a) Notwithstanding any other provision of law, a local educational agency, including, but not limited to, a charter school, may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian.

(b) Notwithstanding paragraph (1) of subdivision (d) of Section 47605 or any other provision of law, community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.

(c) The Superintendent of Public Instruction shall not apportion funds for reported average daily attendance, through full-time independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204.

(d) In conformity with Provisions 25 and 28 of Section 2.00 of the Budget Act of 1992, this section is applicable to average daily attendance reported for apportionment purposes beginning July 1, 1992. The provisions of this section are not subject to waiver by the State Board of Education, by the State Superintendent of Public Instruction, or under any provision of Part 26.8 (commencing with Section 47600).

(Added by Stats.1993, c. 66 (S.B.399), § 32, eff. June 30, 1993. Amended by Stats.1999, c. 162 (S.B.434), § 2; Stats. 2003, c. 529 (S.B. 140), § 4, eff. Sept. 25, 2003, operative March 5, 2004.)

§ 51747.5. Coordination, evaluation and supervision of independent study; apportionment credit

(a) The independent study by each pupil or student shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law.

(b) School districts and county offices of education may claim apportionment credit for independent study only to the extent of the time value of pupil or student work products, as personally judged in each instance by a certificated teacher.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990. Amended by Stats.1992, c. 759 (A.B.1248), § 22, eff. Sept. 21, 1992; Stats.1993, c. 1296 (A.B.369), § 11.1, eff. Oct. 11, 1993; Stats.1997, c. 825 (A.B.287), § 32, eff. Oct. 9, 1997.)

§ 51748. Written records for apportionments

School districts and county offices of education shall not be eligible to receive apportionment for independent study attendance by any pupil who is not otherwise identified in the written records of the district or county board by grade level, program placement, and the school in which he or she is enrolled.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990.)

§ 51749. Statewide profile of independent study pupils

The Superintendent of Public Instruction, upon the next revision of the California Basic Educational Data System, or its equivalent, following the effective date of this article, shall include all data collection elements necessary to compile an annual statewide profile of pupils participating in independent study, including data on the number and percentage of pupils pursuing their coursework through independent study who successfully complete the requirements for a high school diploma.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990.)

§ 51749.3. Rules and regulations

The Superintendent of Public Instruction shall establish rules and regulations for the purposes of implementing this article.

(Added by Stats.1989, c. 1089, § 5, operative July 1, 1990. Amended by Stats.1994, c. 922 (A.B. 2587), § 117.)

PART 28. CHAPTER 6.1
PUBLIC SCHOOLS ACCOUNTABILITY ACT OF 1999
ARTICLE 2. PUBLIC SCHOOL PERFORMANCE ACCOUNTABILITY PROGRAM

§ 52051.5. Inclusion of charter schools

For purposes of this chapter, all references to schools shall include charter schools.
(Added by Stats. 1999-2000, 1st Ex. Sess., c. 3 (S.B. 1), § 1, eff. June 25, 1999.)

PART 28. CHAPTER 6.1
PUBLIC SCHOOLS ACCOUNTABILITY ACT OF 1999
ARTICLE 3.1. LOCAL EDUCATIONAL AGENCY INTERVENTION

§ 52055.57. Early Warning Program; program improvement local educational agencies under federal No Child Left Behind Act

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(g) For purposes of this article, "local educational agency" means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

(Added by Stats. 2004., c. 579 (A.B. 2066), § 1, eff. Sept. 18, 2004. Amended by Stats. 2005, c. 513 (A.B. 953), § 3, eff. Oct. 4, 2005; Stats. 2006, c. 538 (S.B. 1852), § 119; Stats. 2008, c. 757 (A.B. 519), eff. Sept. 30, 2008.)

PART 28. CHAPTER 9
CAREER TECHNICAL EDUCATION
ARTICLE 4. HIGH SCHOOL CAREER TECHNICAL COURSES

§ 52372.5. Multiple pathway programs; feasibility report; report requirements, funding, support, and submission date

(a) For purposes of this section, a "multiple pathway program" is a program that is all of the following:

(1) A multiyear, comprehensive high school program of integrated academic and technical study that is organized around a broad theme, interest area, or industry sector, including, but not necessarily limited to, the industry sectors identified in the model standards adopted by the state board pursuant to Section 51226.

(2) A program that ensures that all pupils have curriculum choices that will prepare them for career entry and a full range of postsecondary options, including two- and four-year college, apprenticeship, and formal employment training.

(3) A program that is comprised, at a minimum, of the following components:

(A) An integrated core curriculum that meets the eligibility requirements for admission to the University of California and the California State University and is delivered through project-based learning and other engaging instructional strategies that intentionally bring real-world context and relevance to the curriculum where broad themes, interest areas, and career technical education are emphasized.

(B) An integrated technical core of a sequence of at least four related courses, that may reflect career technical education standards-based courses, that provide pupils with career skills, that are aligned to and underscore academic principles, and to the extent possible fulfill the academic core requirements listed in subparagraph (A).

(C) A series of work-based learning opportunities that begin with mentoring and job shadowing and evolve into intensive internships, school-based enterprises, or virtual apprenticeships.

(D) Support services, including supplemental instruction in reading and mathematics, that help pupils master the advanced academic and technical content that is necessary for success in college and career.

(b) The Superintendent, in conjunction with the Office of the Secretary for Education, the California Community Colleges, the University of California, the California State University, the Employment Development Department, both houses of the California Legislature, teachers, chamber organizations, industry representatives, research centers, parents, school administrators, representatives of regional occupational centers and programs, community-based organizations, labor organizations, and others deemed appropriate by the Superintendent, shall develop a report that explores the feasibility of establishing and expanding additional multiple pathway programs in California, including the costs and merits associated with expansion of these programs. Multiple pathway programs created for high schools may include, but are not limited to, California partnership academies, regional occupational centers and programs, charter schools, academies, small learning communities, and other career-themed small schools.

(c) The report described in subdivision (b) shall do all of the following:

(1) Identify regulations, policies, and practices that need to be added, deleted, or amended in order to promote the development and expansion of multiple pathway programs.

(2) Set forth a reasonable timeline for the development and expansion of multiple pathway programs.

(3) Include at least all of the following components:

(A) Assessment of the current capacity of the department for the purpose of maximizing the development of these programs.

(B) Identifying the possible roles and responsibilities of other departments or agencies to assist in developing or expanding multiple pathway programs.

(C) An assessment of the appropriateness of school districts fulfilling the requirements set forth in subdivisions (a) and (b) of Section 51228 by developing industry-focused multiple pathway programs, including those described in this section.

(D) Methods for developing and sharing models of integrated curriculum and instruction.

(E) Strategies for increasing the course options and instructional time for pupils in high school.

(F) Plans for increasing opportunities for high-quality learning based on real-world applications in industry and careers.

(G) Methods for improving alignment of curriculum between middle schools and high schools with career instruction, exploration, and counseling for middle school pupils.

(H) Methods for improving coordination and articulation between high schools and postsecondary institutions, including, but not limited to, California Community Colleges, the California State University, and the University of California.

(I) Recommendations for increasing the supply of teachers who can teach effectively in a pathway setting that aims to prepare pupils for a full range of postsecondary options. Necessary specialized skills include, but are not limited to, the abilities to design interdisciplinary projects and use project-based learning as an instructional strategy, work with other teachers in a team-teaching arrangement, develop curriculum that effectively integrates academic and technical content, design and utilize high-quality work-based learning to reinforce lessons in both academic and technical courses, and develop authentic pupil assessments.

(J) Recommendations for increasing the supply of schoolsite and district administrators who can effectively create and manage schools that are implementing one or more industry focused pathway programs. Necessary specialized skills include, but are not limited to, the abilities to develop and sustain partnerships with industry partners, recruit and retain uniquely qualified teachers, guide development of integrated curriculum, understand needs for and provide teacher professional development, guide development of comprehensive guidance systems that integrate college advising and career counseling, guide development of a coordinated and sequenced work-based learning component, and utilize data to assess pupil readiness for college and career.

(K) Recommendations for supporting regional coalitions in planning and developing programs.

(L) Evaluation of current pathway programs, including partnership academies, regional occupational centers or programs and postsecondary pathway programs, including middle colleges and early college models.

(M) Recommendations for increasing and improving in-school support services.

(N) Recommendations for incorporating new measures into the state's accountability system to better assess the results of these programs.

(O) Assessment of the budgetary implications of offering all pupils access to these programs.

(d) For purposes of completing the report described in subdivision (b), the Superintendent is authorized to use existing state resources and federal funds. If state or federal funds are not available or sufficient, the Superintendent may apply for and accept grants and receive donations, and other financial support from public or private sources for purposes of this section.

(e) In developing the report, the Superintendent may accept support including, but not necessarily limited to, financial and technical support, from high school reform advocates, teachers, chamber organizations, industry representatives, research centers, parents, and pupils.

(f) The Superintendent shall report to the Legislature as to the status of completing the report and any preliminary recommendations no later than July 1, 2009.

(g) The Superintendent shall submit a final report with recommendations to the Legislature and the Governor no later than December 1, 2009.

(Added by Stats. 2008, c. 681 (A.B. 2648), § 1.)

PART 29. CHAPTER 1
EDUCATIONALLY DISADVANTAGED YOUTH PROGRAMS
ARTICLE 2. ECONOMIC IMPACT AID

§ 54020. Replacement of funds

It is the intent of the Legislature that funds authorized pursuant to this chapter replace, as of July 1, 1979, funds previously authorized to support educationally disadvantaged youth programs and bilingual education. To that end, the purpose of this article is to provide a method of impact aid allocation to be utilized by the Superintendent, that will allow efforts initiated under those programs to continue and expand so long as a need exists while previously unserved and underserved populations are provided with adequate aid.

§ 54021. Required calculations

For the 2006-07 fiscal year, the Superintendent shall make the following calculations for each school district:

(a) Using the methodology specified in Section 54023, determine the economic impact aid-eligible pupil count for each school district for the 2005-06 fiscal year as if Section 54023 had been in effect for that fiscal year.

(b) Divide the school district economic impact aid calculated funding in the 2005-06 fiscal year, excluding the minimum grant specified in Section 54031, as it read during that fiscal year, by the number calculated pursuant to subdivision (a).

(c) For the purpose of calculating the economic impact aid allocations for the 2006-07 fiscal year, the quotient calculated in subdivision (b) shall be deemed to be the prior year economic impact aid per pupil amount for the 2006-07 fiscal year.

(d) For the purpose of establishing a base year economic impact aid per pupil amount pursuant to this section, if a school district received an allocation for the economic impact aid program in the 2005-06 fiscal year, but has no economic impact aid eligible pupils as determined in Section 54023 for that year, the school district shall be deemed to have a prior-year economic impact aid per pupil amount for the 2006-07 fiscal year that is equal to the statewide average economic impact aid per pupil amount for the 2005-06 fiscal year calculated for the state as a whole as specified in subdivisions (a) and (b).

