

Uncharted Waters

Recommendations for Prioritizing Student Achievement
and Effective Governance in California's Charter Schools



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Introduction

Throughout California, significant growth in the number of charter schools operating statewide—as well as a Charter Schools Act that is markedly outdated—has led to a number of governance challenges for school district and county boards of education. These challenges have grown in number and severity in recent years as overdue reforms and updates to the Act have proven to be elusive for state policymakers. In some cases, the only avenue available to resolve rising disputes has been through the courts, where expensive and time-consuming legal cases can lead to significant costs for local educational agencies (LEAs).

CSBA's work to improve California's charter school landscape for all students has led to legislative, legal, and other efforts on behalf of school boards and county boards of education. CSBA has lobbied for better charter school transparency for years and co-sponsored Assembly Bill 276 (2018) this session, which would have required charter school boards and charter management organizations to adhere to the Brown Act, California Public Records Act, the Political Reform Act of 1974, and Government Code 1090. CSBA and its Education Legal Alliance (ELA) have successfully challenged the practice of operating charter school resource centers outside of the geographic boundaries of the authorizing school district, successfully challenged the State Board of Education's process for approving statewide benefit charter schools, and are currently challenging the State Board's practice of approving charter school petitions that are materially different from the petition presented to the school district. CSBA continues to update its sample policies and other guidance to reflect best practices for reviewing charter school petitions and authorizer oversight of charter schools. Despite these successes and efforts, significant work remains to improve California's charter school landscape.

In May 2016, at the request of then-President Chris Ungar, CSBA created the Charter Schools Task Force to examine the persistent challenges that its members face with charter school authorization and oversight. Sixteen members were appointed to serve on the Task Force, including school district and county board members, superintendents, and staff from regions throughout the state. The group held its first meeting in July 2016 and continued its work through December 2017.

Over the course of six meetings, the Task Force heard from many voices with diverse viewpoints on charter school issues—from the local to the statewide level. The group began its work by examining charter school-related trends and research and reviewed key legal cases and legislative proposals. County board members shared county-specific challenges and ideas for improving charter school authorization and for building capacity at county offices of education. Task Force members also heard from social justice advocates on the issues of equity, access, and governance transparency. Deeper dives into oversight issues featured presentations by governing board members, district oversight staff, charter school staff, and administrators.

While these discussions highlighted the need for clearer standards for both authorizers and charter school operators, they also revealed many innovative, locally developed best practices that have helped lead to more effective authorizing and oversight.

This valuable input helped inform the Task Force while it carried out its responsibility to develop recommendations “to guide CSBA’s policy and advocacy work related to charter schools.”¹ The Task Force was also asked to identify “advocacy priorities and additional support, information, and training that is needed to better help governance teams in carrying out their responsibilities.”² Areas of particular focus included the petition review process, oversight responsibilities, and expanded flexibility for non-charter schools.

This report represents the culmination of the Task Force’s work and includes its final recommendations.

The California Landscape

Since passage of the Charter Schools Act in 1992, California has become the state with the most charter schools and the most students attending charter schools in the nation (it is also the state with the most schools and public school students). During the 2017–18 school year, 1,271 California charter schools served 628,849 students—roughly 10 percent of all K-12 public school students.³ Expansion has been dramatic, increasing by 595 schools and 380,210 students in 10 years, from the 2007–08 to 2017–18 school years.⁴

After more than 25 years of continued charter school growth, California now finds itself far removed from the original mission and vision of the Act, which was, in part, meant to improve student learning with an emphasis on those who are academically low achieving, and to help generate innovation to benefit students in all schools. California is now a state where only one in three charter schools produces student outcomes that are significantly better than those of the traditional public schools that those students would have otherwise attended.⁵ Moreover, rapid expansion has brought about examples of inequitable access to schools of choice, financial misconduct, and governance challenges.

