

# Grand Jury Report

## REQUIRED RESPONSE FORM

**Grand Jury Report Title :** *Advancing Education Through Sharing*

**Report Dated :** April 3, 2019

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**Response Form Submitted By:**

Debra Kubin, Superintendent  
Ukiah Unified School District  
511 S. Orchard Ave.  
Ukiah CA 95482

*(use address block as inserted on first page)*

**Response MUST be submitted, per Penal Code §933.05, no later than:**

**I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:**

I (we) agree with the Findings numbered:

\_\_\_\_\_

I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

F1, F2, F3, F4, F5, F6  
\_\_\_\_\_

**I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:**

The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:

R2, R3  
\_\_\_\_\_

The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT  
RESPONSE FORM  
PAGE TWO

The following Recommendation(s) require further analysis, and attached, as required, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

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The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; attached, as required, is an explanation therefore:  
R4 (not applicable to Ukiah Unified)

*I have completed the above responses, and have attached, as required the following number of pages to this response form:*

Number of Pages attached: 33

*I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: [www.mendocinocounty.org/government/grand-jury](http://www.mendocinocounty.org/government/grand-jury). The clerk of the responding agency is required to maintain a copy of the response.*

*I understand that I must submit this signed response form and any attachments as follows:*

First Step: E-mail in pdf file format to:

- The Grand Jury Foreperson at: [grandjury@mendocinocounty.org](mailto:grandjury@mendocinocounty.org)
- The Presiding Judge: [grandjury@mendocino.courts.ca.gov](mailto:grandjury@mendocino.courts.ca.gov)

Second Step: Mail all originals to:

Mendocino County Grand Jury  
P.O. Box 939  
Ukiah, CA 95482

Printed Name: Debra Kubin

Title: Superintendent

Signed:  Date: 6/21/19



DEBRA KUBIN, SUPERINTENDENT

511 S. Orchard Ave., Ukiah, CA 95482-3470 – (707) 472-5002 – Fax (707) 463-2120 – [www.uusd.net](http://www.uusd.net)

June 21, 2019

Mendocino County Grand Jury  
P.O. Box 939  
Ukiah, CA 95482-0939

Re: Response of the Ukiah Unified School District to the Mendocino  
County Grand Jury Report dated April 3, 2019, entitled Advancing Education  
Through Sharing

Dear Members of the Grand Jury:

My office is in receipt of the Mendocino County Grand Jury Report entitled “Advancing Education Through Sharing” (“Report”) dated April 3, 2019. The report is about concerns that there is insufficient interaction between public school districts and charter schools in Mendocino County. I hereby respond to the Report pursuant to Penal Code section 933.05. As requested, I am responding to Findings F1 through F6 and Recommendations R2 through R4.

#### RESPONSES TO GRAND JURY'S FINDINGS

**F1. Innovations (creative teaching methodologies which benefit students) at any school are neither utilized nor shared between charter and district schools.**

**PARTIALLY AGREE**

As required by law, Ukiah Unified School District (District) has adopted the Common Core State Standards (CCSS) and with that has trained around three research-based common instructional methodologies which support Common Core State Standards (CCSS): evidence-based writing, collaborative conversations, and close reading of complex texts. (See California's Common Core Standards requirements: <https://www.cde.ca.gov/re/cc/> ). These research-based methodologies assist students in working toward meeting the rigorous demands of the CCSS. Additionally, our Ukiah Unified School District teachers employ innovative instruction practices and continuously collaborate around instructional practices during weekly staff meetings and department and grade level Professional Learning Communities (PLC).

The relationship between the District and the four charter schools in the county that the District authorized is positive and collaborative. However, it would not be appropriate for us to collaborate on instructional methods with specialty charter schools. For example, River Oak Charter School is a Steiner-methods public school which employs a very specific and narrow instructional methodology. Additionally, the Tree of Life Charter School offers Montessori education. Neither of these methods would be in compliance with California's CCSS requirements for public schools. Therefore, it does not make sense to collaborate on teaching methodologies that are so markedly different and do not directly support the laws and regulations with CCSS that apply to public schools like our District.

Finally, Ukiah Unified wrote and received a grant in partnership with UC Davis. This grant intends to build Leadership capacity of Principals and teacher leaders in four counties. Participation in these engaging workshops is open to all Principals and in fact, in the 18/19 school year, one charter school Principal in the county participated in the program alongside 28 other public school Principals from four counties.

**F2. Since district schools operate under more restrictive rules and regulations, it is difficult for the district schools to offer some the same options or programs as the charter schools.**

**PARTIALLY AGREE**

While Ukiah Unified School District operates under some rules and regulations that are more restrictive than those that apply to charter schools, the District has, in fact, initiated multiple innovative programs and options for students despite this difficulty. Examples include Eagle Peak STEM magnet school, the Middle College at Ukiah High School program, Big Picture Learning at South Valley High School, Ukiah Independent Study Academy, expanded dual enrollment offerings through Mendocino College, 16 Career Technical Education pathways, partnerships with community resources such as SPACE, a growing competitive Robotics and Cyber-security program, a K - 8 Dual Language Immersion program (Grace Hudson Elementary and Pomolita Middle School), etc. We believe these programs are sufficiently innovative and rigorous to meet and exceed the educational experience a child would have in one of the county's charter schools.

**F3. The district schools are changing their curricula to attract students and increase their ADA funding.**

**PARTIALLY AGREE**

Ukiah Unified School District has adopted a new curriculum to prepare students for the demands of the Common Core State Standards. The District believes that it is not necessarily the new curricula that is bringing students back to Ukiah Unified; it is more likely the new programs Ukiah Unified has put in place. These new programs offer parents choice and innovative programs in their child's education. Our District has implemented new programs and has supported already existing programs to offer parents choice within our District. These programs include a STEM magnet school, Big Picture at South Valley, Middle College at Ukiah High School, Ukiah Independent Study Academy, and a K - 8 Dual Language Immersion program (Grace Hudson Elementary and Pomolita Middle School). The District has also increased the availability of music, art, STEM clubs and competitions, Career Technical Education programs and a variety of other programs.

The District's publicly elected Governing Board adopted a Mission Statement that the District "will challenge and inspire our students to value different perspectives and become successful, contributing citizens in an increasingly interdependent world." The District's Vision Statement, as set by the Governing Board, is to be "a dynamic and innovative learning community" with decisions that are "focused on the interests of our students." (See [https://www.uusd.net/apps/pages/index.jsp?uREC\\_ID=675525&type=d&pREC\\_ID=1067209](https://www.uusd.net/apps/pages/index.jsp?uREC_ID=675525&type=d&pREC_ID=1067209) ).

The District's motivation in offering innovative, creative, and rigorous programs to its students is to improve its students' learning opportunities and ability to succeed post-graduation. The District's motivation is **not** to increase ADA funding. The District is aware that approximately 20 charter schools throughout California were recently indicted for embezzling public funds because they were covertly managed by a for-profit business entity who saw students as dollar signs instead of young impressionable minds to which they owed a duty of adequate education. (See [https://www.washingtonpost.com/education/2019/06/17/how-does-million-charter-scam-work-heres-what-happened-california-before-people-were-indicted/?utm\\_term=.632ee7be80e8](https://www.washingtonpost.com/education/2019/06/17/how-does-million-charter-scam-work-heres-what-happened-california-before-people-were-indicted/?utm_term=.632ee7be80e8) ).

All of the charter schools authorized by Ukiah Unified share our commitment to student success and none of them were a part of this indictment.

**F4. Where existing, the assigned oversight person between the district and the charter schools has not looked for opportunities to broaden the success of the schools. Currently, the GJ found no evidence of collaborative processes between the charter and district schools.**

PARTIALLY AGREE

See Response to F1 above regarding collaboration. The California Charter School Policy Task Force Report dated June 6, 2019 (attached hereto as Exhibit A), after months of intensive study, concluded that collaboration between charter and traditional public schools cannot take place until the Charter Schools Act is reformed and the competition for scarce public resources is mitigated by an increase in funding. (See also "Charting a Way Forward: Recommendations for Improving Charter School Outcomes and Accountability by Supporting Charter Authorizers," April 18, 2019, California County Superintendents Educational Services Association (located at <https://ccsesa.org/ccsesa-charter-authorizers-task-force-report/> ), attached hereto as Exhibit B.)