§ 54022. Allocation of economic impact aid; calculation; schedule

For the 2006-07 fiscal year and each fiscal year thereafter, each school district shall receive the amount of economic impact aid determined by the Superintendent pursuant to subdivision (b) or (c), whichever is greater, calculated for each school district according to all of the following:

(a) Increase the prior fiscal year economic impact aid per pupil amount by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1 for the current fiscal year.

(b) Multiply the economic impact aid per pupil amount for the current fiscal year calculated in subdivision (a) by the economic impact aid-eligible pupil count for the current fiscal year as calculated in Section 54023.

(c) A school district shall, at a minimum, receive funds based on the number of economic impact aid-eligible pupils according to the following schedule:

(1) For the 2006-07 fiscal year, according to the following table:

Number of economic impact aid-eligible pupils	Amount
0	None
1 - 10	\$5,500
11 or more	\$8,300

(2) For the 2007-08 fiscal year and each fiscal year thereafter, the minimum amounts for the schedule in paragraph (1) for the prior fiscal year shall be increased by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1.

§ 54023. Calculation of economic impact aid-eligible pupil count

For each fiscal year, the economic impact aid-eligible pupil count shall be calculated for each school district as follows:

(a) Determine the count of economically disadvantaged pupils, as defined in Section 54026.

(b) Determine the count of English learners, as defined in subdivision (b) of Section 54026.

(c) Calculate an economic impact aid weighted pupil concentration factor:

(1) Add the pupil counts determined in subdivisions (a) and (b).

(2) Divide the fall CBEDS enrollment for the school district for the prior school year by two.

(3) Subtract from the sum calculated in paragraph (1) the quotient calculated in paragraph (2).

(4) If the result of the calculation in paragraph (3) is greater than zero, multiply that difference by 0.5. If the result is less than zero, it shall be deemed to be zero.

(d) The economic impact aid-eligible pupil count for each school district shall equal the sum of the pupil counts determined in subdivisions (a) and (b), and the weighted pupil concentration factor determined in subdivision (c).

(e) In calculating the economic impact aid-eligible pupil count for a new charter school in its first year of operation, the department shall use CBEDS enrollment counts and counts of English learners reported in the current year instead of the prior year.

§ 54024. Authority of state board to waive statutory provisions or regulations

The state board may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive any statutory provision or regulation regarding the use of funds apportioned pursuant to this article, provided that the funds are used in the same schools, or in schools with similar need levels, and the district demonstrates a reasonable case that the waiver will improve pupil services in those schools.

§ 54025. Restriction of fund expenditures to English learners and economically disadvantaged pupils; use of funds for English learners; supplemental nature of funds

(a) A school district shall expend economic impact aid funds to serve and assist English learners and economically disadvantaged pupils and may not expend those funds at schoolsites that do not have English learners or economically disadvantaged pupils.

(b) A school shall use funds received pursuant to this article to support programs and activities designed to assist English learners achieve proficiency in the English language as rapidly as practicable and to support programs and activities designed to improve the academic achievement of English learners and economically disadvantaged pupils.

(c) Funds received by school districts pursuant to this article shall supplement, and not supplant, existing resources at the schoolsite.

§ 54026. Definitions

For purposes of this article, the following definitions apply:

(a) "Economically disadvantaged pupils" means either of the following, whichever is applicable:

(1) Pupils described in Section 101 of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6333(c)(1)(A)(B)). Counts of the pupils described in this paragraph shall be the counts used in the current year apportionment calculations for purposes of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2)(A) Notwithstanding paragraph (1), for a small school district, the product of the number of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d), and the free meals adjustment factor. The free meals adjustment factor is the quotient, rounded to two decimal places, resulting from dividing the statewide total of economically disadvantaged pupils as defined in paragraph (1) by the statewide total of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d).

(B) Notwithstanding paragraph (1) or subparagraph (A), for charter schools that are funded through the block grant funding model pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 in the 2006-07 fiscal year, the department shall use counts as of October 2006 of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601, without revision. Commencing in the 2007-08 fiscal year, the Superintendent shall use counts as of October of the prior year of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601, without revision. For purposes of this subdivision, the department may use in the first year of operation of a charter school that is established on or after July 1, 2007, the current year counts of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline.

(C) The Superintendent may expand upon an existing process of collecting free or reduced price meal data in order to collect from small districts, as defined in subdivision (c), counts of pupils living with families whose annual income is at or below the federal poverty guideline.

(b) "English learner" means a pupil described in subdivision (a) of Section 306 or identified as a pupil of limited English proficiency, as that term is defined in subdivision (m) of Section 52163. Counts of the pupils described in this subdivision shall be the counts reported in the prior year language census.

(c) "Small school district" means a school district that has an annual enrollment of less than 600 pupils based on prior school year CBEDS data and is, for the purposes of this section, designated a rural school by the Superintendent based on the appropriate school locale codes, as used by the National Center for Education Statistics of the United States Department of Education.

(d) "Free meals" means the aggregate number of pupils meeting the income eligibility guidelines established by the federal government for free meals as reported for all schools for which the district is the authorizing agency.

(e) For purposes of subparagraph (B) of paragraph (2) of subdivision (a), the count of economically disadvantaged pupils for a charter school that is operated pursuant to Section 47612.1 shall be calculated without regard to the age of the pupil. A pupil who resides in program housing shall be considered a family of one.

(Added by Stats. 2006, c. 79 (A.B. 1802), § 15, eff. July 19, 2006. Amended by Stats. 2006, c. 371 (S.B. 1131), § 6, eff. Sept. 20, 2006; Stats. 2007, c. 730 (S.B. 132), § 36.)

§ 54027. Unification or consolidation of school districts; calculation of economic impact aid per pupil amount

If a school district reorganizes either by unification or by consolidation with another school district of similar type, the Superintendent shall calculate an economic impact aid per pupil amount based on the respective per pupil amounts for each school district participating in the reorganization, weighted by the number of economic impact aid-eligible pupils contributed by each school district. The Superintendent shall use the appropriate data from the year prior to the year that the reorganization is effective for all purposes.

§ 54028. Provisions of article as subject to specified provisions relating to auditing use of funds allocated for purposes of economic impact aid

Notwithstanding any other provision of law, the provisions of this article are subject to Sections 62002.5 and 62004, and to the portions of Section 62003 that relate to auditing the use of funds allocated for purposes of economic impact aid.

(Added by Stats. 2006, c. 79 (A.B. 1802), § 15, eff. July 19, 2006.)

PART 30, CHAPTER 2. ADMINISTRATION
ARTICLE 2. DEFINITIONS

§ 56026.3. Local educational agency

“Local educational agency” means a school district, a county office of education, a nonprofit charter school participating as a member of a special education local plan area, or a special education local plan area.

(Added by Stats. 2004, c. 914 (A.B. 1858), § 4. Amended by Stats. 2007, c. 56 (A.B. 685), § 5.5.)

* * *

§ 56028.5. Public agency

“Public agency” means a school district, county office of education, special education local plan area, a nonprofit public charter school that is not otherwise included as a local educational agency and is not a school within a local educational agency, or any other public agency under the auspices of the state or any political subdivisions of the state providing special education or related services to individuals with exceptional needs. For purposes of this part, “public agency,” means all of the public agencies listed in Section 300.33 of Title 34 of the Code of Federal Regulations.

(Added by Stats. 2004, c. 896 (A.B. 2525), § 55, eff. Sept. 29, 2004. Amended by Stats. 2005, c. 653 (A.B. 1662), § 4, eff. Oct. 7, 2005; Stats. 2007, c. 56 (A.B. 685), § 5, eff. Oct. 10, 2007.)

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PART 30, CHAPTER 2. ADMINISTRATION
ARTICLE 3. COUNTY OFFICES

§ 56140. Duties

County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56205 and which ensures that all individuals with exceptional needs residing within the county, including those enrolled in alternative education programs, including, but not limited to, alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools, will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56195.1. Any plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

(e) For each special education local plan area located within the jurisdiction of the county office of education that has submitted a revised local plan pursuant to Section 56836.03, the county office shall comply with Section 48850, as it relates to individuals with exceptional needs, by making available to agencies that place children in licensed children's institutions a copy of the annual service plan adopted pursuant to paragraph (2) of subdivision (b) of Section 56205.

(Added by Stats. 1980, c. 797, p. 2418, § 9, eff. July 28, 1980. Amended by Stats. 1994, c. 1668, § 1; Stats. 1997, c. 854 (A.B. 602), § 7; Stats. 1998, c. 311 (S.B. 933), § 3, eff. Aug. 19, 1998; Stats. 2004, c. 896 (A.B. 2525), § 56, eff. Sept. 29, 2004.)

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**PART 30, CHAPTER 3.
ELEMENTS OF THE LOCAL PLAN
ARTICLE 1.1. STATE REQUIREMENTS**

* * *

§ 56207.5. Request by charter school to participate; review and approval

A request by a charter school to participate as a local educational agency in a special education local plan area may not be treated differently from 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, the following requirements shall apply:

- (a) The special education local plan area shall comply with Section 56140.
- (b) The charter school shall participate 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 shall participate in governance of the special education local plan area in the same manner as other local educational agencies of the special education local plan area.
(Added by Stats. 1999, c. 78 (A.B. 1115), § 44.6, eff. July 7, 1999.)

PART 33, CHAPTER 5.
CALIFORNIA ASSESSMENT OF ACADEMIC ACHIEVEMENT
ARTICLE 4. STANDARDIZED TESTING AND REPORTING PROGRAM

§ 60640. Establishment of program; administration of tests; exceptional needs of individuals; English proficiency; funding

(a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) From the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

* * *

(Added by Stats. 2003, c. 773 (A.B. 1485), § 5, operative July 1, 2004. Amended by Stats. 2004, c. 183 (A.B.3082), § 79; Stats. 2004, c. 233 (S.B. 1448), § 15; Stats. 2005, c. 676 (S.B. 755), § 4, eff. Oct. 7, 2005; Stats. 2007, c. 174 (S.B. 80), § 22, eff. Aug. 24, 2007; Stats. 2007, c. 730 (S.B. 132), § 39, Stats. 2008, c. 757 (A.B. 519), § 16, eff. Sept. 30, 2008.)

PART 33, CHAPTER 10.
CALIFORNIA LONGITUDINAL PUPIL ACHIEVEMENT DATA SYSTEM

§ 60900. Development and implementation of system; goals; characteristics

* * *

(k) For purposes of this chapter, a local educational agency shall include a county office of education, a school district, or charter school.

(Added by Stats. 2002, c. 1002 (S.B. 1453), § 3, eff. Sept. 27, 2002. Amended by Stats. 2003, c. 62 (S.B. 600), § 75; Stats. 2006, c. 840 (S.B. 1614), § 5; Stats. 2007, c. 130 (A.B. 299), § 80.)

CHARTER SCHOOLS: AT-RISK PUPILS; COUNTY BOARDS OF EDUCATION

§ SECTION 1. Section 1 of Chapter 58 of the Statutes of 1997, as amended by Chapter 467 of the Statutes of 2002, is amended to read:

SEC. 1. (a) A charter school operating under a charter approved before June 1, 1997, by the county board of education of a county of the first class to serve at-risk pupils, may operate until June 30, 2013. The continuation of the authority of a charter school to operate pursuant to this subdivision after June 30, 2008, shall be subject to the approval of that county board of education.