Managing charter school growth remains a challenge for school districts and county offices of education as they adapt to meet their oversight responsibilities and account for changes in enrollment. Limited resources are a real threat to the ability of authorizers to build the needed oversight capacity. This is especially true in school districts that are dealing with charter schools for the first time. While there are charter schools in nearly every county (55 out of 58), only one in three districts has at least one charter within its boundaries. Moreover, the vast majority of school districts with charter schools (nearly 80 percent) oversee three or fewer charters. As a result, most California board members have limited and varying experience with charter schools.

As such, strategies for effective petition review and oversight, and the support that CSBA can provide to its members, should consider district size and capacity. It is clear that more accountability and a stronger emphasis on empowering local school district and county boards of education are essential to ensure that school quality and equitable access are a reality in all of our communities. Moreover, authorizers need more resources and stronger alignment between the expectations of local districts, county offices of education, and the State Board of Education to ensure that the system is coherent and responsive to community needs.

The Four Focus Areas

During Task Force meetings, the group discussed challenges and solutions surrounding four focus areas, and arrived at a vision for each of these four areas related to charter schools:

- 1) **Quality Expectations**
- 2) **Equitable Access and Equity**
- 3) **Governance and Transparency**
- 4) **Elevating and Replicating What Works in Public Education**

FOCUS AREA 1: Quality Expectations

All public schools must produce quality outcomes for all students, including those student groups prioritized under the Local Control Funding Formula (LCFF). Operating a public school with public funds is a responsibility not to be taken lightly and, as such, the public should expect all charters to benefit students and the broader educational landscape in a district or community. In order to support these quality expectations, authorizers need the tools, resources, and support to hold charters accountable for meeting student outcome goals during the petition review, ongoing oversight, and renewal processes.

Vision. All charter schools operating within California should produce outcomes for all student groups that they serve that are better than those of the public schools to which those students would have otherwise attended—or produce at least equal student outcomes in an innovative program that would otherwise not be available to students. Moreover, all students attending charter schools should be prepared to matriculate to the public school option of their choice after finishing their years at that school.

For example, students attending a middle school charter school should be able to enroll in any high school within the district without a disruption to their course sequence, and students graduating from a high school charter should have the same postsecondary options as all other high school graduates. Charter schools should also add value to the broader educational landscape by having systems in place to share what works with the district and other public schools.

FOCUS AREA 2: Equitable Access and Equity

All students should have equal access to a quality education, and any practices that create or spread inequity harm public education. Flexibility is not a blank check, but an opportunity to significantly improve services for specific student groups and ensure that no student is shortchanged.

Vision. All charter schools operating within California should serve a student population that reflects the diversity of the school district and community in which it operates. With this frame, all charters should make commitments to provide equitable access to all students that wish to attend that school (including economically disadvantaged students, English learners, special education students, homeless students, foster youth, and other student groups), and ensure that this commitment is reflected in practices intended to leave no student behind. These practices include those for enrollment, discipline, recruitment, transportation, and the availability of services that are of equal or greater quality to those services offered by the school district (including the provision of school meals). Charter schools should also display a clear and genuine commitment to the community by having accessible board meetings (in location, frequency, and transparency), maintaining a board composed of members that properly represent the community, staff that can engage with and relate to the community, and opportunities for parent and community feedback in the operations of the charter school.

FOCUS AREA 3: Governance and Transparency

All entities that operate with public funds must be transparent and held to high standards of governance. While there has been much debate about whether the Brown Act, the Public Records Act, the Political Reform Act, and Government Code 1090 apply to charter schools, the Task Force strongly believes that they do, and this must be cemented in *every* charter contract at the local level. If these laws apply to locally elected public school boards, then they must apply to charter schools and their boards that receive public funding, without exception.