The District is hopeful that California will reform the Charter Schools Act to make the recommended revisions to fix these issues. Until that time, the District remains committed to continuing its collaboration with its charter schools, and otherwise sharing ideas and resources where appropriate. It is not uncommon for charter school administrators to contact the Director of Alternative Education at UUSD to discuss educational initiatives, instructional approaches, or programs that are targeted at better serving students.

The District has authorized four charter schools in the county. It is required by Education Code section 47604.32 to conduct annual charter school visitations, monitor compliance with required reports and LCAP requirements, and monitor the fiscal condition of each charter school. Several District employees, including one specifically staffed as charter school oversight, already contribute greatly to the management and oversight of our charter schools by providing cross sector/cross departmental support. In addition, the District goes beyond what is required and conducts visits and reviews the charter school's activities and reports more frequently than what is required.

**F5. Many parents are not aware of the availability, or even the existence, of SARC, API, and other scores and reports to determine the best educational experience for their students. Parents have traditionally not been educated in the availability of these tools.**

PARTIALLY DISAGREE

With respect to API scores, the State suspended the use of API scores in 2013. In March 2017, the California SBE and the CDE formally launched a new accountability system to replace the API. API scores have been replaced by the "California School Dashboard," which contains reports that display the performance of local educational agencies (LEAs) including charter schools, traditional public schools, and student groups on a set of state and local measures to assist in identifying strengths, challenges, and areas in need of improvement. The Dashboard is made up of easy-to-use reports that show local educational agency or school performance on six state indicators and five local indicators (seven for county offices of education). Users can search to see the reports for any local educational agency or school. (See <https://www.caschooldashboard.org/> ).

With respect to SARC, state law requires schools to notify all parents about the availability of the SARC and to provide parents with instructions about how the SARC can be obtained both through the Internet (if feasible) and on paper (upon request). If 15% or more of a school's enrolled students speak a single primary language other than English, state law requires that

the SARC also be prepared and made available to these parents in the appropriate primary language. All District schools and public charter schools within District boundaries comply with state law regarding the SARC. Notification in both English and Spanish of how to access the SARCs is given to all parents at the beginning of each school year. Although API no longer exists, appropriate State Assessment data is shared with parents in accordance with all applicable statutes and education code. The District's SARC and LCAP are also published on its website.

**F6. The GJ has found in Mendocino County the mission of charter schools as originally envisioned has not been fulfilled.**

**DISAGREE**

The District has inferred from the Grand Jury report that the "original" mission of charter schools is to increase learning opportunities for all students through competition, and using this definition, disagrees. Prior to the establishment of the first charter school within the Ukiah Unified School District boundaries, educational options for students within the public school system were fairly uniform. Today students in the District have access to a wide variety of educational options in both public charter schools and District schools, including Dual Language Immersion, Montessori methodology, Steiner/Waldorf methodology, Strategic A-G university prep, Internship and Project-based Learning, Career Technical Education (CTE) and College-prep, CTE courses, STEM magnet schools, increased Dual Enrollment courses, Middle College program, etc. While these changes and additions to the educational options available to students in Ukiah are not simply a direct response to the proliferation of charter schools, the charter schools operating in Ukiah have the flexibility to provide educational options not available in the District, and also contribute to the overall environment of educational innovation through reasonable collaboration that has sprung up organically. The District has found that competition, the clearly stated goal of charter legislation, is alive and well, and that such competition has stimulated continued efforts to seek out opportunities to better meet the diverse learning needs of all students.

#### **RESPONSES TO GRAND JURY RECOMMENDATIONS:**

**R2. Schools should offer parents and guardians training on the tools available to evaluate and compare schools within the districts, e.g., SARC and API. Offering this allows the students to enroll in the school which is best aligned with their needs.**

See response to F5 above.

**R3. Post a link to the school, district, and state SARC and API scores on the school's website.**

California school districts are required to post their School Accountability Report Cards (SARC) on their websites. The District is in compliance with this law. The API is no longer part of the state accountability system effective 2013. The District's SARC is located at:

[https://www.uusd.net/apps/pages/index.jsp?uREC\\_ID=706124&type=d&pREC\\_ID=1183704](https://www.uusd.net/apps/pages/index.jsp?uREC_ID=706124&type=d&pREC_ID=1183704) .

The District's LCAP is located at:

[https://www.uusd.net/apps/pages/index.jsp?uREC\\_ID=792946&type=d&pREC\\_ID=1137359](https://www.uusd.net/apps/pages/index.jsp?uREC_ID=792946&type=d&pREC_ID=1137359) .

Furthermore, all charter schools under the oversight of the District post their School Accountability Report Cards (SARC) on their websites.

**R4. Build a space on the MCOE website for teachers at any school in Mendocino County to publish tips and suggestions to improve the classroom experience, e.g., behavior and teaching methodologies.**

The District will comply with and encourage its teachers to participate in and contribute to any such website or similar forum that MCOE puts into place. With that being said, there are adequate, vetted resources on the internet for teachers to gain access to new ideas and approaches.

Sincerely,

A handwritten signature in blue ink that reads "Debra Kubin". The signature is written in a cursive style with a blue ink color.

Debra Kubin, Superintendent  
Ukiah Unified School District

DK/deb

Attachments





# Exhibit

# A





**CALIFORNIA DEPARTMENT  
OF EDUCATION**

**TONY THURMOND**  
STATE SUPERINTENDENT OF  
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

June 6, 2019

The Honorable Governor Gavin Newsom  
Governor of California  
State Capitol  
Sacramento, CA 95814

Dear Governor Newsom:

Enclosed please find a report from the California Charter School Policy Task Force that includes a list of recommendations for charter school reform. We look forward to your feedback, questions, and thoughts about the implications of these recommendations.

Sincerely,

Tony Thurmond  
State Superintendent of Public Instruction

## **California Charter School Policy Task Force Report Submitted June 6, 2019**

### **Introduction**

This report reflects the progress and recommendations of the Governor's Charter School Policy Task Force (CTF) through May 30, 2019. The CTF has been facilitated by the State Superintendent of Public Instruction (SSPI) Tony Thurmond, with the purpose of examining the impact of charter school growth on school districts' budgets and providing recommendations. This report includes the following sections:

- Background
- CTF Process and Level Setting
- Deliberation Process
- Recommendations
- Other Proposals Voted On
- Implications for Going Forward

### **Background**

Since the passage of the Charter Schools Act of 1992, there has been discussion and debate about the role of charter schools in educating California students. While this debate is important, its intensity and polarization has obscured the focus on other key issues in education. For example, conversations must be prioritized that address the reality that California continues to rank 41<sup>st</sup> in the nation in per pupil spending compared to other states.

Recognizing that the lack of funding in general for public schools in California is exacerbated by the competition for resources between traditional public schools and charter schools, Governor Gavin Newsom in early 2019 appointed the CTF and asked SSPI Tony Thurmond to convene the group to analyze two matters:

- (1) the fiscal impact that charter schools have on traditional public schools; and
- (2) inconsistencies in how charter schools are authorized throughout the state.

Many in California believe that traditional public schools and charter schools can co-exist for the benefit of students in California who are seeking diversity in the educational options that they may pursue. It is the hope of the CTF to put forward recommendations that address the issues of fiscal impact and authorization, and to do so in a way that is in the best interest of California students.