(b) Notwithstanding any other provisions of the Education Code, except as set forth in subdivision (c), for the 2007-08 to 2012-13 fiscal years, inclusive, the attendance of pupils in a charter school to which this section applies shall be funded at the same rates for the same categories of pupils as community schools and community day schools in the same county.

(c) A charter school operated pursuant to subdivision (a) may, if its charter so provides, operate one or more community day schools in compliance with Article 3 (commencing with Section 48660) of Chapter 4 of Part 27 of the Education Code, except for compliance with the employment requirements in subdivision (a) of Section 48663 and subdivision (c) of Section 48664 of the Education Code, and the funded average daily attendance limitations of paragraphs (1) and (2) of subdivision (a) of Section 48664 of the Education Code, and be funded for not more than 2,000 units of average daily attendance in any fiscal year, to the extent that funding is appropriated therefor, pursuant to subdivision (a) of Section 48664 of the Education Code, as if it were a community day school operated by a county. The average daily attendance of a charter school operating pursuant to this section shall not be in addition to the average daily attendance limitation provided pursuant to subdivision (a) of Section 48664 of the Education Code.

(d) A county board of education that has approved a charter school as set forth in subdivision (a) shall establish specific accountability criteria to annually measure the performance of the charter school. The county board of education shall annually report the measurement to the State Department of Education, the Department of Finance, the Assembly Committee on Education, the Assembly Committee on Appropriations, the Senate Committee on Education, and the Senate Committee on Appropriations. The accountability criteria shall comply with the alternative accountability system described by subdivision (h) of Section 52052 of the Education Code.

(e) If a charter school does not comply with the performance criteria described in subdivision (d), the charter school shall submit to the county board of education a plan for improvement that is designed to enable the charter school to comply with the criteria within a time determined by the county board of education.

SEC. 2. Due to the unique circumstances resulting from the intensely urbanized nature of the County of Los Angeles, it is necessary to extend the authorization for charter schools as set forth in Section 1, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

(Amended by Stats. 2007, c. 525 (A.B. 177), § 1 and § 2.)

Selected California Laws and Regulations
Applicable to Charter Schools

***CALIFORNIA
CODE OF REGULATIONS***

2009 Edition

State Department of Education

Title 5

Subchapter 13. Independent Study

Article 1. General Provisions

§ 11700. Definitions.

(a) "Full-time equivalent certificated employees" means any combination of full-time certificated employees and part-time certificated employee assignments that aggregate to the amount of instructional time specified in the contract of a full-time certificated classroom teacher of the district or county office of education.

(b) "General supervision" means the supervising teacher's

(1) continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil or adult education student progress for any pupil's or adult education student's independent study; and

(2) personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil's or adult education student's work products.

(c) "Independent study" means an alternative to classroom instruction consistent with the district's course of study

(d) "Independent study is an optional educational alternative in which no public may be required to participate" means

(1) with regard to school districts or county offices of education, that

(A) they are not required to offer independent study, an

(B) school districts or county offices of education that do offer independent study are not obliged to permit a pupil or adult education student to engage in independent study if school officials given responsibility for the decision determine that independent study is not an appropriate alternative for the pupil or adult education student; and,

(2) with regard to pupils or adult education students,

(A) a pupil's or an adult education student's choice to commence, or to continue in, independent study must not be coerced, and

(B) in the case of a pupil who is referred or assigned to any school, class, or program pursuant to Education Code sections 48915 or 48917, and to the extent that independent study is not prohibited, instruction may be provided to the pupil through independent study only if the pupil has the continuing option of classroom instruction.

(e) "Method utilized to evaluate" means any specified procedure through which a certificated teacher personally assesses the extent to which achievement of the pupil or adult education student meets the objectives of an assignment.

(f) "Methods of study" means the pupil or adult education student activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement.

(g) "Missed assignment" means any specified independent study assignment that has not been turned in, or evidenced as completed, by a pupil or adult education student by the due date for the assignment.

(h) "Regular school program" means the classroom-based instructional program or its equivalent that a pupil or adult education student would have attended had the pupil or adult education student not elected independent study.

(i) "Specific resources" include all resources, including materials and services, reasonably necessary to the achievement of the objectives in the written agreement, and shall not be construed to exclude resources normally available to all pupils or adult education students on the same terms as the terms on which they are normally available to all pupils or adult education students.

(j) "Supervising teacher" means the certificated teacher employed by the school district or county office of education and assigned, as noted in the written agreement, the responsibility for coordinating, evaluating, and providing general supervision of a pupil's or adult education student's independent study pursuant to Education Code section 51747.5(a).

(k) "Type of program" means statutory program category for purposes of attendance accounting.

(l) "Work product" means that which results from a pupil's or adult education student's efforts and actions to complete or perform the assignments given and which is subsequently evaluated by a certificated teacher.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 48200, 48663, 48916.1, 49067, 51745, 51746, 51747 and 51747.5, Education Code.

§ 11700.1. Additional Definitions Applicable to Charter Schools.

(a) "Certificated employees," in charter schools, means employees meeting the requirements of subdivision (l) of Education Code Section 47605.

(b) "Classroom instruction," with reference to a charter school, means classroom instruction provided either by the charter school or by another public school that the pupil is eligible to attend.

(c) "School district" or "district," for the purposes of this subchapter and of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code, means a school district or a charter school, unless the context clearly indicates otherwise.

NOTE: Authority cited: Sections 33031 and 47612.5(b), Education Code. Reference: Sections 47605(l), 47612.5(b) and 51745-51749.3, Education Code.

§ 11701. District Responsibilities.

In setting policy pursuant to subdivisions (a) and (b) of Education Code section 51747, the local governing board shall consider, in a public hearing, the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils or adult education students. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their age peers as to increase, rather than decrease, the risk of their dropping out of school.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Section 51747(a) and (b), Education Code.

§ 11701.5. Equitable Provision of Resources and Services.

Consistent with the statutory authorization to offer independent study as an alternative instructional strategy to meet the educational needs of pupils or adult education students,

(a) the independent study option is to be substantially equivalent in quality and in quantity to classroom instruction, thereby ensuring that a pupil or adult education student who engages in independent study on a full-time basis, or on a part-time basis in conjunction with part- or full-time classroom study, will be enabled to complete the district or county office of education adopted course of study within the customary time frame for completion of that course of study;

(b) pupils or adult education students who choose to engage in independent study are to have the same access to existing services and resources as the other pupils or adult education students of the school in which the independent study pupil or adult education student is enrolled; and

(c) pupils or adult education students who choose to engage in independent study are to have equality of rights and privileges with the pupils or adult education students of the district or county office of education who choose to continue in the regular school program.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 35293, 37202, 46100, 51745, 51746 and 51747.3, Education Code.

Article 2. Standards for Independent Study

§ 11702. Requirements for Agreements.

(a) Each signature required for an independent study agreement shall be dated. An agreement is not in effect until it is complete as to all terms, signed and dated.

(b) The curriculum and methods of study specified in an independent study agreement shall be consistent with the district or county office of education policies and procedures for curriculum and instruction as adopted by the governing board.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 51013, 51050, 51745, 51746 and 51747, Education Code.

§ 11703. Records.

(a) Maintaining records to meet audit requirements is the responsibility of the local district or county superintendent's office. These records may be on site(s).

(b) Records shall include but not be limited to:

(1) A copy of adopted governing board policy and procedures.

(2) A separate listing of the pupils and adult education students, by grade level, program and school, who have engaged in independent study, identifying units of the curriculum undertaken and units of the curriculum completed by each of those pupils in kindergarten and grades 1 to 8, inclusive, and identifying course credits attempted by and awarded to each of those pupils in grades 9 to 12 inclusive and each of those students in adult education, as specified in their written agreements.

(3) A file of all agreements, including representative samples of each pupil's or adult education student's work products bearing signed or initialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work, or that he or she has personally reviewed the evaluations made by another certificated teacher.

(4) A daily or hourly attendance credit register, as appropriate to the program in which the pupils or adult education students are enrolled, separate from classroom attendance records, and maintained on a current basis as time values of pupil or adult education student work products are personally judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 51747, 51747.5 and 51748, Education Code.

Article 3. Provisions Unique to Charter Schools

§ 11704. Pupil-Teacher Ratio.

In a charter school, for the purposes of Education Code section 51745.6, the ratio of average daily attendance for independent study pupils to full-time equivalent (FTE) certificated employees responsible for independent study shall not exceed a pupil-teacher ratio of 25:1 or the ratio of pupils to full-time equivalent certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, as reported at the second principal apportionment in the prior year, in the county or counties in which the charter school operates. Units of average daily attendance for independent study that are ineligible for apportionment as provided in subdivision (b) of Education Code section 51745.6 shall also be ineligible for funding pursuant to Chapter 6 (commencing with section 47630) of Part 26.8 of the Education Code. For purposes of this section, a "full-time certificated employee" means an employee who is required to work a minimum six-hour day and 175 days per fiscal year. Part-time positions shall generate a partial FTE on a proportional basis.

NOTE: Authority cited: Sections 33031 and 47612.5(b), Education Code. Reference: Sections 47612.5(b) and 51745.6, Education Code.

§ 11705. High School Graduation Requirements.

For the purposes of subdivision (e) of Education Code section 51745, a charter school that includes any of grades 9 to 12, inclusive, shall be deemed to be an alternative school of every high school district and unified school district within which it operates.

NOTE: Authority cited: Sections 33031 and 47612.5(b). Reference: Sections 47612.5(b) and 51745, Education Code.

Subchapter 19. Charter Schools

Article 1. Charter School Regular Average Daily Attendance

§ 11960. Regular Average Daily Attendance for Charter Schools

(a) As used in Education Code section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

(b) The State Superintendent of Public Instruction shall proportionately reduce the amount of funding that would otherwise have been apportioned to a charter school on the basis of average daily attendance for a fiscal year, if school was actually taught in the charter school on fewer than 175 calendar days during that fiscal year.

(c)(1) Beginning in 2004-05, a pupil who is over the age of 19 years may generate attendance for apportionment purposes in a charter school only if both of the following conditions are met:

(A) The pupil was enrolled in a public school in pursuit of a high school diploma (or, if a student in special education, an individualized education program) while 19 years of age and, without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress towards award of a high school diploma (or, if a student in special education, satisfactory progress in keeping with an individualized education program) consistent with the definition of satisfactory progress set forth in subdivision (b) of Section 11965.

(B) The pupil is not over the age of 22 years.

(2) This subdivision shall not apply to a charter school program specified in Education Code section 47612.1. A charter school program as specified in Education Code section 47612.1 may be either:

(A) the whole of a charter school, if the school has an exclusive partnership agreement with one or more of the programs specified in Education Code section 47612.1 and serves no other pupils; or

(B) an instructional program operated by a charter school that is exclusively dedicated to pupils who are also participating in one of the programs specified in Education Code section 47612.1, provided that arrangement is set forth in an exclusive partnership agreement between the charter school and one or more of the programs specified in Education Code section 47612.1.