Vision. All charter schools in California must operate with a high level of transparency in regard to their meetings, operations, finances, and decision-making process. Charter board meetings should be open, accessible to the public, and held at or near the school site—with meeting times, agendas, and minutes posted. Charter board members should also be accessible and publicly accountable for what happens in the charter school and disclose information (including financial disclosures) to ensure transparency. The finances of each charter school should be sound, meet quality accounting procedures, and be open to public scrutiny.

FOCUS AREA 4: Elevating and Replicating What Works in Public Education

Across California, district-operated (traditional public) schools are achieving great student outcomes and providing choice and innovative options to parents that are comparable to or better than what some charter schools provide. These examples of great public schools should be celebrated, and board members (as well as CSBA) should explore how districts can be supported to make these models more readily available to families and parents. Within this discussion, a conversation about district policies that allow for flexibility and innovation at the school site is prudent, as are ideas for any state legislation that can help districts in this endeavor. Another aspect of these conversations should be the clear decla-

ration that public schools need *partners*, not *competitors*. There is no reason why the best and most successful school models cannot be replicated and implemented in all school districts. Furthermore, the public should expect school leaders with an innovative program to try implementing that program within the district before attempting it through a charter school. Moreover, the full potential of public education will require full and fair funding for all public schools, which will allow for the most effective practices and school models to flourish in every district.

Vision. A strong system of public schools where a community school that offers choice, quality, and access is available to every student. Within this system, districts should have a process in place for sharing best practices from all public schools including charter schools, and charter schools should share their most innovative and successful strategies with all schools in the district. This system should encourage education leaders to work together toward the common goal of educational equity and ensure collaboration, not competition, is the norm. Within this system, charter schools should only exist when they can clearly show that their proposed model has not been implemented yet within the confines of the school district, and all potential school leaders see implementing the charter school's vision within the school district as the first and best choice to achieve success.

Recommendations

The recommendations developed by the Task Force cover each of the four focus areas. CSBA can:

1) **Collect and share model language, best practices, and sample commitments.**

These can be used by authorizer staff to develop checklists for use during the petition review, annual review, and renewal processes. Specifically, these can include sections on:

- **Promoting quality student outcomes**, including:
 - » Establishing student outcome goals that are expected of all newly authorized charter schools.
 - » Conducting a yearly analysis of student outcomes disaggregated by all students and significant student groups, including outcomes in English Language Arts (ELA), mathematics, science, and other subjects; high school graduation and dropout rates; graduates meeting A-G requirements; and outcomes post-high school graduation (i.e. college enrollment and employment rates).
 - » Defining what constitutes a “sound educational program” that authorizers can consider for adoption.
- **Governance and transparency**, including establishing:
 - » Charter board commitments, including considerations for meeting times, requirements for posting agendas, and requirements for the composition of the board.
 - » Sound and transparent fiscal practice commitments, including on accounting procedures and financial reporting.

- » Governance commitments, including to abide by the Brown Act, the Public Records Act, the Political Reform Act, and Government Code 1090.
 - » Local Control and Accountability Plan (LCAP) development and annual update commitments, including details on stakeholder engagement and the expected involvement of the district.
- **Equitable access and equity**, including:
- » Establishing goals for student enrollment demographics that reflect those of the district or the community in which the school is located.
 - » Providing services and programs critical to meeting the needs of all students that are of greater or equal quality to those provided by the school district, including transportation, staff quality and demographics, English learner student supports, special education (SPED) student supports, school meals, athletics and physical education options, college-level coursework, and others.
 - » Establishing open and non-discriminatory enrollment, suspension, and expulsion processes and policies (and possible coordination with the district on any of these).
 - » Developing inclusive decision-making processes, including ensuring that key stakeholders and communities are represented on the *appointed* charter school governing board, and that meeting times and locations are accessible and welcoming.
 - » Conducting a yearly analysis of enrollment, suspension, and expulsion data by student group compared to the goals established in the petition process.
- **Proactive corrective measures** that authorizers can take to provide better oversight of charter schools across all of the themes above. This can include expected notifications and timelines during the life of a charter and expected

yearly reports that can notify a charter school of its performance and potential for non-renewal or revocation based on its outcomes. This can also include automatic revocation triggers based on poor performance on certain measures.