The SSPI worked with Governor Newsom's office to identify members to serve on the CTF. Eleven members representing diverse educational perspectives were selected to serve on the CTF and include representatives of the California County Superintendents Educational Services Association, California Charter Schools Association, the California Teachers Association, Green Dot Public Schools California, Service Employees International Union Local 99, Aspire Public

Schools, Fortune School of Education, California School Employees Association, Association of California School Administrators, American Federation of State County and Municipal Employees, District Council 57, El Dorado County Office of Education, and the San Diego Unified School District. The CTF blends supporters of traditional public schools and supporters of charter schools who committed to work together to identify reform recommendations for charter schools in California.

### **CTF Process and Level Setting**

The SSPI and staff at the California Department of Education (CDE) facilitated the CTF meetings starting from March 2019 through May 2019. Convenings occurred weekly for 3-5 hours. Throughout the process, although CTF members may have disagreed with one another's perspectives, all attendees engaged in professional, respectful, and authentic conversations about their differences.

The CTF began its meetings with an attempt to provide some level setting for members to establish a baseline of understanding and knowledge about charter school trends and patterns from which all CTF members could operate. Experts presented on a variety of topics to support this level setting. Presentations came from researchers, academicians, policy experts, and representatives of school districts and charter school organizations. Some presenters served as technical assistance advisors to answer questions from CTF members about issues related to charter schools. The topics presented, as well as the organizations and individuals who presented, included the following:

#### *Topics covered during level setting*

- Authorization and appeals process for charter schools
- Authorizer, charter operator, and educator perspectives on fiscal impact
- Authorization costs, facility costs, and costs to underserved students
- Creating a collaborative environment for innovation sharing and co-existing
- Data overview of charter schools in California
- Evolution of California Charter School Law
- Facilities - Proposition 39 (November 2000) and colocation
- Fiscal impact definition and challenges (overall and charter school related)
- Fiscal impacts of charter schools on large urban school districts
- Improving charter authorization practices
- State Board of Education authorization and CDE oversight of approved charter schools
- Types of charter school models (i.e. virtual, independent)

#### *Organizations*

- Alameda County Office of Education
- California Charter Authorization Professionals (CCAP)
- California Charter Schools Association (CCSA)
- California County Superintendents Educational Services Association (CCSESA)
- California Department of Education, Charter Schools Division and Fiscal Services Division

- Charter Accountability Resource and Support Network (CARNet)
- Fiscal Crisis and Management Assistance Team (FCMAT)
- Green Dot Charter Schools
- Legislative Analyst's Office (LAO)
- Los Angeles Unified School District
- Oakland Unified School District
- San Diego Unified School District

### *Independent Content Experts*

- Sue Burr, Historian and Former Legislative Staff (during the establishment of the California Charter Schools Act of 1992)
- Stephanie Medrano Farland, Consultant, Collaborative Solutions for Charter Authorizers
- Professor Paul Hill, Founder of the Center on Reinventing Public Education
- Professor Gordon Lafer, Author, "The Breaking Point:" The Cost of Charter Schools for Public School Districts
- William Savidge, K12 School Facilities Consultant

### **Deliberation Process**

Throughout the discussion and debate process, CTF members were encouraged to provide proposals for reform recommendations. Towards the end of the level setting process, the CTF began brainstorming and offering proposals for the group's consideration. These proposals were culled into a streamlined framework of proposals and offered to the group for more discussion and debate. The CTF reached full consensus on four proposals, listed below in the Recommendations section. On the remaining items reaching consensus proved more difficult. When CTF members could not reach agreement on the framework proposals, a vote was taken and majority and minority positions were established. In the interest of providing the public with a transparent understanding of the topics discussed by the CTF, the framework along with other key proposals are included in the section called "Other Proposals Discussed."

### **Recommendations**

- A) Extend the timeline to approve or deny a new charter school petition an additional 30 days.*
- *Unanimity and consensus reached*

Current law provides 60 days after receipt for an authorizer to approve or deny a charter school petition. There is agreement among authorizers in California that 60 days is not sufficient time to conduct a thorough review that could include: 1) vetting the petitioner's documentation: financial plans and proposed budgets, academic plans and goals, corporate bylaws, operational policies and handbooks, and signatures; 2) identifying conditions for approval or denial; 3) preparing materials

for and holding a public hearing; 4) responding to questions and concerns raised; and 5) reaching an agreement for the terms of a Memorandum of Understanding (MOU).

The CTF agrees that the current timeline of 60 days for an authorizer to review a charter petition should be extended by 30 days, for a total review period of 90 days. As part of this discussion, the CTF reviewed the timeline for renewals after the initial authorization process, which already includes an opportunity to mutually agree to an extension. As such, the CTF reached consensus that the current timeline of 60 days for reviewing an application to renew a charter school should remain the same.

***B) Create a statewide entity to:***

- i. develop standards, used by authorizers, for providing oversight to charter schools.***
  - Unanimity and consensus reached***

California has three types of charter school authorizers: 1) districts, typically where the school will be located with limited exceptions for a school to locate outside of the authorizers boundaries, 2) the County Office of Education, and 3) the State Board of Education (SBE). Combined, over 1,000 entities may authorize charter schools in California. *Education Code 47604.32* outlines the duties of the authorizer, yet, there are no statewide standards, beyond the charter petition and the charter elements applicants must address, for oversight by authorizers. There is concern that authorizers provide oversight with great variance; some authorizers have established their own evaluation processes for assessing charter status, while others have not; and authorizing practice varies across the state. Clear standards for authorizers to follow would standardize oversight practices in the state.

The CTF agrees that clearly articulated, reasonable, and rigorous statewide oversight standards will ensure a fair means for evaluating charter schools throughout the state of California.

- ii. create a statewide entity to provide training for authorizers.***
  - Unanimity and consensus reached***

Prior to becoming an authorizer, most districts have not had experience performing the type of review and oversight required of authorizers. California does not currently have a statewide entity to provide training for authorizers that would ensure they have information and resources available from which to provide quality assistance to and oversight of charter schools. Potential training may include 1) a policy handbook, checklist and template for the charter petition review, 2) a handbook, checklist, and template for the annual review of charter schools, 3) a sample MOU that outlines standards for academic, financial, and operational procedures and performance, and 4) guidance on the renewal process that allows authorizers to take proactive steps prior to the revocation of a charter and closure of a charter school. The CTF agrees that in order to reach the standards developed in the Recommendation B(i), authorizers would need to be trained and provided additional resources.

During the conversation, interest was expressed in ensuring the statewide entity (similar to other states) also has the ability and sufficient authority to intervene and/or impose accountability measures when disputes or inconsistencies arise related to authorization and renewal.

***C) Include students transferring to charter schools in the Education Code provision for a one-year “hold harmless” to account for net loss of average daily attendance (ADA).***

- ***Unanimity and consensus reached***

Currently in *Education Code* 42238.5-42238.052, charter ADA is exempt from the declining district enrollment calculation, leaving districts no support when they lose ADA to a charter school. However, districts experience a similar loss of revenue when a student exits a traditional school for a charter school as when a student leaves for any other reason.

While the majority of CTF members recognized that this recommendation alone will not address the full fiscal impact on districts, there was consensus that providing a “soft landing” to districts for loss of ADA due to student transfer to charter schools offers one important layer of support. Because loss of charter students to independently-governed and direct-funded charter schools has substantially the same impact on the district as any other ADA loss, the CTF believes it should be recognized in the same manner. Based on self-reported 2018-2019 data submitted to CDE for the largest ten school districts in the state, the estimated amount required to provide the “soft landing” is estimated over \$96,000,000.

***D) Provide additional discretion when considering a new charter school authorization and amend the role of the CDE in oversight per the considerations below.***

- ***Unanimity and consensus reached***

The CTF members discussed the necessity of providing boards greater ability to consider community impacts when making a decision to approve or deny petitions to establish a new charter school. A proposal was shared that introduced a list of possible factors that would provide boards with additional discretion. The CTF debated a variety of potential factors and ultimately reached unanimous consensus to recommend that boards statewide be allowed to consider the items listed below when determining whether to approve or deny a petition to establish a new charter school; there was a widely held view that these considerations are interconnected and should be discussed based on their combined impact on the system and not as separate components.