(d) No individual who is ineligible to generate attendance for apportionment purposes in a charter school pursuant to subdivision (c) may be claimed as regular attendance for apportionment purposes by a local education agency that is authorized by law to grant charters. This subdivision shall not apply to claims other than claims for regular attendance for apportionment purposes.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 41420, 46301 and 47612, Education Code.

Subchapter 19. Charter Schools

Article 1.2. Closure Procedures

§ 11962. Definition of Procedures for School Closure

As used in Education Code sections 47605(b)(5)(P) and 47605.6(b)(5)(Q), “procedures” means, at a minimum, each of the following:

- (a) Designation of a responsible entity to conduct closure-related activities.
- (b) Notification of the closure of the charter school to parents (guardians) of pupils, the authorizing entity, the county office of education (unless the county board of education is the authorizing entity), the special education local plan area in which the school participates, the retirement systems in which the school’s employees participate (e.g., Public Employees’ Retirement System, State Teachers’ Retirement System, and federal social security), and the California Department of Education, providing at least the following:
 - (1) The effective date of the closure;
 - (2) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure;
 - (3) The pupils’ school districts of residence; and
 - (4) The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.
- (c) Provision of a list of pupils in each grade level and the classes they have completed, together with information on the pupils’ districts of residence, to the responsible entity designated in subdivision (a).
- (d) Transfer and maintenance of all pupil records, all state assessment results, and any special education records to the custody of the responsible entity designated in subdivision (a), except for records and/or assessment results that the charter may require to be transferred to a different entity.
- (e) Transfer and maintenance of personnel records in accordance with applicable law.
- (f) Completion of an independent final audit within six months after the closure of the school that may function as the annual audit, and that includes at least the following:
 - (1) An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value.
 - (2) An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.
 - (3) An assessment of the disposition of any restricted funds received by or due to the charter school.
- (g) Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed, including but not limited to, the following:
 - (1) The return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final

expenditure reports for entitlement grants and the filing of any required Final Expenditure Reports and Final Performance Reports.

(2) The return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

(h) Completion and filing of any annual reports required pursuant to Education Code section 47604.33.

(i) Identification of funding for the activities identified in subdivisions (a) through (h).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47607, Education Code.

§ 11962.1. Definitions Related to the Duties of a Chartering Authority

(a) "Notification" as used in Education Code section 47604.32(e) means the transmission to the California Department of Education of at least the following:

(1) A description of the circumstances of the closure;

(2) The effective date of the closure; and

(3) The location of pupil records and personnel records.

(b) "Personnel records" as used in subdivision (a) means any records the charter school has relevant to its employees, including, but not limited to, records related to performance and grievance as specified in Labor Code section 1198.5.

(c) "Pupil records" as used in subdivision (a) has the same meaning as per Education Code section 49061(b).

(d) "Timely" as used in Education Code section 47604.32(e) means receipt of the evidence transmitted pursuant to subdivision (a) within ten calendar days of the official action taken by the chartering authority.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

Article 1.5.
Classroom- and Nonclassroom-Based Instruction in Charter Schools

§ 11963. Definition of Classroom-Based Instruction

(a) In accordance with the definition of classroom-based instruction specified in Education Code section 47612.5(e)(1), and for purposes of identifying and reporting that portion of a charter school's average daily attendance that is generated through nonclassroom-based instruction pursuant to Education Code sections 47634.2(c) and 47612.5(e)(2), classroom-based instruction in a charter school occurs only when all four of the following conditions are met.

(1) The charter school's pupils are engaged in educational activities required of those pupils, and the pupils are under the immediate supervision and control of an employee of the charter school who is authorized to provide instruction to the pupils within the meaning of Education Code section 47605(I).

(2) At least 80 percent of the instructional time offered at the charter school is at the schoolsite.

(3) The charter school's schoolsite is a facility that is used principally for classroom.

(4) The charter school requires its pupils to be in attendance at the schoolsite at least 80 percent of the minimum instructional time required pursuant to Education Code section 47612.5(a)(1).

(b) The requirement to be "at the schoolsite" is satisfied if either of the following conditions is met.

(1) The facility in which the pupils receive instruction is:

(A) Owned, rented, or leased by the charter school principally for classroom instruction;

(B) Provided to the charter school by a school district pursuant to Education Code section 47614 principally for classroom instruction; or

(C) Provided to the charter school free-of-charge principally for classroom instruction pursuant to a written agreement.

When not being used by the charter school for classroom instruction, the facility may be rented, leased, or allowed to be used for other purposes (e.g., for evening adult classes not offered by the charter school, local theater productions, or community meetings) and still be deemed to be principally for classroom instruction.

(2) The charter school facility meets the criteria in paragraph (1) of subdivision (b) and the pupils are on a field trip during which the pupils remain under the immediate supervision and control of the employee of the charter school and are carrying out an educational activity required of the pupils.

(c) The requirement to be "at the schoolsite" is not satisfied if the pupils are in a personal residence (i.e., a dwelling), even if space in the residence is set aside and dedicated to instructional purposes and/or the charter school rents or leases space in the residence for the provision of instruction. As used in this subdivision, a personal residence shall not include a facility that is licensed by a state or local government agency to operate as a facility in which pupils not related to the facility's owners are provided custodial care and supervision (e.g., a licensed children's institution or a boarding school).

(d) The definitions in this section are solely for the purpose of determining if a charter school must submit a determination of funding request pursuant to Education Code section 47634.2.

NOTE: Authority cited: Sections 33031, 47612.5 and 47634.2, Education Code. Reference: Sections 47605, 47612.5 and 47634.2, Education Code

§ 11963.1. Nonclassroom-Based Instruction in Charter Schools

This article does not change the requirement that nonclassroom-based instruction in charter schools comply with the provisions of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code.

NOTE: Authority cited: Sections 33031 and 47612.5, Education Code. Reference: Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28; and Section 47612.5, Education Code.

§ 11963.2. Average Daily Attendance for Nonclassroom-Based Instruction in Charter Schools.

(a) A charter school may receive funding for nonclassroom-based instruction only if a determination of funding is made pursuant to Education Code section 47634.2. A determination of funding is a specific percentage approved by the State Board of Education for each affected charter school by which the charter school's reported nonclassroom-based average daily attendance must be adjusted by the Superintendent of Public Instruction prior to the apportioning of funds based upon that average daily attendance. A determination of funding shall only be approved by the State Board for a charter school if the charter school has submitted a request.

(b) A determination of funding request approved by the State Board of Education shall be 70 percent, unless a greater or lesser percentage is determined appropriate by the State Board of Education in accordance with section 11963.4. In no case shall an approved determination of funding exceed 100 percent.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

§ 11963.3. Determination of Funding Request Forms and Calculations.

(a) For purposes of submitting a determination of funding request, the California Department of Education shall issue a form or set of forms to collect the information specified in this subdivision. Unless otherwise indicated, charter schools submitting a determination of funding request shall complete the form or forms in accordance with the definitions used in the 2005 edition of the California School Accounting Manual (which can be obtained from the California Department of Education web site at: <http://www.cde.ca.gov/fg/ac/sa>). The form or forms shall be developed by the California Department of Education in consultation with the Advisory Commission on Charter Schools. The form or forms shall include all of the following and, to the extent the form or forms include more than the following, the form or forms shall require the approval of the State Board of Education and comply with applicable provisions of the Administrative Procedure Act.

(1) The name, charter number, authorizing entity, address, contact name and title, telephone number, fax number, and email address, if any, for the charter school.

(2) The percentage requested by the school as its determination of funding.

(3) The number of fiscal years for which the determination of funding is requested, which shall not exceed five years.

- (4) The date the charter was initially granted and the date the charter or charter renewal will expire.
- (5) For charter schools that operated in the prior fiscal year, all of the following:
 - (A) The school's total resources, including all federal revenue, with federal Public Charter School Grant Program start-up, implementation, and dissemination grants separately identified; all state revenue; all local revenue with in-lieu property taxes separately identified; other financing sources; and the ending balance from the prior fiscal year.
 - (B) The school's total expenditures for instruction and related services, by object of expenditure, which shall include all of the following:
 - 1. Activities dealing with the interaction between teaching staff and students, without regard to the instructional location or medium.
 - 2. Services that provide administrative, technical, and logistical support to facilitate and enhance instruction.
 - 3. Services in direct support of students.
 - 4. School-sponsored extra-curricular or co-curricular activities designed to provide motivation and enjoyment and improvement of skills.
 - 5. Instructional materials, supplies, and equipment.
 - (C) The school's total expenditures for schoolsite and administrative site operations and facilities, by object of expenditure, which shall include all of the following:
 - 1. Activities concerned with securing and keeping open and working the physical plants, grounds, and equipment necessary for the operation of the school.
 - 2. Facility rents, leases, and utilities.
 - 3. Facilities acquisition and construction.
 - (D) The school's total expenditures for administration and all other activities, by object of expenditure, which shall include all of the following:
 - 1. Activities concerned with establishing and administering policy for operating the entire charter school, such as the governing board, director, and administrative staff.
 - 2. Other general administration activities, such as payroll and accounting services, auditing and legal services, property and liability insurance, personnel, charter-wide telephone service, and data processing services.
 - 3. Supervisorial oversight fees charged by the chartering authority.
 - 4. Other expenditures not reported elsewhere, such as those for community services and enterprise activities and cumulative administrative overhead from related party transactions.
 - (E) Other outgo and other uses, including debt service payments and transfers.
 - (F) The excess (or deficiency) of revenues over expenditures calculated by subtracting the total of subparagraphs (B), (C), (D), and (E), from the total resources reported pursuant to subparagraph (A), and a list of the amount of reserves for: facilities acquisition or construction, economic uncertainties,

the amount required by the charter-authorizing entity, or other reserves. Reserves in excess of the greater of fifty-thousand dollars or five percent of total expenditures may be allowed for economic uncertainties or long-term expenditures such as capital projects if the excess reserves are satisfactorily explained pursuant to section 11963.4(b).

(6) For charter schools that did not operate in the prior fiscal year, the revenue and expenditure information required in paragraph (5) shall be provided using reasonable estimates of current-year annualized revenues and expenditures.

(b) In addition to the form or forms prescribed pursuant to subdivision (a), a complete determination of funding request shall also include the following information. Only a determination of funding request that is complete may be acted upon by the State Board of Education.

(1) A certification signed by the charter school's director, principal, or governing board chairperson of the following:

(A) That the information provided is true and correct to the best of the ability and knowledge of the individual authorized to do so by the charter school's governing board.

(B) That the charter school's nonclassroom-based instruction is conducted for and substantially dedicated to the instructional benefit of the school's students.

(C) That the governing board of the charter school has adopted and implements conflict of interest policies.

(D) That all of the charter school's transactions, contracts, and agreements are in the best interest of the school and reflect a reasonable market rate for all goods, services, and considerations rendered for or supplied to the school.

(2) The charter school's pupil-teacher ratio as calculated pursuant to title 5, section 11704 of the California Code of Regulations.