2) Highlight innovation and quality in district-operated schools.

District, county, and state leadership is needed to send a clear signal that quality schools and choice is possible and is already happening within district-operated public schools. To support these efforts, we recommend supporting strategies for districts to communicate and promote the benefits, achievements, and options available to parents within local public schools. This includes the development of effective public awareness campaigns to educate the whole community (not just parents and guardians with students) about the benefits of local public schools and dispel myths.

3) Support great public schools and innovation.

In order to ensure that every student has access to a great public school, districts and county offices of education need support to find and share best practices, expand successful programs, and encourage innovation to provide more options for students. To provide this support, CSBA can:

- Develop district and county office of education policies and guidance that will allow for school success and innovation. This includes encouraging districts and county offices of education to review policies and procedures to incentivize and allow for additional innovations in their public schools.
- Advocate for state-level policies that increase flexibility and innovation in district schools in order to level the playing field.

- Collect and share examples of innovation and quality within public schools that district and county office of education leaders can learn from.
- Encourage discussions for school leaders to share best practices, reflect on potential gaps in district services, and explore services and school models that stakeholders might demand. These discussions can be through a panel, workshop, or seminar (venues can include an online webinar, the CSBA Annual Education Conference, or existing training opportunities).

4) Create a CSBA-produced study on charter schools results.

This analysis can focus on specific case studies; explain and define the difference between charter schools and traditional public schools for legislative advocacy purposes (i.e. focusing on the realities of “what we have to do that charter schools do not”); and evaluate the quality of charter schools that are authorized by county boards of education or the State Board of Education on appeal, versus those that are authorized directly by local school and county boards.

5) Ensure that all board members have access to guidance, training, and other support regarding their responsibilities as charter authorizers.

CSBA will continue to update its board policies, administrative regulations, and publications (including briefs, fact sheets, and the *Charter Schools Guide*) to provide guidance and updated information to governance teams about their roles and responsibilities as charter school authorizers. In addition, CSBA will continue to bring forth opportunities for board members to explore issues related to charter schools during its Annual Education Conference and will explore additional options to engage board members on their responsibilities, which might include virtual learning opportunities.

Legislative Priorities

The Task Force is charged with developing recommendations to help guide CSBA's policy and advocacy work related to charter schools and recommends CSBA prioritize changes to the law that help promote transparency, improve decision-making, and preserve local control.

Improve charter school governance and transparency by requiring charter governing boards to comply with the Brown Act, Public Records Act, Political Reform Act, and state conflict-of-interest statutes. Charter schools are, fundamentally, public school entities that spend billions of dollars in taxpayer funds and impact hundreds of thousands of school-aged children. Their boards must adhere to the same statutory requirements as locally elected school board members to uphold the public trust and ensure that the public education resources are used appropriately. This includes ensuring that charter board members do not profit from their positions.

This recommendation will protect funding for public education by applying to charter schools the requirements that have proven to be effective in minimizing conflicts of interest in traditional public schools. Transactions between charter school board members and their schools would be prohibited, with limited exceptions, and charter school board members could not attempt to influence a decision in which they have a financial interest.

Considering the billions of dollars in Proposition 98 funds that are spent annually by charter schools and the organizations that manage them, it is only prudent that they comply with an already agreed-upon level of transparency to their students, parents, employees, and authorizers.

Prohibit changes to the charter petition on appeal. State law should be changed to require material changes to the original petition on appeal to be considered first by the authorizing school district. In some cases, substantive changes are made to a petition after it has been denied, but before it is heard on appeal. In many cases, these petitions are significantly different than the one denied locally.

To preserve local accountability, the revised petition should instead be considered first by the school board. This change would help reduce the number of appeals to county boards of education and to the State Board of Education.