- Saturation (including both numbers of schools and overall enrollment in those schools)
- Academic outcomes and offerings (offered by traditional schools and charter schools)
- A statement of need (based on academic outcomes and offerings)

While CTF members did not articulate specific thresholds or levels to trigger these factors, they did feel that the factors aforementioned offered governing boards a more complete community lens and were therefore important for providing additional discretion to authorizers. Together with these considerations, CTF also discussed the role of the SBE in the appeals process and the responsibility of CDE (as staff to SBE) for oversight of SBE-authorized charter schools. It was agreed that CDE should no longer be responsible for oversight of charter schools authorized by the SBE (currently three staff members are responsible for 39 charters schools). The CTF agreed unanimously that the burden of oversight was high for the CDE staff, particularly given geographic constraints. While acknowledging that districts will get broader discretion to deny petitions for new charter schools via the considerations above, CTF members recognized there needed to be a balance with appeal rights; therefore, no changes were recommended to the appeals process.



## **Other Proposals Voted On**

Again, the proposals listed below were either a part of the framework voted on by the CTF or they represent a proposal on which the CTF members focused considerable time and debate. Although full unanimity was not reached on these proposals, they are included in this report to provide transparency and reflect the evolution to the CTF's full body of work. They represent items discussed and the evolution of the discussion and debate that took place between task force members before the task force members reached consensus on the list of recommendations listed in this report.

### ***E) Enact a one-year moratorium on the establishment of new virtual charter schools.***

- ***Supported by the majority***

There has been growing concern that virtual charter schools are operated without appropriate academic rigor and oversight, providing a sub-par education for their students (for example, see California Virtual Academy – Bureau of State Audits review<sup>1</sup>). The temporary one-year freeze on new virtual charter schools will give advocates time to study issues related to the establishment of virtual charter schools, such as their operational practices and performance, and to make further recommendations to ensure students are receiving appropriate full-time instruction, supervised by a certified teacher. Virtual charter schools with a history of providing a demonstrated benefit to students will have the ability to continue to operate during the one-year moratorium.

### ***F) Remove the California State Board of Education from hearing appeals of charter petition denials.***

- ***Supported by the majority***

The SBE is an authorizer for applicants whose charter petition was denied by a district or county board of education. Some CTF members expressed growing concern that applicants whose charter petitions were denied by a district and/or County Board of Education appeal to the SBE to grant their charter, thus giving a charter school three chances to be approved. Some believe that for local control and accountability to be preserved, charter schools should only be authorized locally. In addition, authorization at the state level is problematic due to geographic limitations. Almost 65% of the current SBE authorized charter schools are located in Los Angeles or San Diego, which makes it difficult for the Sacramento-based staff to provide the appropriate level of oversight at the local level. As CDE is staff to SBE, the oversight responsibilities fall to CDE; there are currently three staff at the state level to serve the 39 SBE authorized charter schools.

### ***G) Limit the authorization of new charter schools to local districts with an appeals process that takes place at the County Board of Education only when there was an error by the district governing board.***

- ***Supported by the majority***

Current law allows for any County Board of Education, or the State Board of Education to authorize charter petitions when a school district governing board has denied their approval. By

only allowing school districts and limited appeals to the county offices to authorize, this proposal allows the local community to make a determination on whether the charter school meets the needs of their students. Applicants would be allowed limited appeals of the local district's denial to the County Board of Education.

***H) Prohibit districts from authorizing charter schools located outside district boundaries.***

- ***Supported by the majority***

Current law allows a charter school to open one site outside of the authorizing district only if the charter school has attempted to locate within the authorizer's boundaries, but an appropriate site was unavailable or the location is temporarily needed during a construction or expansion. A 2017 state audit report found that in fiscal year 2016-2017, 165 charter schools used these exceptions to operate at least 495 locations outside of their authorizers' boundaries<sup>2</sup>. Further, many of these charter schools had not provided evidence of the need to locate outside of the authorizing district. Prohibiting districts from authorizing charter schools located outside of district boundaries would allow for greater local control and oversight of charter schools. In addition, such a prohibition would limit the potential for the detrimental practice of using oversight fees as a revenue stream, while incurring only limited expenses associated with authorizing the charter school.<sup>3</sup>

***I) Allow authorizers to consider fiscal impact as part of the authorization process.***

- ***Supported by the majority***

Presentations from Oakland Unified School Districts, Los Angeles Unified School Districts, and San Diego Unified School District to the CTF demonstrated significant fiscal impact to school districts due to the cost of charter schools located within district boundaries. In addition to the oft-cited loss of ADA funding, other costs may include, but are not limited to: inability to reduce expenses proportionally without direct harm to student programs and services (utilities, staff, daily maintenance, etc.); obligations to keep schools open and facilities available; increased liability and litigation; disproportionality of special education costs; competition for state, local, and other funds; thorough oversight; and marketing in a newly competitive environment. Allowing authorizers to consider fiscal impacts of a charter petition enables them to evaluate the impact on the entirety of their local educational system. As such, the majority of the CTF recommended that authorizers should be allowed to take fiscal impact into consideration when deciding whether to authorize a new charter school.

***J) Establish clear guidelines for use by authorizers and by charter applicants for new charter petitions.***

- ***Supported by the majority***

Current law requires charter petitions to include a description of 16 elements. Beyond these elements, there are no standards that provide guidance on the level of detail an applicant should include. As such, applicants submit charter petitions of varying quality; some contain little description of the elements while others contain extensive detail. Clear guidelines, such as rubrics or handbooks, for applicants to follow would standardize the quality of new charter schools.

***K) Update Education Code requirements to reflect current state accountability.***

- ***Supported by the majority***

Current language in the *Education Code* is outdated as it reflects the use of the Academic Performance Index to determine whether a charter school has met the academic criteria for renewal. To make the renewal process up to date, outdated provisions that no longer apply should be removed from the *Education Code*.

***L) Implement a plan for managed growth of charter schools.\****

- ***\*Did not move to a vote***

Over the past 25 years, public perception suggests that charter schools have grown at an unchecked pace. Through CTF deliberations, there were various presentations providing a picture of fast-paced growth that has more recently leveled off to a more moderate rate. A managed growth proposal was considered that identified two school districts (Oakland Unified School District and Los Angeles Unified School District) and suggested limitations related to time period, geography, and who is eligible and was contingent upon local control and a sunset policy. The idea of managing growth in a select few districts and for a limited period was not acceptable to the majority who felt reasonable growth standards should be consistently applied statewide. CTF members were invited to provide an alternative set of caveats for a managed growth plan, however CTF members could not agree on the conditions for limiting growth. Conversation about the managed growth plan being applicable to districts with a specific number or percentage of charter student enrollment was further discussed but no agreement was reached.

***M) Amend Education Code 475605 (b) from “shall” to “may.”***

- ***Opposed by the majority***

The CTF members dedicated significant time to discussing a reform proposal to provide more discretion to authorizers that would amend *Education Code* 47605 (b) which states, “the governing board of the school district **shall** grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice.” In practice, this clause in the current state law indicates that an authorizer must approve a charter applicant unless it makes specific findings to deny. The proposal would have provided authorizers more discretion to approve or deny a charter school by introducing a change in the language of this section of the *Education Code* from “shall” to “may.”

This was a significant topic of discussion for all CTF members and many differing perspectives were shared. Ultimately, the CTF expressed concern about the potential legal implications of a recommendation that changed the core language of the *Education Code*. When CTF members voted on the proposal to recommend the change, there was neither consensus nor unanimity. The proposal to change from “shall” to “may” failed by the narrowest of votes, with the majority position opposing the change. In subsequent conversations, the CTF worked to identify a balance that addressed both growth concerns and the need for some form of an appeals process.