(3) A listing of entities that received in the previous fiscal year (or will receive in the current fiscal year) \$50,000 or more or 10 percent or more of the charter school's total expenditures identified pursuant to subparagraphs (B), (C), (D), and (E) of paragraph (5) of subdivision (a), the amount received by each entity; whether each of the contract payments is based on specific services rendered or upon an amount per unit of average daily attendance or some other percentage; and an identification of which entities, if any, have contract payments based on a per unit average daily attendance amount or some other percentage.

(4) An identification of the members comprising the charter school's governing board (i.e., parent, teacher, etc.) and a description of how those members were selected; whether the governing board has adopted and implemented conflict of interest policies and procedures; and whether any of the governing board members are affiliated in any way with any of the entities reported pursuant to paragraph (3) and if so, how.

(5) An explanation of all transfers reported pursuant to subparagraph (E) of paragraph (5) of subdivision (a).

(6) A list and the amount of each of the other reserves reported pursuant to subparagraph (F) of paragraph (5) of subdivision (a).

(7) To the extent that a charter school desires to have facility costs considered as an instructional cost, the total annual facility-related and operational cost, total facility square footage occupied by the charter school, total classroom-based average daily attendance (if applicable) as reported at the prior-year

second principal apportionment, and the total student hours attended by nonclassroom-based pupils at the school site shall be provided.

(8) The number of full-time equivalent employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing and who work in the charter school in a position required to provide direct instruction or direct instructional support to students. For purposes of these regulations, "direct instructional support" includes, but is not limited to, activities that are directly related to student instruction that are performed by qualified certificated persons such as curriculum coordinators, individualized education plan coordinators, librarians, counselors, psychologists, and nurses.

(c) The California Department of Education shall perform the following using the resource and expenditure data provided pursuant to subdivision (a).

(1) A calculation showing the charter school's total expenditures for salaries and benefits for all employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing (and who work in the charter school in a position required to provide direct instruction or direct instructional support to students) as a percentage of the school's total public revenues. For the purposes of this subdivision:

(A) "Employees" shall include special education teachers who possess a valid teaching certificate, permit, or other document equivalent to that which special education teachers in non-charter public schools would be required to hold issued by the Commission on Teacher Credentialing, and who provide direct instruction or direct instructional support to pupils of the charter school pursuant to a contract with a public or private entity.

(B) "Employees" shall include individuals who possess a valid certificate, permit, or other document equivalent to that which the individuals would be required to possess in a non-charter public school, issued by the Commission on Teacher Credentialing, and who are employed by a local education agency (LEA), provided all of the following conditions are met: the LEA is the employer of all the charter school's staff; the governing board of the LEA is the governing authority for the charter school (i.e., the charter school is not a corporate entity separate from the LEA); and the LEA's employees are assigned exclusively to work at the charter school providing direct instruction or direct instructional support to students or, to the extent that the LEA's employees are assigned to work at the charter school on a part-time basis, the charter school pays for the services rendered by the employee providing direct instruction or direct instructional support to students on a documented, fee-for-service basis and not, for example, on the basis of a fixed annual amount, fixed percentage of average daily attendance revenue, or other basis that is not related to documented services actually rendered to the charter school. Under no circumstances shall certificated employees of an LEA be considered employees of a charter school for purposes of this subparagraph unless the charter school pays for the services rendered by the LEA's employees on a documented, fee-for-service basis.

(C) For purposes of this section, "employee" also means qualified persons that provide direct instruction or direct instructional support, that are hired directly by the charter school through an employment services contract based on a documented, fee-for-service basis.

(D) The school's total public revenue is based on the amounts reported pursuant to subparagraph (A) of paragraph (5) of subdivision (a) and equals the sum of: all federal revenue, less any Public Charter School Grant Program start-up, implementation, and dissemination grant funds; state revenue; and local revenue from in-lieu property taxes.

(2) A calculation showing the charter school's total expenditures on instruction and related services as a percentage of the school's total revenues. For the purposes of this subdivision, the school's total revenues do not include the ending balance from the prior fiscal year.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

§ 11963.4. Evaluation of Determination of Funding Requests Regarding Nonclassroom-Based Instruction.

(a) When a complete determination of funding request is received from a charter school, it shall be reviewed by the California Department of Education and presented to the Advisory Commission on Charter Schools, along with credible information pertaining to the request obtained from any other source. The Advisory Commission shall develop a recommendation pursuant to this section to the State Board of Education regarding the request, and that recommendation shall be presented to the State Board of Education by the California Department of Education. The following criteria shall guide the process of reviewing and developing a recommendation on the request. The California Department of Education shall report any difference of opinion between the California Department of Education and the Advisory Commission as to the recommendation presented to the State Board of Education.

(1) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals at least 35 percent but less than 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of Section 11963.3 equals at least 60 percent but less than 70 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 70 percent, unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(2) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of Section 11963.3 equals or exceeds 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 70 percent but less than 80 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 85 percent, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying a percentage that is greater than 70 percent and, if the recommended percentage is lower than the requested percentage, the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(3) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals or exceeds 80 percent, and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of 25:1 or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 100 percent (i.e. full funding), unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(4) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 is less than 35 percent, or the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 is less than 60 percent, then the charter school's nonclassroom-based instruction is not substantially dedicated to the instructional benefit of the students, and the Advisory Commission on

Charter Schools shall recommend that the State Board of Education deny the request, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying the denial and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school. Denial of a determination of funding request by the State Board of Education shall result in no funding being apportioned for average daily attendance identified by the charter school as being generated through nonclassroom-based instruction pursuant to Education Code section 47634.2(c).

(5) Any request for a funding determination received prior to the effective date of these regulations will be reviewed pursuant to the criteria in effect at the time of submittal.

(b) The Advisory Commission on Charter Schools and/or the California Department of Education may ask the charter school to provide additional information in order to make possible a more detailed review or to develop a reasonable basis for a recommendation other than those prescribed in subdivisions (a) and (b). With the consent of the Superintendent of Public Instruction, the request for additional information shall be considered a reasonable inquiry to which the charter school must respond pursuant to Education Code section 47604.3.

(c) Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

(d) Prior to a recommendation by the Advisory Commission on Charter Schools (that a determination of funding request be denied or approved at a percentage lower than that requested) being forwarded to the State Board of Education, the affected charter school shall be given thirty (30) calendar days in which to amend its determination of funding request and/or to provide additional information in support of the request. Based upon consideration of the amended request or any additional information that may be provided, the Advisory Commission may modify its recommendation to the State Board.

(e) A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, and 47634.2, Education Code.

§ 11963.5 Determination of Funding Requests for Nonclassroom-Based Virtual or On-Line Charter Schools.

A virtual or on-line charter school is one in which at least 80 percent of teaching and student interaction occurs via the Internet.

(a) A virtual or on-line nonclassroom-based charter school may receive approval of a funding determination with no maximum pupil-teacher ratio if the charter school has and maintains an 8 or above

Academic Performance Index (API) in either its statewide or similar schools ranking and has no less than a 6 in the other of these two rankings.

(b) In order to be funded pursuant to (a) above, a virtual or on-line charter school, must demonstrate that:

(1) The school has met its overall and subgroup API growth targets.

(2) Instructional expenditures are at least 85 percent of the overall school budget. A substantial portion of these expenditures (at least 25 percent of the charter school's general purpose entitlement and categorical block grant as defined in Education Code section 47632), are spent on technology that directly benefits students and teachers and results in improved student achievement.

(3) Computer-based instruction and assessment is provided to each student and includes the use of an on-line instructional management program, which at a minimum includes standards-based guided lessons, lesson plans, initial testing of students, periodic assessment of student achievement, and the use of other measurements of student progress over a period of time.

(4) Teachers are provided with technology tools and print media, which at a minimum must include: standards-aligned instructional materials, computer, printer, monitor, Internet service, telephone, staff development that provides for the monitoring of student progress, and a means of electronic communication for frequent student contact.

(5) All students are provided an individualized learning plan that is based on initial testing of the students and that is monitored either remotely or in person, by the teacher to evaluate student progress.

(6) All students are provided access to a computer, Internet service, printer, monitor, and standards-aligned materials based on State Board adopted academic content standards for each grade level and for each subject studied.

(7) All students eligible for special education supports and services receive those supports and services in accordance with their individualized education program.

(8) Charter school admission practices will not favor high performing students or recruit a student population that is of a higher socioeconomic group or lower racial or ethnic representation than the general population of the county or counties served. Admission practices not reflective of the county or counties served shall be cause for denial by the State Board of Education under this section.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47632, 47634.2, 51747.3, 52052 and 60640-60643, Education Code.

§ 11963.6 Submission and Action on Determination of Funding Requests Regarding Nonclassroom-Based Instruction.

(a) An approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years. Within 90 days after the end of its first fiscal year of operation, a charter school shall submit unaudited actual expense reports and a funding determination form based on the school's actual second-year budget. If the Advisory Commission on Charter Schools determines that the actual expenditures of the charter school or the second year funding determination form do not support the funding determination for the second year, the Advisory Commission on Charter Schools shall recommend that the State Board of Education revise the funding determination.

(b) For the 2005-06 fiscal year only, a determination of funding request approved by the State Board of Education for any nonclassroom-based charter school that is not in its first year of operation shall be for

the 2005-06 fiscal year and additionally a minimum of one year but a maximum of four years prospectively (for a total funding determination of not more than five years).

(c) Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007-08 fiscal year, nonclassroom-based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year prior to the year the funding determination will be effective, when a new request is required under these regulations.

(d) A determination of funding shall be subject to review each time a material change is made in the school's charter with respect to nonclassroom-based instruction, and may be subject to review each time the school's charter is renewed, and/or in accordance with any conditions the State Board of Education may impose at the time of the determination of funding requests approval. A material change in the school's charter with respect to nonclassroom-based instruction is any significant change that affects the level of resources devoted to nonclassroom-based instruction, the courses to be offered through nonclassroom-based instruction, and/or the delivery of educational services to pupils receiving nonclassroom-based instruction. The charter school shall notify the California Department of Education no later than thirty (30) days after the material change is made.

(e) A charter school may submit a request for funding determination up to one year prior to the fiscal year in which the request will initially be effective. The State Board may grant the request for up to five years following the effective date of the request.

(f) Not more than 120 days following the receipt of a complete determination of funding request, the California Department of Education shall present the request and the recommendation of the Advisory Commission on Charter Schools to the State Board of Education in accordance with subdivision (a) of section 11963.4.

(g) If, during the effective period of a determination of funding, a charter school wishes to seek a higher or lower determination of funding, it shall do so by the filing of a new determination of funding request. During the effective period of a charter school's determination of funding, no more than one additional determination of funding request (which would replace the determination of funding then in effect) may be submitted by the charter school in the same fiscal year.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47634.2, and 51745.6, Education Code.

§ 11963.7. Termination of a Determination of Funding Regarding Nonclassroom-Based Instruction.

Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the funding authorized. The State Board of Education may terminate a determination of funding if updated or additional information requested by the California Department of Education and/or the Advisory Commission on Charter Schools is not made available by a charter school within thirty (30) calendar days or if credible information from any source supports termination. If the latter is the case, the charter schools shall be given thirty (30) calendar days prior to the termination of funding to provide additional information to support the school's determination of funding.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5 and 47634.2, Education Code.

Article 2. General Provisions

§ 11965. Definitions.

(a) "Private school" as that term is used in Education Code section 47602(b) means a school that meets the requirements set forth in Education Code sections 48222 and 48223.

(b) For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering agency is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.

For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program made pursuant to U.S. Code, Title 20, Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

NOTE: Authority cited: Sections 33031, 47602(b) and 47612(b), Education Code. Reference: Sections 47602(b) and 47612(b), Education Code; and Section 1414(d), Title 20, U.S. Code.

§ 11966. Certification.

On each occasion that a charter school reports attendance to the California Department of Education for purposes of the calculation of state funding for the charter school, an official of the charter school who is responsible for reporting attendance shall specifically certify that all of the attendance then reported is for pupils whose attendance is eligible for public funding pursuant to Education Code section 47602(b). The Superintendent of Public Instruction shall not apportion state funds to any charter school that fails to make the certification required by this section.

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

§ 11967. Appeals on Charter Petitions That Have Been Denied

(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education or the State Board of Education not later than 180 calendar days after the denial. A charter school petition that has been previously denied by a county board of education must be received by the State Board of Education not later than 180 calendar days after the denial. Any petition received by the county board of education or State Board of Education more than 180 days after denial shall not be acted upon by the county board of education or State Board of Education.

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

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

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

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

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

(c) The county board of education or State Board of Education shall deny a petition for the establishment of a charter school only if it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)-(5).

(d) Not later than 60 days after receiving a complete petition package, and following review of the petition and a public hearing, the county board of education shall grant or deny the charter petition. This date may be extended by an additional 30 days if the county board of education and the petitioner(s) agree to the extension.

(e) Not later than 90 days after receiving a complete petition package and following review of the petition and a public hearing, the State Board of Education shall schedule, at its next regular board meeting, an action item to grant or deny the charter petition. This date may be extended by an additional 30 days if the State Board of Education and the petitioner(s) agree to the extension.

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

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47605(j)(4), Education Code.

§ 11967.5. Review and Approval of Charter School Petitions by the State Board of Education.

The State Board of Education shall utilize the criteria set forth in Section 11967.5.1 in reviewing the elements of a charter petition submitted for its approval in accordance with the provisions of Education Code section 47605(b) and (j). The purpose of the criteria is to convey to charter petitioners the State Board of Education's understanding of the meaning of the elements specified in Education Code section 47605(b), or otherwise to convey essential information about the elements. The criteria are intended to require no charter provisions in excess of those that the State Board of Education believes necessary to determine whether each element specified in Education Code section 47605(b) has been satisfactorily addressed. Where the criteria call for judgments to be made, the judgments will be made in such a manner as to be reasonable, rational, and fair to the petitioners and other parties potentially affected by the chartering of the school by the State Board of Education.

§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions by the State Board of Education.

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the State Board of Education's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of

every student who might possibly seek to enroll in order for the charter to be granted by the State Board of Education.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be “an unsound educational program” if it is either of the following:

(1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the State Board of Education determines not to be likely to be of educational benefit to the pupils who attend.

(c) For purposes of Education Code section 47605(b)(2), the State Board of Education shall take the following factors into consideration in determining whether charter petitioners are “demonstrably unlikely to successfully implement the program.”

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the State Board of Education regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the State Board of Education's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.
2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.
3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that “does not contain the number of signatures required by subdivision (a)” of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of its submission to a school district pursuant to Education Code section 47605(a). The State Board of Education shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that “does not contain an affirmation of each of the conditions described in subdivision (d)” of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the State Board of Education shall take the following factors into consideration in determining whether a charter petition does not contain a “reasonably comprehensive” description of each of the specified elements.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an “educated person in the 21st century, belief of how learning best occurs, and a goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

- (C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.
 - (D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, technology-based education).
 - (E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the State Board of Education pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.
 - (F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.
 - (G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.
 - (H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.
- (2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:
- (A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.
 - (B) Include the school's Academic Performance Index growth target, if applicable.
- (3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:
- (A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.
 - (B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.
 - (C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.
- (4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

- (A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.
- (B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:
 1. The charter school will become and remain a viable enterprise.
 2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).
 3. The educational program will be successful.
- (5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:
 - (A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.
 - (B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.
 - (C) Specify that the all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.
- (6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:
 - (A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.
 - (B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.
 - (C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.
 - (D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.
- (7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), 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, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.
- (8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.
- (9) 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, as required by Education Code section 47605(b)(5)(I), at a minimum:

- (A) Specify who is responsible for contracting and overseeing the independent audit.
 - (B) Specify that the auditor will have experience in education finance.
 - (C) Outline the process of providing audit reports to the State Board of Education, California Department of Education, or other agency as the State Board of Education may direct, and specifying the time line in which audit exceptions will typically be addressed.
 - (D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.
- (10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:
- (A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.
 - (B) Identify the procedures by which pupils can be suspended or expelled.
 - (C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.
 - (D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).
 - (E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):
 1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.
 2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.
- (11) 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, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.
- (12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.
- (13) The description of the rights of any employees 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, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

- (A) Any rights upon leaving the employment of a local education agency to work in the charter school that the local education agency may specify.
- (B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency may specify.
- (C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the State Board of Education determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

- (A) Include any specific provisions relating to dispute resolution that the State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.
- (B) Describe how the costs of the dispute resolution process, if needed, would be funded.
- (C) Recognize that, because it is not a local education agency, the State Board of Education may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.
- (D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of 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), as required by Education Code section 47605(b)(5)(O), recognizes that the State Board of Education is not an exclusive public school employer and that, therefore, the charter school must be 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).

(g) A "reasonably comprehensive" description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

- (1) Is substantive and is not, for example, a listing of topics with little elaboration.
- (2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.
- (3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

- (4) Describes, as applicable among the different elements, how the charter school will:
- (A) Improve pupil learning.
 - (B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.
 - (C) Provide parents, guardians, and pupils with expanded educational opportunities.
 - (D) Hold itself accountable for measurable, performance-based pupil outcomes.
 - (E) Provide vigorous competition with other public school options available to parents, guardians, and students.

NOTE: Authority cited: Sections 33031 and 47605(j)(5), Education Code. Reference: Section 47605, Education Code.

§ 11967.6. Submission of Statewide Benefit Charter School Petitions to the State Board of Education.

- (a) A petition to establish a statewide benefit charter school pursuant to Education Code section 47605.8 shall:
- (1) Comply with all statutory requirements otherwise applicable to charter schools, except those relating to geographic and site limitations (See Education Code section 47605.8).
 - (2) If applicable, comply with all requirements of law relative to the provision of independent study.
 - (A) A charter that does not expressly provide for independent study shall not be interpreted as allowing independent study beyond that which is incidental and required to address the temporary needs of particular students.
 - (B) If the independent study (nonclassroom-based instruction) exceeds the percentage specified in Education Code section 47612.5, it shall be funded only in keeping with a determination of funding approved pursuant to Education Code section 47634.2.
 - (3) Describe how an annual independent audit of the statewide benefit charter school will be conducted in keeping with applicable statute and regulation and indicate how the statewide benefit charter school's individual schools will be appropriately included in the audit process.
 - (4) Incorporate a plan that provides for initial commencement of instruction in at least two schools, which shall be in at least two different school districts or two different counties. The plan for instruction shall describe how the instructional services will provide a statewide benefit, as specified in section 11967.6(b) that cannot be provided by a charter school operating in only one school district, or only in one county. Existing charter schools previously approved by a charter authorizer may not be included in a petition to establish a statewide benefit charter school.
 - (5) Include an assurance that the instructional services for similar student populations described in the charter will be essentially similar at each school and, thus, that each pupil's educational experience will be reasonably the same with regard to instructional methods, instructional materials, staffing configuration, personnel requirements, course offerings, and class schedules.
 - (6) Describe how the statewide benefit charter school will participate as a member of a special education local plan area, and ensure a coordinated structure for the provision of necessary programs and services specific to students with Individual Education Programs (IEPs).

(7) Demonstrate success in operating charter schools previously approved in California as evidenced by improved pupil academic performance and annual financial audits with no audit findings or exceptions. Data that shall be considered in determining the likelihood of a charter operator to successfully operate a statewide benefit charter school include, but are not limited to, a statewide or similar schools ranking of 8 or higher on the Academic Performance Index, evidence of having met growth targets over time, and other alternative indicators of success as defined in the alternative accountability system pursuant to subdivision (h) of Education Code section 52052.

(8) Describe how local community input for each school included in the plan was solicited (or will be solicited). Satisfaction of this paragraph shall involve the holding of at least one publicly noticed meeting for each school, with a summary of the input received at the meeting(s) being provided.

(9) Contain sufficient signatures either of parents, guardians, or of teachers in keeping with Education Code section 47605(a)(1) for each school proposed in the first year.

(10) Include an assurance that the school district and county superintendents where each school will be located will be notified at least 120 days prior to commencement of instruction.

(11) Address all charter elements specified in Education Code section 47605 adapted appropriately for application at the statewide level.

(12) Contain or address any provisions or conditions specified by the State Board of Education at the time of charter approval.

(13) Contain a plan for operations of the statewide benefit charter school that describes the distinction between centralized and individual school level responsibilities and includes a staffing plan to implement the activities at the designated level. The plan shall address statewide benefit charter school operations including, but not limited to:

(A) Academic program,

(B) Facilities and school operations,

(C) Legal and programmatic compliance,

(D) Financial administration,

(E) Governance, and

(F) Decision-making authority.

(14) Provide a list of each school that will be operated by the statewide benefit charter school that includes:

(A) A timeline for the commencement of instruction at each school. Commencement of instruction must begin during the term of the charter.

(B) The general location of each school and the school district and county in which each school is to be located.

(C) A description of the potential facilities to be used at each school.

(D) The approximate number of pupils that can safely be accommodated by each school facility.

(b) "Instructional services of a statewide benefit", as referenced in Education Code section 47605.8(b), shall include, but not be limited to, the following factors:

(1) Unique factors and circumstances related to the statewide benefit charter school's educational program that can only be accomplished as a statewide benefit charter and not as a single district- or single county-authorized charter, including specific benefits to each of the following:

(A) The pupils who would attend the statewide benefit charter school,

(B) The communities (including the school districts and the counties) in which the individual schools would be located (e.g., in terms of pupil demographics and performance),

(C) The state, to the extent applicable, and

(D) The statewide benefit charter school itself (e.g., in fund raising, community partnerships, or relationships with institutions of higher education).

(2) Neither an administrative benefit to a charter operator, nor a desire by a charter operator to provide services in more than one district and county, shall be considered sufficient in and of itself to constitute a statewide benefit.

(c) A statewide benefit charter school, regardless of the number of individual schools, is treated as a school district for all purposes, including but not limited to, compliance monitoring, data reporting and collection, student performance data, oversight, and apportionments. For purposes of compliance monitoring and oversight, the State Board, in its review, will look at each individual school's independent progress in meeting federal and state growth targets.