Appeals also hurt a school district's efforts to demand quality and commitment to equity at their charter schools. The high expectations that an authorizer demands of its charter schools are undermined when a modified petition is approved by an appellate body without regard for the concerns of the community that those demands were meant to address. These actions not only weaken local charter school authorizing, but also impact all charter schools that have committed to meeting the highest expectations.

Provide districts with more time to act on a petition. By requiring a governing board to decide on a petition within 60 days of its receipt, current state law limits the authorizer's ability to give the petition the thorough review it deserves to ensure that the proposed educational plan will adequately serve students.

These short deadlines place a heavier burden on smaller and rural districts whose staff split their time on authorizing and oversight activities with other duties, and on districts that must act on multiple petitions simultaneously to meet the statutory requirement.

Require petitions to demonstrate why their proposed model cannot be accomplished within the school district structure.

While "a sound educational program" is important for any quality school, the bar should be set higher when public school dollars

are entrusted to another school operator. Charter school petitions should clearly demonstrate why implementing a program through a charter school model would be more successful than operating within the existing district structure.

School districts need partners in equity, not competitors. The starting point for all school leaders should be to work with the district to implement new or innovative educational programs within a district school. If it is determined through this process that implementing a charter school would lead to better services and outcomes for students, then the proposed charter school will benefit from the stronger rationale and support from the community and the board.

Seek flexibility for school districts to innovate. With additional flexibility, districts can do more to better serve students. District-operated schools should have the same opportunity to benefit from the freedom to innovate in curriculum, purchasing, business operations, and other areas. Previously in this report, the Task Force cited the need for charter schools to identify and share innovative practices. In order to fully realize the Act's promise of innovation, the Legislative Analyst's Office should compile and report on innovations that can benefit all schools.

Evaluating charter school impact on districts. A district governing board must be able to consider the potential enrollment and fiscal impact of a charter school on the district and the students it serves. For example, existing law authorizes broad discretion to county boards of education, which for countywide charter schools may consider factors beyond those identified in existing law to deny a petition if it finds they justify the denial of the petition (See Education Code 47605.6 (b)(7)).

CSBA supported Senate Bill 329 (2015) and SB 1362 (2018), which would have authorized consideration of the charter school's impact on the district to the list of specific findings sufficient to authorize the school district's governing board to deny a petition.

Collect and make available reliable statewide data on charter schools. As charter schools continue to grow in California and state-wide leaders consider updates to the charter school law, the need for more reliable and specific data on charter schools is critical. There is currently no reliable data on the number of petitions, denials, appeals, closures, and renewals/non-renewals in the state. Moreover, when looking at data for individual schools, it is not easy to identify which charter schools have been granted authorization on appeal by the county office of education or the State Board. This information would allow state and local education leaders to make better-informed decisions on current and proposed policies related to charter schools. A system for the collection and dissemination of innovative practices would also permit students at other schools to benefit from innovative practices.

Strengthen requirements for charter resource centers and limit out-of-district charters. Clear statutory guidance is needed to ensure the appropriate siting, location, and use of resource centers, meeting spaces, and charter school satellite facilities. Out-of-district charters and their facilities continue to be a major issue in some parts of the state. CSBA should also continue to pursue changes to state law that limit instances when a charter school can be authorized to operate outside of its district's boundaries.

Fully fund oversight activities. Statutorily set oversight fees need to be adjusted to ensure oversight duties are adequately funded. Current law authorizes a chartering authority to charge a charter school for oversight costs, not to exceed 1 percent of revenue for the charter school. If the authorizer provides the charter school with substantial rent-free facilities, it may charge up to 3 percent. However, the actual oversight costs can vary depending on several factors, including the number and location of the charters in the district and the complexity of the oversight issues. Furthermore, as school funding continues to fall behind rising education costs, greater strain is placed on tightening school budgets.