## **Implications for Going Forward**

The recommendations for charter reform presented in this report represent important conversations currently taking place throughout California. With more than 1,300 charter schools in our state, the issues surrounding charter schools are complex and require further review, discussion, and debate. While the CTF had robust discussions with significant differences on policy, the recommendations contained in this report offer strategies to address some of these complexities. The CTF was limited in overall scope and duration, and so the conversations started here point to additional questions yet to be answered. In particular the CTF encourages future work detailing articulate and fair standards for authorization and renewal and the development of the statewide entity referenced in Recommendation B. Moreover, the CTF sees an opportunity for charter schools and traditional public schools to achieve a goal that has never been fully maximized since the passage of the Charter Schools Act of 1992: that charter schools and traditional public schools share innovations that have the potential for helping all students in the state. In conclusion, the State Superintendent's office on behalf of the CTF respectfully submits this report and its recommendations as strategies to advance the needs of California's six million students.

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<sup>1</sup> Per state audit report findings, CAVA: inaccurately calculated supervisory oversight fees paid to authorizing entities; lacked sufficient documentation to support its claimed ADA; lacked sufficient documentation to support satisfactory progress of students between 19 and 22 years old; may have miscalculated its pupil-teacher ratio; schools contracted to pay their authorizing entities oversight fees in excess of legal limits. <https://www.cde.ca.gov/nr/ne/yr17/yr17rel72.asp>

<sup>2</sup> Per CCSESA Report. Pg 13: State Audit Report 2016-141. <https://www.bsa.ca.gov/pdfs/reports/2016-141.pdf>

<sup>3</sup> For example, per State audit <<https://www.bsa.ca.gov/pdfs/reports/2016-141.pdf>>, "Through the authorization of out-of-district schools, both Acton-Agua Dulce Unified and New Jerusalem were able to increase their enrollments and revenue significantly... (the school district of Acton-Agua Dulce) received \$1.9 million total in fees from charter schools in fiscal year 2015-16... while some of Acton-Agua Dulce Unified's charter schools appear to have made only sporadic use of the services for which the district charged them."

# Exhibit

# **B**

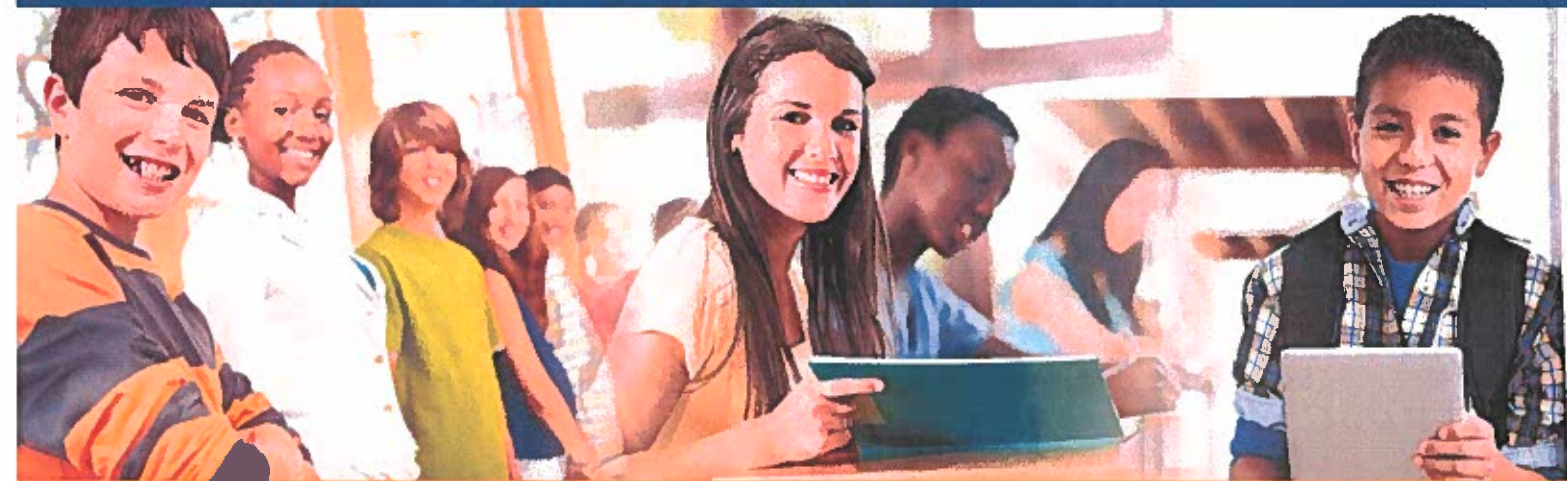




## California County Superintendents Educational Services Association

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## **California County Superintendents Educational Services Association**

The 58 county superintendents of schools are state constitutional officers who collectively work to ensure the equitable implementation of curriculum and services for more than 6 million California students. CCSESA's mission is to strengthen the service and leadership capabilities of California's 58 county superintendents in support of students, schools, districts, and communities.





## 5. APPEALS PROCESS

California's statewide accountability system is designed around the principle that locally elected bodies are best suited to make decisions about, and provide oversight of, a community's education system. Charter schools are no exception to this rule.

### a. Changes to Material Terms of the Petition on Appeal

Authorizers have expressed concern that petitioners change or add content to a petition on appeal to the county office and State Board of Education (SBE). Although changes to the petition that substantially change the content (referred to as "material revisions") are not allowed, current law does not give authorizers the authority to return the petition to the district.

Current law also does not provide a clear definition of a material revision. While the content of a petition may not change, authorizers agree that additional documentation providing evidence of a charter schools financial situation or ability to achieve academic goals can fundamentally change the viability of a petition and may alter a board's decision.

#### Recommendation:

- ▶ Give the county office the authority to send a petition back to the district if there are revisions to the material terms of the petition on appeal. Define material terms broadly to include supporting documentation.

### b. Appeals to the County Office of Education

Current law requires the county board of education to review petitions on appeal "de novo," or as if they are being seen for the first time. Given the significant resources that are needed to review a charter petition and the ambiguity around material revisions, the current appeals process is neither efficient nor effective. County offices are responsible for hearing various kinds of

appeals, including appeals of expulsions and interdistrict transfers, and note that effective appeals processes do the following: (1) respect the autonomy of local decision-making bodies while also protecting against errors, bias, and abuse; (2) do not waste resources by allowing parties to relitigate the same issues in multiple venues; and (3) do not allow petitioners to change the facts of the case or withhold evidence until the appeal.

#### Recommendation:

- ▶ Amend the county office appeals process to align with the principles of efficiency and local control.

### c. Appeals to the State Board of Education

Like the county office, current law requires the State Board of Education (SBE) to review charter petitions "de novo" on appeal. A petition must be

denied by both the district and county board before it reaches the SBE. Nevertheless, the SBE approves more than 70% of the petitions it receives. Data on charter school closures provided by the Department of Education indicates that charter schools approved by the SBE are significantly more likely to fail (38%) than those that are approved by a district board (28%) or county board (24%).

The SBE approves more than 70% of the petitions it receives.

#### Recommendation:

- ▶ Limit the State Board of Education's role in charter petition appeals.



## 4. ACADEMIC & COMPLIANCE OVERSIGHT

### c. Enforcement of Charter School Law

An ACLU report found that at least 253 charter schools had policies in place that were “plainly exclusionary”

Current law prohibits adopting enrollment preferences that limit enrollment of students with disabilities (SWDs), English learners (ELs), low-performing students, and economically disadvantaged students. An ACLU report found that at least 253 charter schools had policies in place that were “plainly exclusionary” in violation of state anti-discrimination

laws.<sup>6</sup> Hundreds of others had policies that opened the door to implicit discriminatory practices. Current law requires charter petitions to include a description of how the charter school will achieve a racial and ethnic balance that is similar to the district in which the school is located. The Associated Press, the University of California, and dozens of others have found that charter schools are increasing racial and ethnic segregation in California and throughout the nation.<sup>7</sup> While charter schools appear to be making progress toward enrolling an equitable percentage of high-need students, they continue to under-enroll ELs and economically disadvantaged students, and have lower concentrations of unduplicated pupils.<sup>8</sup>

Current law restricts the location of a charter school site to the authorizing district with only limited exceptions. The State Auditor has discovered more than 495 charter school sites located outside of the authorizing district.<sup>9</sup>

When laws that are intended to protect the civil rights of students and the autonomy of districts are being disregarded on such a large scale, it becomes clear that a state entity is needed to monitor and enforce compliance.