(d) Following its submission, a petition to establish a statewide benefit charter school may be modified or new schools added that were not included in the original petition only with the approval of the State Board of Education.

(e) Each statewide benefit charter school shall provide an annual report to the State Board of Education reflecting student achievement data, performance benchmarks, and other pertinent data supporting stated charter goals.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605, 47605.8, 47612.5 and 47634.2, Education Code.

§ 11967.7. Evaluation of Facilities for Statewide Benefit Charter Schools.

(a) The statewide benefit charter school shall notify the California Department of Education at least 60 days prior to proposed commencement of instruction at each individual school, including submission of all documentation required in section 11967.6(a)(14). Within 30 days of the receipt of a complete and documented notice pursuant to this section, the California Department of Education shall evaluate the facilities for the proposed educational program for compliance with local building permits and codes and notify the statewide benefit charter school and any affected local education agency of its determination. The charter school or any affected local education agency may appeal the Department's determination within 10 calendar days of the date of the determination, and the matter will be placed on the agenda of the next regularly scheduled meeting of the State Board of Education. If no action is taken by the State Board of Education, the California Department of Education's determination shall stand. A school may not open in a facility without a positive determination.

(b) A school in its first year of operation may only commence instruction between July 1 and September 30 of the year in which it proposes to commence operation.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Section 47605.8, Education Code.

§ 11967.8. Funding for Statewide Benefit Charter Schools.

(a) A statewide benefit charter school approved pursuant to Education Code section 47605.8 shall be direct-funded pursuant to Chapter 6 of Part 26.8 of the Education Code (commencing with section 47630), with the following exceptions:

(1) A statewide benefit charter school's general-purpose entitlement pursuant to Education Code section 47633 shall be funded entirely from state aid.

(2) A statewide benefit charter school does not have a "sponsoring local education agency" as defined in Education Code section 47632.

(b) The warrant for a statewide benefit charter school shall be drawn in favor of the State Superintendent of Public Instruction and a county office of education as follows:

(1) The State Board of Education may designate a county office of education as the office responsible for establishing the appropriate funds or accounts in the county treasury for the statewide benefit charter school and for making the necessary arrangements for the statewide benefit charter school's participation in the State Teachers' Retirement System and/or the Public Employees' Retirement System. The county office may charge the statewide benefit charter school for the actual cost of services.

(2) In designating a county office of education, the State Board shall give preference to the county office of education of the county that the statewide benefit charter school identifies as the principal location of its business records.

(3) If the county office of education in the county that the statewide benefit charter school identifies as the principal location of its business records declines to accept the responsibility for the statewide benefit charter school, the State Board of Education may designate another county office of education by mutual agreement.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605.8, 47632, 47633 and 47651, Education Code.

§ 11968. Maximum Number of Charters.

(a) If a charter school, including a statewide benefit or countywide charter school, ceases to operate by voluntary surrender, revocation, or non-renewal of its charter, the charter school's number will lapse and will not be reassigned.

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

(c) Whenever the statutory limit on the permissible number of charter schools authorized to operate in this state is reached, requests for new numbers will be placed on a list in the order received by the State Board of Education.

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

§ 11969. Numbering of Charter School Petitions.

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

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47602, Education Code.

Article 3. Facilities for Charter Schools

§ 11969.1. Purpose and Stipulation

(a) This article governs provision of facilities by school districts to charter schools under Education Code section 47614.

(b) If a charter school and a school district mutually agree to an alternative to specific compliance with any of the provisions of this article, nothing in this article shall prohibit implementation of that alternative, including, for example, funding in lieu of facilities in an amount commensurate with local rental or lease costs for facilities reasonably equivalent to facilities of the district.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.2. Definitions

(a) Average Daily Classroom Attendance. As used in Education Code section 47614(b), "average daily classroom attendance," or "classroom ADA," is average daily attendance (ADA) for classroom-based apportionments as used in Education Code section 47612.5. "In-district classroom ADA" is classroom ADA attributable to in-district students. Nothing in this article shall prohibit a school district from allowing a charter school to include nonclassroom-based ADA in average daily classroom attendance, but only:

(1) to the extent of the instructional time that the students generating the nonclassroom-based ADA are actually in the classroom under the direct supervision and control of an employee of the charter school; and

(2) if the school district and charter school agree upon the time(s) that facilities devoted to students generating nonclassroom-based ADA will be used.

(b) Operating in the School District. As used in Education Code section 47614(b), a charter school is "operating in the school district" if the charter school meets the requirements of Education Code section 47614(b)(5) regardless of whether the school district is or is proposed to be the authorizing entity for the charter school and whether the charter school has a facility inside the school district's boundaries.

(c) In-district Students. As used in Education Code section 47614(b), a student attending a charter school is an "in-district student" of a school district if he or she is entitled to attend the schools of the school district and could attend a school district-operated school, except that a student eligible to attend the schools of the school district based on interdistrict attendance pursuant to Education Code section 46600-46611 or based on parental employment pursuant to Education Code section 48204(b) shall be considered a student of the school district where he or she resides.

(d) Contiguous. As used in Education Code section 47614(b), facilities are "contiguous" if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety. In evaluating and accommodating a charter school's request for facilities pursuant to Education Code section 47614, the charter school's in-district students must be given the same consideration as students in the district-run schools, subject to the requirement that the facilities provided to the charter school must be contiguous. If a school district's preliminary proposal or final notification presented pursuant to subdivisions (f) or (h) of section 11969.9 does not accommodate a charter school at a single school site, the district's governing board must first make a finding that the charter school could not be accommodated at a single site and adopt a written statement of reasons explaining the finding.

(e) Furnished and Equipped. As used in Education Code section 47614(b), a facility is "furnished and equipped" if it includes reasonably equivalent furnishings necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction as found in the comparison group schools established under section 11969.3(a), and if it has equipment that is reasonably equivalent to that in the comparison group schools. "Equipment" means property that does not lose its identity when removed from its location and is not changed materially or consumed immediately (e.g., within one year) by use. Equipment has relatively permanent value, and its purchase increases the total value of a Local Educational Agency's (LEA's) physical properties. Examples include furniture, vehicles, machinery, motion picture film, videotape, furnishings that are not an integral part of the building or building system, and certain intangible assets, such as major software programs. Furnishings and equipment acquired for a school site with non-district resources are excluded when determining reasonable equivalence.

(f) General Fund. As used in Education Code section 47614(b)(1), "general fund" means the main operating fund of the LEA. It is used to account for all activities except those that are required to be accounted for in another fund. In keeping with the minimum number of funds principle, all of an LEA's activities are reported in the general fund unless there is a compelling reason to account for an activity in another fund. An LEA may have only one general fund.

(g) Unrestricted Revenues. As used in Education Code section 47614(b)(1), "unrestricted revenues" are those funds whose uses are not subject to specific constraints and that may be used for any purposes not prohibited by law. Restricted revenues are those funds received from external sources that are legally restricted or that are restricted by the donor to specific purposes. Programs funded by a combination of restricted and unrestricted sources will be accounted for and reported as restricted. Funds or activities that are not restricted or designated by the donor, but rather by the LEA's governing board, will be accounted for and reported as unrestricted.

(h) Facilities Costs. As used in Education Code section 47614(b)(1), "facilities costs" are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools. This includes plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 46600-46611, 47612.5, 47614, and 48204, Education Code.

§ 11969.3. Conditions Reasonably Equivalent

The following provisions shall be used to determine whether facilities provided to a charter school are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities, as required by Education Code section 47614(b).

(a) Comparison Group.

(1) The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration.

(2) The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

(3) For school districts whose students do not attend high school based on attendance areas, the comparison group shall be three schools in the school district with similar grade levels that the largest number of students of the charter school would otherwise attend. For school districts with fewer than three schools with similar grade levels, the comparison group shall be all schools in the school district with similar grade levels.

(4) Although the district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration, nothing in this article shall preclude the district from entering into an agreement with the charter school to modify an existing school site, with the costs of the modifications being paid exclusively by the charter school or by the school district, or paid jointly by the district and the charter school.

(b) Capacity.

(1) Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools. School district ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. Charter school ADA shall be determined using in-district classroom ADA projected for the fiscal year and grade levels for which facilities are requested. The number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing. "Interim housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities, as defined in California Code of Regulations, title 2, section 1859.2, and classrooms used as emergency housing for schools vacated due to structural deficiencies or natural disasters.

(2) If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall include a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

(A) the grade levels of the charter school's in-district students;

(B) the charter school's total in-district classroom ADA; and

(C) the per-student amount of specialized classroom space in the comparison group schools.

(3) The school districts shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

(c) Condition.

(1) All of the factors listed below shall be used by the school district and charter school to determine whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Condition is determined by assessing such factors as age (from latest modernization), quality of materials, and state of maintenance.

(A) School site size.

(B) The condition of interior and exterior surfaces.

(C) The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes.

(D) The availability and condition of technology infrastructure.

(E) The condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use.

(F) The condition of the facility's furnishings and equipment.

(G) The condition of athletic fields and/or play area space.

(2) Notwithstanding paragraph (1) of subdivision (c), at a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the condition of the facility previously used by the school district at the site shall be considered to be reasonably equivalent to the condition of school district facilities for the first year the charter school uses the facility. During its first year of operation, the charter school shall be subject to charges for pro rata costs pursuant to section 11969.7, but shall not be subject to reimbursement for over-allocated space pursuant to section 11969.8.

(d) Additional Provisions Relating to a Charter School Established at an Existing Public School Site. The following provisions apply only to a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650 and that operated at the site in its first year pursuant to paragraph (2) of subdivision (c).

(1) The school site, as identified in the school's charter, shall be made available to the school for its second year of operation and thereafter upon annual request pursuant to Education Code section 47614. The district is entitled to charge the charter school pro rata costs for the school site pursuant to section 11969.7, and the district is entitled to receive reimbursement for over-allocated space from the charter school pursuant to section 11969.8, except as provided in paragraph (3).

(2)(A) If, by material revision of the charter, the location of a charter school is changed, or if one or more additional sites are approved pursuant to Education Code section 47605(a)(4), then the school is entitled to request and the district shall provide for the use of facilities by the school in accordance with the revised charter, Education Code section 47614, and the provisions of this article.

(B) If the charter school was established pursuant to Education Code section 47605(a)(2), the district shall change the school's attendance area only if a waiver is first secured from the State Board of Education (SBE) pursuant to Education Code sections 33050-33053 of the requirement in Education Code section 47605(d)(1) that the school continuously give admission preference to students residing in the former attendance area of the school site.

(C) If the charter school was established pursuant to Education Code sections 52055.5, 52055.55, or 52055.650, the district shall relocate the school or change the school's attendance area only if a waiver is first secured from the SBE pursuant to Education Code sections 33050-33053 of the provision of statute binding the school to the existing school site.

(D) If a school district decides to change a charter school's attendance area as provided in subparagraphs (B) or (C), and if the decision occurs between November 1 and June 30 and becomes operative in the forthcoming fiscal year, then the space allocated to the charter school is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the forthcoming fiscal year.