CSBA Resources

CSBA Webpage on Charter Schools. Includes briefs and other resources related to charter schools, available at www.csba.org/GovernanceAndPolicyResources/EffectiveGovernance/CharterSchools. These resources include:

- **Charter Schools in Focus: Ensuring Effective Oversight** (*October 2017*). This brief focuses on effective monitoring practices that can help authorizers ensure that their charter schools are meeting the goals and obligations agreed upon through the charter petition process.
- **Charter Schools in Focus: Managing the Petition Review Process** (*November 2016*). This brief focuses on steps and strategies for governing boards to consider upon receiving a charter petition.
- **Charter Schools: A Guide for Governance Teams** (*February 2016*). CSBA's nuts-and-bolts explanation of charter law and regulations to help school boards and county boards of education negotiate charter petitions, renewals, facility requests, and other topics related to charter school oversight.
- **Education Insights: Legal Update Webcast, Season 3, Ep. 3** (*March 2016*). This webcast focuses on charter schools and board member responsibilities. Watch as legal and policy experts discuss each governing board's oversight responsibilities and other issues such as facility requests and the petition and appeals process.

- **Gamut Online.** Subscribers to CSBA's policy services have access to the following charter school-specific sample policies and regulations for school districts:
 - » BP/AR 0420.4 - Charter School Authorization
 - » BP/E 0420.41 - Charter School Oversight
 - » BP 0420.42 - Charter School Renewal
 - » BP 0420.43 - Charter School Revocation
 - » BP/AR 7160 - Charter School Facilities

Appendix A

Additional Questions to Explore

The following, more-specific questions were discussed during the meetings and remain of importance to CSBA. Although aspects of these questions might have already been explored in this report, they are included here for further reflection.

- **Facilities and Property.** What improvements are needed with the Proposition 39 facilities requirements? What additional flexibility do governing boards need in accommodating facility requests? Should state law be clarified regarding the disposition of real property purchased or improved with state funds after the charter school has ceased its operations?
- **Liabilities.** Do authorizers, districts, and county offices of education require greater protection from the outstanding debts and liabilities of a charter school that ceases to operate? What statutory and regulatory changes are needed to ensure charter schools plan for the full payment of expenses that outlive the life of the school, including costs related to pension and employee benefits? LEAs and their students must not bear the burden of costs that they did not incur.
- **Special Education.** How well are charter special education local plan areas (SELPAs) meeting the needs of students with special needs? Is this service model efficient and effective? What impact do these SELPAs have on the students with special needs in the district where the charter is located?

- **Petition Signatures.** Should a percentage of signatures from teachers or parents within the district's boundaries be required to create a new charter or convert an existing school?
- **WASC Accreditation.** Should charter high schools be required to obtain accreditation as a condition of approval and/or renewal?
- **Charter Governing Board Training.** Should charter school boards receive training from CSBA in order to facilitate better governance meetings?
- **Evaluation of Private Donations and Sponsorship.** How should authorizers evaluate private donations and sponsorship when determining the long-term viability of a proposed charter school or of a charter school being considered for renewal? How should donations be reported to authorizers in a way that clearly distinguishes between core funding (per-pupil funding) and funding that might be for a set period of time?

Endnotes

- 1 CSBA Charter Schools Task Force Protocol, approved and ratified May 2016.
- 2 Task Force Protocol.
- 3 California Department of Education, Dataquest. 2017-18 Enrollment in California Public Schools by Ethnic Designation. Retrieved on June 12, 2018 from <https://bit.ly/2Pz4RY7>
- 4 California Department of Education, Dataquest. 2007-08 Enrollment in California Public Schools by Ethnic Designation. Retrieved on October 17, 2017 from <https://bit.ly/2MtDe4x>
- 5 Center for Research on Education Outcomes (CREDO). (2014). Charter School Performance in California. Retrieved from <https://stanford.io/2PyGQjJ>