#### Recommendations:

- ▶ Task a state entity with:
  - Collecting and reporting data on charter school sites. Require charters to submit an annual report with addresses of all locations.
  - Monitoring and reporting on parity in racial and special education enrollment.
  - Monitoring compliance with the “*Anderson Union High School district v. Shasta Secondary Home School*” ruling.
  - Conducting “red flag” audits of petitions on various issues, such as geographic exceptions and potentially fraudulent petition signatures.
- ▶ Provide a state entity with the ability to sanction charter schools and authorizers, after providing adequate due process, that consistently abuse their discretion, e.g. revocation of a specific charter school site, revocation or limitations on the authority to authorize, financial sanctions, etc.

<sup>6</sup> Unequal Access: How Some California Charter Schools Illegally Restrict Enrollment, ACLU. [https://www.aclusocal.org/sites/default/files/field\\_documents/report-unequal-access-080116.pdf](https://www.aclusocal.org/sites/default/files/field_documents/report-unequal-access-080116.pdf).

<sup>7</sup> US charter schools put growing numbers in racial isolation, Associated Press. <https://apnews.com/e9c25534dfd44851a5e56bd57454b4f5>.

<sup>8</sup> Choice Without Equity: Charter School Segregation and the need for Civil Rights Standards, University of California Los Angeles. <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/choice-without-equity-2009-report>.

<sup>9</sup> Charter Schools and California’s Local Control Funding Formula, PPIC. <https://www.ppic.org/publication/charter-schools-and-californias-local-control-funding-formula/>

<sup>9</sup> State Audit Report 2016-141. <https://www.bsa.ca.gov/pdfs/reports/2016-141.pdf>



## 4. ACADEMIC & COMPLIANCE OVERSIGHT

Many charter schools provide unique academic opportunities that challenge and engage persistently low-achieving students; many others do not. To ensure that all charter schools fulfill the legislative intent to increase the achievement of at-risk pupils, the state should consider adopting changes that would create greater equity in enrollment and increase academic accountability.

### a. Academic Oversight of Charter Schools

The Governor’s January 2019 budget proposal directly addresses a number of our concerns with regards to academic oversight of charter schools. The proposal would require every charter school to: (1) hold a public hearing before adopting its Local Control and Accountability Plan (LCAP); (2) adopt revisions to its LCAP at a public hearing; (3) address all eight state priorities in its LCAP, annual goals, and pupil outcomes; (4) submit its adopted LCAP to its authorizer and the county superintendent; (5) prominently post its LCAP on its website homepage; (6) based on specified criteria, translate documents and notices to parents. CCSESA strongly supports the adoption of all these proposals.

Academic oversight should be a continuous process throughout the life of a charter.

As charter schools implement these changes, authorizers should also consider adopting best practices to improve academic outcomes for charter school students. Academic oversight should be a continuous process throughout the life of a charter. Best practice requires authorizers to annually review, evaluate,

and provide feedback on academic outcomes to each charter school. If academic goals are not being met, this should be clearly communicated in writing. The decision to revoke or non-renew a charter school should never be a surprise to either party.

#### Recommendations:

- Adopt proposals in the Governor’s budget that would align the charter school LCAP process with the district LCAP process and create greater transparency.
- Adopt best practices for providing meaningful academic oversight focused on improving outcomes for charter school students.

### b. Academic Indicators for Renewal

When determining whether to renew a charter school, the primary question for authorizers is whether the charter school has met its academic goals. To make this determination, the authorizer must consider the academic performance of the charter school, whether charter has met the minimum required state academic indicators, academic gains made by subgroups, academic performance of other comparable public schools, other schools in the district, the student demographics of the charter school and any other information submitted by the charter school. The current academic indicators defined in statute are the Academic Performance Index (API) and the Standardized Testing and Reporting assessment. Both of these indicators are no longer used by the state of California.

#### Recommendation:

- Update statute to replace the Academic Performance Index (API) and the Standardized Testing and Reporting (STAR) assessment with the dashboard and the new state assessment.



### 3. FISCAL OVERSIGHT & ACCOUNTABILITY TOOLS

#### c. Intermediate Intervention Tools

Authorizers regularly express the need for intermediate intervention tools that can be used when fiscal mismanagement is discovered

When financial inconsistencies or deficiencies are discovered, current law provides authorizers with only two enforcement tools: (1) request a FCMAT investigation; and/or (2) non-renew or revoke the charter school. Because non-renewal and revocation disrupt students' education and are generally viewed as an extreme reaction to poor accounting practices, they

are often avoided. Authorizers regularly express the need for intermediate intervention tools that can be used when fiscal mismanagement is discovered at a charter school, but academic achievement and graduation rates remain high.

When a district is unable to meet its financial obligations, has inadequate reserves, or is showing signs of fiscal distress, the superintendent has a number of intermediate intervention tools. The superintendent can conditionally approve or disapprove a district's budget, which allows the superintendent to offer budget revisions, assign a budget advisor, and/or appoint a committee to review the budget revisions. The superintendent may also certify the fiscal condition of the district as qualified or negative, which allows the superintendent to assign a fiscal expert to the district, conduct a study of the budgetary conditions and internal controls of the district, require the district to encumber all contracts and obligations, and/or withhold compensation of board members and the superintendent. If the fiscal condition continues, the superintendent can take additional steps such as imposing budget revisions to ensure the district can meet

financial obligations, staying or rescinding actions that are inconsistent with the district's ability to meet obligations, or appointing a fiscal advisor. Since implementing these fiscal oversight tools 20 years ago, the number of districts in fiscal distress has declined dramatically.<sup>4</sup>

#### Recommendation:

- ▶ Establish intermediate intervention tools that an authorizer can use when it discovers financial inconsistencies or deficiencies at a charter school. These could include annual approval of the charter school's budget and certification of its financial condition.

#### d. Pension Liability

Current law allows charter schools to opt-out of the California State Teachers' Retirement System (STRS) and the California Public Employees' Retirement System (PERS). The number of new charter schools that choose to participate in STRS has gone from 90% in 2013 to 67% in 2015.<sup>5</sup> Because charters represent more than 10% of California schools, declining participation in the pension system could jeopardize the stability of the system for teachers and administrators at traditional public schools. Current law also allows STRS and PERS to hold the county office liable for a charter school's unpaid pension obligations, even when the county office is not the charter authorizer. This creates a significant unfunded liability risk for all county offices that have charter schools within their borders.

#### Recommendation:

- ▶ Require the State Controller's Office to determine each charter school's pension liability and withhold those funds before they are apportioned to the charter school.

<sup>4</sup> School District Oversight and Intervention. LAO. <https://lao.ca.gov/reports/2012/edu/school-district-fiscal-oversight-and-intervention/school-district-fiscal-oversight-and-intervention-043012.pdf>

<sup>5</sup> California Public Pension Crisis in Bad and Getting Worse. Sacramento Bee. <https://www.sacbee.com/news/politics-government/the-state-worker/article199324794.html>



### 3. FISCAL OVERSIGHT & ACCOUNTABILITY TOOLS

Hundreds of California charter schools have closed over the last two decades due to fiscal mismanagement or inadequate financial planning. Every time a school closes, it disrupts students' education and creates instability at the public schools that must absorb displaced students.

#### a. Fiscal Transparency of Charter Schools

Current law was recently amended to require charter schools to comply with Government Code 1090, the Political Reform Act, and the Brown Act. We believe that these changes will significantly reduce the frequency with which charter board members engage in financial mismanagement and conflicts of interest and applaud the Governor and Legislature's action. To ensure that these new laws have the intended impact, however, authorizers will need additional tools to help them access a charter school's financial information.