(3) If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the following year or thereafter, and the district is entitled to occupy all or a portion of the space identified. To recover space surrendered to the district pursuant to this paragraph, a charter school must apply to the district. An application to recover surrendered space shall be evaluated by the district in accordance with the provisions of this article.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 33050-33053, 47605, 47614, 52055.5, 52055.55, and 52055.650, Education Code.

§ 11969.4. Operations and Maintenance

(a) Facilities and furnishings and equipment provided to a charter school by a school district shall remain the property of the school district.

(b) The ongoing operations and maintenance of facilities and furnishings and equipment is the responsibility of the charter school. Projects eligible to be included in the school district deferred maintenance plan established pursuant to Education Code section 17582 and the replacement of furnishings and equipment supplied by the school district in accordance with school district schedules and practices, shall remain the responsibility of the school district. The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment, except to the extent variation is approved by the district. However, the charter school need not comply with policies in cases where actual school district practice substantially differs from official policies.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.6. Location

A school district may satisfy the requirements of Education Code section 47614 by providing facilities that are located outside the school district's boundaries, subject to other provisions of this article and subject to the restrictions on location of charter schools established in Education Code sections 47605 and 47605.1. No school district is required to provide facilities that are located outside the school district's boundaries to a charter school.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 47605, 47605.1, and 47614, Education Code.

§ 11969.7. Charges for Facilities Costs

If the school district charges the charter school a pro rata share of its facilities costs for the use of the facilities, the pro rata share shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted revenues from the district's general fund, as defined in sections 11969.2(f) and (g) and hereinafter referred to as "unrestricted general fund revenues," divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school. The following provisions shall apply to the calculation of the pro rata share of facilities costs:

(a) For purposes of this section, facilities costs that the school district pays with unrestricted general fund revenues includes those costs associated with plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases, as defined in section 11969.2(h). For purposes of this section, facilities costs also includes:

(1) contributions from unrestricted general fund revenues to the school district's Ongoing and Major Maintenance Account (Education Code section 17070.75), Routine Restricted Maintenance Account (Education Code section 17014), and/or deferred maintenance fund,

(2) costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and

(3) costs paid from unrestricted general fund revenue for replacement of facilities-related furnishings and equipment, that have not been included in paragraphs (1) and (2), according to school district schedules and practices.

For purposes of this subdivision, facilities costs do not include any costs that are paid by the charter school, including, but not limited to, costs associated with ongoing operations and maintenance and the costs of any tangible items adjusted in keeping with a customary depreciation schedule for each item.

(b) For purposes of this section, the cost of facilities shall include debt service costs.

(c) "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space includes, but is not limited to, those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.

(d) The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.

(e) The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article, and a charter school using school district facilities pursuant to Education Code section 47614 shall report the per-square-foot charge it is paying in the current fiscal year to the California Department of Education (CDE) in any notification the charter school makes to the CDE pursuant to Education Code section 47630.5(b). The CDE shall post the per-square-foot amounts reported by charter schools on its publicly accessible Web site. The CDE shall offer the opportunity to each school district to provide explanatory information regarding its per-square-foot charge and shall post any information received.

(f) If a school district charges a charter school for facilities costs pursuant to this article, and if the district is the charter school's authorizing entity, the facilities are not substantially rent free within the meaning of Education Code section 47613, and the district may only charge for the actual costs of supervisory oversight of the charter school not to exceed one percent of the school's revenue.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 17014, 17070.75, 47613, 47614, and 47630.5, Education Code.

§ 11969.8. Reimbursement Rates for Over-Allocated Space

(a) Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater. The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263 for 2005-06, adjusted annually thereafter by the CDE by the annual percentage change in the general-purpose entitlement to charter schools calculated pursuant to Education Code section 47633, rounded to the next highest dollar, and posted on the CDE Web site. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA. For purposes of this subdivision, the actual in-district classroom ADA shall be determined using the report submitted pursuant to section 11969.9(l) in conjunction with the second principal apportionment under Education Code section 41601.

(b) A charter school must notify the school district when it anticipates that it will have over-allocated space that could be used by the school district. Upon notification by a charter school that the charter school anticipates having over-allocated space, a school district may elect to use the space for school district programs. The school district must notify the charter school whether or not it intends to use the over-allocated space within 30 days of the notification by the charter school. If the school district notifies the charter school that it intends to use all or a portion of the over-allocated space, payments for over-allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the school district notification to use the space. If the school district notifies the charter school that it does not intend to use the space, the charter school must continue to make payments for over-allocated space and pro rata share payments. The school district may, at its sole discretion, reduce the amounts owed by the charter school.

(c) With respect to charter schools established at existing public school sites pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the provisions of this section are limited by the applicable provisions of subdivisions (c) and (d) of section 11969.3.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 41601, 42263, 47605, 47614, 47633, 52055.5, 52055.55, and 52055.650, Education Code.

§ 11969.9. Procedures and Timelines for the Request for, Reimbursement for, and Provision of, Facilities

(a) A charter school must be operating in the school district as defined in Education Code section 47614 before it submits a request for facilities. A new or proposed new charter school is operating within the school district and, therefore, eligible to request facilities for a particular fiscal year only if it submitted its charter petition pursuant to Education Code sections 47605, 47605.5, 47605.6, or 47605.8 on or before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated and/or provided access to facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested.

(b) To receive facilities during a particular fiscal year, a charter school must submit a written facilities request to the school district on or before November 1 of the preceding fiscal year.

(c)(1) The written facilities request consists of:

(A) reasonable projections of in-district and total ADA and in-district and total classroom ADA, based on ADA claimed for apportionment, if any, in the fiscal year prior to the fiscal year in which the facilities request is made, adjusted for expected changes in enrollment in the forthcoming fiscal year;

(B) a description of the methodology for the projections;

(C) if relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in in-district ADA), documentation of the number of in-district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise arithmetical accuracy;

(D) the charter school's operational calendar;

(E) information regarding the district school site and/or general geographic area in which the charter school wishes to locate; and

(F) information on the charter school's educational program, if any, that is relevant to assignment of facilities.

(2) Projections of in-district ADA, in-district classroom ADA, and the number of in-district students shall be broken down by grade level and by the school in the school district that the student would otherwise attend.

(3) School districts may require the charter school to submit its facilities request containing the information specified in paragraphs (1) and (2) on a form available from the CDE and developed in consultation with the Advisory Commission on Charter Schools (ACCS) or another form specified by the school district. School districts may also require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review.

(d) The school district shall review the charter school's projections of in-district and total ADA and in-district and total classroom ADA and, on or before December 1, express any objections in writing and state the projections the district considers reasonable. If the district does not express objections in writing and state its own projections by the deadline, the charter school's projections are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

(e) On or before January 2, the charter school shall respond to any objections expressed by the school district and to the district's projections provided pursuant to subdivision (d). The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to subdivision (d). If the charter school does not respond by the deadline, the district's projections provided pursuant to subdivision (d) are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

(f) On or before February 1, the school district shall prepare in writing a preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include (1) the projections of in-district classroom ADA on which the proposal is based, (2) the specific location or locations of the space, (3) all conditions pertaining to the space, including a draft of any proposed agreement pertaining to the charter school's use of the space, and (4) the projected pro rata share amount and a description of the methodology used to determine that amount. The district shall also provide the charter school a list and description of the

comparison group schools used in developing its preliminary proposal, and a description of the differences between the preliminary proposal and the charter school's facilities request as submitted pursuant to subdivision (b).

(g) On or before March 1, the charter school shall respond in writing to the school district's preliminary proposal made pursuant to subdivision (f), expressing any concerns, addressing differences between the preliminary proposal and the charter school's facilities request as submitted pursuant to subdivision (b), and/or making counter proposals.

(h) On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to subdivision (g), the school district shall submit in writing a final notification of the space offered to the charter school. The notification shall include a response to the charter school's concerns and/or counter proposals (if any). The notification shall specifically identify:

(1) the teaching station, specialized classroom space, and non-teaching station space offered for the exclusive use of the charter school and the teaching station, specialized classroom space, and non-teaching station space to which the charter is to be provided access on a shared basis with district-operated programs;

(2) for shared space, the arrangements for sharing;

(3) the in-district classroom ADA assumptions for the charter school upon which the allocation is based and, if the assumptions are different than those submitted by the charter school pursuant to subdivision (e), a written explanation of the reasons for the differences;

(4) the specific location or locations of the space;

(5) all conditions pertaining to the space;

(6) the pro rata share amount; and

(7) the payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes.

(i) The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur by May 1 or 30 days after the school district notification pursuant to subdivision (h), whichever is later. The charter school's notification can be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the school district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the school district by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in the following fiscal year.

(j) The space allocated to the charter school by the school district (or to which the school district provides the charter school access) must be furnished, equipped and available for occupancy by the charter school for a period of at least ten working days prior to the first day of instruction of the charter school. For good cause, the period is subject to reduction by the school district, but to no fewer than seven working days.

(k) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in the notification provided by the school district to the charter school pursuant to subdivision (h). In addition:

(1) The charter school shall maintain general liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable. The school district shall maintain first party property insurance for the facilities allocated to the charter school.

(2) The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.

(3) A reciprocal hold-harmless/indemnification provision shall be established between the school district and the charter school.

(4) The school district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code section 47610(d) or 47610.5.

(l) The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 47605, 47605.5, 47605.6, 47605.8, 47610, 47610.5, and 47614, Education Code.

§ 11969.10. Mediation of Disputes

If a dispute arises between a school district and a charter school concerning the provisions of Education Code section 47614 or this article, nothing in this article shall preclude the dispute being subject to mediation in accordance with the procedures set forth in this section, if agreeable to both parties. Mediation consists of the following:

(a) The initiating party shall select a mediator, subject to the agreement of the responding party. If, though agreeing to mediation, the parties are unable to agree upon a mediator, the CDE shall be requested by the initiating party to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.

(b) Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolution process shall prepare and send to both the responding party and the mediator a notice of dispute that shall include the following information:

(1) The name, address, and phone numbers of designated representatives of the parties;

(2) A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute;

(3) The specific sections of the statute or regulations that are in dispute; and

(4) The specific resolution sought by the initiating party.

(c) Within seven days of receiving the information specified in subdivision (b), the responding party shall file a written response.

(d)(1) The mediation procedure shall be entirely informal in nature. However, copies of exhibits upon which either party bases its case shall be shared with the other party. The relevant facts shall be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made.

(2) If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the school district and the charter school. The agreement shall not set a precedent for any other case.

(3) If the school district and the charter school fail to meet within the specified time line, have not reached an agreement within 15 days from the first meeting held by the mediator, or if the mediator declares the parties at impasse, the mediation is terminated.

(e) The costs of the mediation shall be divided equally by the two parties and paid promptly.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.11. Operative Date of Changes

The changes to this article made during 2007 and 2008 and filed with the Secretary of State in February 2008 shall become operative with the requests submitted by charter schools during fiscal year 2008-09 for the use of facilities in fiscal year 2009-10.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.