Conflicts of interest often arise when a charter school contracts with a charter management organization (CMO) or an administrative services provider, or leases or purchases real property. Current law does not require a charter school to share these contracts with their authorizer. Similarly, fiscal mismanagement and fraud is more likely to occur when a charter school does not have internal fiscal controls that can be monitored by the authorizer. Current law does not require a charter school to adopt internal fiscal controls.

#### Recommendations:

- ▶ Require charter schools to disclose to their authorizer all contracts for the sale or lease of real property and all contracts for personal property or services over a specified amount.
- ▶ Require charter petitions to include a description of the charter school's internal financial controls.

#### b. Transparency of Charter Management Organizations

The National Alliance for Charter Schools estimates that approximately one-quarter of charter schools are now managed by a CMO or contract with a CMO, a trend which continues to grow in California. Current law was recently amended to prohibit for-profit CMOs from operating or managing the day-to-day operations of a charter school. While we applaud this step forward, we encourage the Legislature to address barriers that continue to allow non-profit CMOs to block authorizers' access to financial information, such as fees charged and services provided, contracts and ongoing obligations, grants, loans, and leases. When a charter school transfers the majority of their revenue to a CMO and that CMO prevents the authorizer from obtaining a true picture of their financial status or stability, the authorizer cannot provide adequate oversight or intervene to prevent fiscal mismanagement or closure. Similarly, when an authorizer does discover that a CMO is mismanaging funds or violating the terms of the petition or the MOU, if the authorizer has not created a legal relationship with the CMO, the authorizer cannot enforce the terms against the CMO. Over the last four years, more than a dozen California CMO-operated charter school sites have closed due to fiscal mismanagement or fraud.

#### Recommendations:

- ▶ Require a CMO to disclose specified financial information to the authorizer during the petition process, for annual audits, and upon request.
- ▶ Require a CMO to sign the charter sign petition and MOU, creating a legally enforceable relationship between the CMO and authorizer.



## 2. AUTHORIZATION PROCESS

### b. Geographic Location of Charter School Sites

Current law allows a charter school to open a location outside of the authorizing district if an appropriate site is unavailable in the authorizing district or the location is temporarily needed during a construction or expansion project. A State Audit Report recently found that charter schools have used these exceptions to locate at least 495 charter school sites outside of their authorizing district.<sup>2</sup> The State Auditor also found that many of these charter schools had not provided evidence of the need to locate outside of the authorizing district.

County superintendents are responsible for superintending all the schools in their county and investigating charter schools based on information or complaints. Although the Department of Education (CDE) maintains a list of charter schools in California, the list does not include all charter school sites or the location of sites outside of the authorizing district. District and county superintendents regularly report discovering charter school sites in their district/county of which they were unaware.

#### Recommendations:

- ▶ Eliminate the geographic location exceptions in Education Code 47605.1(d). Give existing sites a specified number of years to relocate, become authorized by, or sign an MOU with, the district in which the site is located.
- ▶ Address the lack of information regarding charter school locations, including resource centers, meeting facilities, and satellite facilities.

### c. Capacity to Authorize

Charter authorizers have significant fiscal and academic oversight responsibilities. This includes annually reviewing finances, evaluating academic goals and progress toward goals, reviewing teacher credentials and misassignments, visiting the school site(s), investigating complaints, and assessing whether the charter school is adhering to school policies and handbooks.

The State Audit Report indicates a relationship between an authorizer's average daily attendance (ADA) and its ability to provide adequate oversight.<sup>3</sup> Authorizers that serve more students in their charter schools than live in their respective districts often authorize charter schools outside of the district without justification, have lower retention and graduation rates, and are less likely to identify fiscal mismanagement early enough to intervene.

The State Audit Report indicates a relationship between an authorizer's average daily attendance (ADA) and its ability to provide adequate oversight.

#### Recommendation:

- ▶ Establish a limit on the number of charters that a district or county office can authorize based on its capacity. Allow the State Board of Education to waive this limit in unique circumstances.

<sup>2</sup> State Audit Report 2016-141. <https://www.bsa.ca.gov/pdfs/reports/2016-141.pdf>

<sup>3</sup> Ibid.



## 2. AUTHORIZATION PROCESS

To ensure that districts and county offices make informed decisions on charter petitions and have the capacity to provide adequate oversight of authorized charter schools, the state should adopt changes to the authorization process.

### a. Petition Timeline

Current law provides only 30 days after receipt of a charter petition to conduct a public hearing and 60 days after receipt to approve or deny a charter petition. LEAs universally agree that 60 days is not enough time to complete the lengthy and complex petition review process described in “Resources for Authorizers,” synthesize findings, prepare the board to conduct a meaningful public hearing, respond to questions and concerns raised by the board and the public at the hearing, reach agreement on the terms of a MOU, and make revisions to the petition as needed.

Because the petition timeline and the timeline to request facilities under Proposition 39 are not aligned, charter schools are often approved whether or not there is an appropriate facility to house the school. This creates frustration and disruption for teachers who plan to teach at the school, parents who plan to enroll students, and administrators who are trying to balance the needs of all students in the district.

County superintendents believe that the decision to open a new charter school is not one that should be made lightly. Establishing a new school, whether traditional or charter, can impact the fiscal and academic success of all

students in the community, not just those that attend the charter school. The gravity of this decision is therefore fundamentally inapposite to a charter petition process that allows petitioners to submit a proposal, conduct a hearing, get approved, and open a facility, in as little as two months.

County superintendents believe that the decision to open a new charter school is not one that should be made lightly.

### Recommendations:

- ▶ Provide additional time for districts and county offices of education to hold a hearing on a charter petition and make a determination.
- ▶ Revise the charter petition process to accommodate the Prop 39 timeline and allow authorizers to consider whether appropriate facilities are available.





## 1. AUTHORIZER RESOURCES & TRAINING

### b. Technical Assistance & Guidance for Authorizers

Prior to becoming an authorizer, most LEAs have no experience performing the type of review and oversight activities required of charter authorizers. Until the creation of the Charter Accountability and Resource Support Network (CARNet), there was no training on complex oversight activities, no provider of technical assistance, and no tools or best practice guides available to California authorizers.<sup>1</sup> The state does not currently fund CARNet and does not offer technical assistance.

As California adopts more robust accountability and transparency laws, authorizers will continue to need greater training and technical assistance.

As California adopts more robust accountability and transparency laws, authorizers will continue to need greater training and technical assistance. Because LEAs are entrusted with enforcement of charter laws, greater accountability cannot be achieved without also providing support for authorizers.

#### Recommendations:

- ▶ Ensure that authorizers receive adequate training and technical assistance by providing state funding for the Charter Accountability and Resource Support Network (CARNet).
- ▶ Through CARNet, and in collaboration with the Fiscal Crisis and Management Assistance Team (FCMAT) and the Department of Education (CDE), develop guidance for authorizers, including:
  - A policy, handbook, checklist, and template for the petition review and authorization process;
  - A handbook, checklist, and template for the annual review of charter schools;
  - A MOU that outlines fiscal controls and accounting standards, articulates how and when fiscal information and contracts will be shared, clarifies the relationship between the petition and MOU, and sets expectations for Charter Management Organization (CMO);
  - Guidance on the renewal process, conducting annual fiscal and academic reviews, the steps to take when fiscal discrepancies or academic deficiencies are discovered, and how to enforce the terms of the petition and MOU.



<sup>1</sup> CARNet was created through a federal grant received in 2015. CARNet is a position-neutral professional development organization that provides training and technical assistance to LEA authorizers. It operates through regional leads, each of which has expert local practitioners on staff. Federal funding for CARNet expired in March 2018.





## 1. AUTHORIZER RESOURCES & TRAINING

To ensure that all students receive a high-quality education grounded in best practice, charter school authorizers need to thoroughly review and vet charter petitions and provide effective oversight of existing charter schools. Inadequate resources, a lack of training, and insufficient technical assistance significantly impede authorizers' ability to ensure only high achieving charters operate in California.

### a. Resources for Authorizers

Significant resources are needed to properly and thoroughly review charter petitions, which are usually hundreds of pages long.

Current law does not provide dedicated funding for the costs associated with reviewing charter petitions. Significant resources are needed to properly and thoroughly review charter petitions, which are usually hundreds of pages long. When vetting a charter petition, staff must review financial plans and proposed budgets, evaluate academic plans and goals, examine corporate

bylaws, evaluate proposed policies and handbooks, verify signatures, inspect proposed school sites, identify potential conditions for approval or findings for denial, craft a memorandum of understanding (MOU) with the petitioner, and prepare materials and analyses for public hearings. If a charter petition is denied and appealed, county office of education staff must complete the same review process a second time. Local education agencies (LEAs) indicate that it can cost up to \$30,000 to process a single petition. The number of petitions submitted to districts and county offices of education have increased in the last decade as the charter school movement in California continues to grow.

If a charter petition is approved, the authorizer becomes responsible for conducting fiscal and academic oversight of the charter school. This includes annually reviewing finances, evaluating academic goals and progress toward goals, reviewing teacher credentials and misassignments, visiting the school site(s), investigating complaints, and assessing whether the charter school is adhering to school policies and handbooks. Districts and county offices of education are permitted to charge no more than 1% of a charter school's revenue for oversight activities. Nearly all authorizers indicate that this amount is insufficient to cover oversight costs.

Nearly all authorizers indicate that 1% amount is insufficient to cover oversight costs.

#### Recommendations:

- Provide funding for districts and county offices of education impacted by the increase in charter petitions.
- Allow authorizers to charge for the actual cost of overseeing a charter school.

# INTRODUCTION

**T**his report, commissioned by the California County Superintendents Educational Services Association (CCSESA), summarizes policy recommendations and best practices which, if implemented, would support county superintendents in their role as charter authorizers. Some of the recommendations can be locally implemented, while others require a legislative or regulatory change. All of the recommendations would help authorizers ensure that students attending charter schools are receiving the best education possible.

As authorizers of charter schools, County Offices of Education (COEs) recognize that we have a responsibility to ensure that charter petitions are fully vetted according to common standards, and that oversight of approved charter schools is practiced with uniformity, consistency, and scrutiny. It has become clear over the last several years that authorizers need additional tools and resources in order to do their jobs effectively and consistently. Even authorizers that follow best practice can sometimes find themselves with a charter school that is facing public scrutiny and allegations of fiscal mismanagement. These risks are further increased when authorizers struggle with capacity and training.

County superintendents are committed to ensuring that all public-school students, whether in a traditional school or a charter school, receive an appropriate and sound education. We will review a range of research and recommendations to ascertain and prioritize the issues that impede authorizers the most and identify solutions that will help to ensure county superintendents are empowered with the tools and resources they need to continue to manage all the public schools in their county.

The following issue areas are divided in to five categories. Each section includes a description of the issue and recommendations that, if adopted, would improve charter authorizing and oversight:

1. Authorizer Resources & Training
2. Authorization Process
3. Fiscal Oversight & Accountability Tools
4. Academic Oversight & Enforcement
5. Appeals Process

It has become clear over the last several years that authorizers need additional tools and resources in order to do their jobs effectively and consistently.

### Intermediate Intervention Tools

- Establish intermediate intervention tools that authorizers can use when they discover financial inconsistencies or deficiencies at a charter school. These could include annual approval of the charter school's budget and certification of its financial condition.

### Pension Liability

- Require the State Controller's Office to determine each charter school's pension liability and withhold those funds before they are apportioned to the charter school.



## ACADEMIC & COMPLIANCE OVERSIGHT

### Academic Oversight of Charter Schools

- Adopt proposals in the Governor's budget that would align the charter school LCAP process with the district LCAP process and create greater transparency.
- Adopt best practices for providing meaningful academic oversight focused on improving outcomes for charter school students.

### Academic Indicators for Renewal

- Update statute to replace the Academic Performance Index (API) and the Standardized Testing and Reporting (STAR) assessment with the dashboard and the new state assessment.

### Enforcement of Charter School Law

- Task a state entity with:
  - Collecting and reporting data on charter school sites. Require charters to submit an annual report with addresses of all locations.
  - Monitoring and reporting on parity in racial and special education enrollment.
  - Monitoring compliance with the "Anderson Union High School district v. Shasta Secondary Home School" ruling.
  - Conducting "red flag" audits of petitions on various issues, such as geographic exceptions and potentially fraudulent petition signatures.
- Provide a state entity with the ability to sanction charter schools and authorizers, after providing adequate due process, that consistently abuse their discretion, e.g. revocation of a specific charter school site, revocation or limitations on the authority to authorize, financial sanctions, etc.



## APPEALS PROCESS

### Changes to Material Terms of the Petition on Appeal

- Give the county office the authority to send a petition back to the district if there are revisions to the material terms of the petition on appeal. Define material terms broadly to include supporting documentation.

### Appeals to the County Office of Education

- Amend the county office appeals process to align with the principles of efficiency and local control.

### Appeals to the State Board of Education

- Limit the State Board of Education's role in charter petition appeals.

# EXECUTIVE SUMMARY



## AUTHORIZER RESOURCES & TRAINING

### Resources for Authorizers

- Provide funding for districts and county offices of education impacted by the increase in charter petitions.
- Allow authorizers to charge for the actual cost of overseeing a charter school.

### Technical Assistance & Guidance for Authorizers

- Ensure that authorizers receive adequate training and technical assistance by providing state funding for the Charter Accountability and Resource Support Network (CARSNet).
- Through CARSNet, and in collaboration with the Fiscal Crisis and Management Assistance Team (FCMAT) and the Department of Education (CDE), develop guidance for authorizers, including:
  - A policy, handbook, checklist, and template for the petition review and authorization process.
  - A handbook, checklist, and template for the annual review of charter schools.
  - A MOU that outlines fiscal controls and accounting standards, articulates how and when fiscal information and contracts will be shared, clarifies the relationship between the petition and MOU, and sets expectations for Charter Management Organization (CMO).
  - Guidance on the renewal process, conducting annual fiscal and academic reviews, the steps to take when fiscal discrepancies or academic deficiencies are discovered, and how to enforce the terms of the petition and MOU.



## AUTHORIZATION PROCESS

### Petition Timeline

- Provide additional time for districts and county offices of education to hold a hearing on a charter petition and make a determination.
- Revise the charter petition process to accommodate the Prop 39 timeline and allow authorizers to consider whether appropriate facilities are available.

### Geographic Location of Charter School Sites

- Eliminate the geographic location exceptions in Education Code 47605.1(d). Give existing sites a specified number of years to relocate, become authorized by, or sign an MOU with, the district in which the site is located.
- Address the lack of information regarding charter school locations, including resource centers, meeting facilities, and satellite facilities.

### Capacity to Authorize

- Establish a limit on the number of charters that a district or county office can authorize based on capacity. Allow the State Board of Education to waive this limit in unique circumstances.



## FISCAL OVERSIGHT & ACCOUNTABILITY

### Fiscal Transparency of Charter Schools

- Require charter schools to disclose to their authorizer all contracts for the sale or lease of real property and all contracts for personal property or services over a specified amount.
- Require charter petitions to include a description of the charter school's internal financial controls.

### Transparency of Charter Management Organizations

- Require a CMO to disclose specified financial information to the authorizer during the petition process, for annual audits, and upon request.
- Require a CMO to sign the charter sign petition and MOU, creating a legally enforceable relationship between the CMO and authorizer.

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**CHARTING A WAY FORWARD:**  
Recommendations for Improving Charter School Outcomes  
and Accountability by Supporting Charter Authorizers



**CCSESA Charter Authorizers Task Force - Final Report**