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EXPERT CHARTER SCHOOL
LEGAL SERVICES

The New Era of Charter Authorization: Securing Charter Approval and Renewal

Presented by:

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FIRM OVERVIEW

Young, Minney & Corr LLP (YM&C) has been the leader in charter school law approaching three decades, representing well over half of California's charter schools with offices in Sacramento, Los Angeles, San Diego, and Walnut Creek. The firm principals have been working with charter schools since the inception of California's Charter Schools Act in 1992.

We offer superior legal expertise, as well as the technical know-how, to allow you to effectively resolve your problems and meet all of your charter school needs.

The YM&C team of experts can assist charter schools in every aspect of charter school creation, expansion, and operation including:

- **Labor & Employment**
- **Student Rights & Discipline**
- **Special Education**
- **Board Governance**
- **Facilities**
- **Granting Agency Relations**
- **Charter Development & Renewal**
- **Charter Defense**
- **Insurance Defense**
- **Charter Litigation**
- **Independent Study**
- **Corporate Law**
- **Public Law**
- **Fighting Charter School Revocation**

We emphasize a preventative approach to the law, helping our clients anticipate legal difficulties, minimize exposure to legal claims and fees, and prevent operational challenges.

With our main office located in Sacramento, YM&C is also uniquely positioned to influence the public policy debate in California – helping shape the future of charter schools.

For more information on our team of expert attorneys and services, please visit www.mycharterlaw.com or call us at **916-646-1400**.

Sacramento Office: 655 University Avenue, Suite 150, Sacramento, CA 95825

Los Angeles Office: 5200 Lankershim Avenue, Suite 370, North Hollywood, CA 91601

San Diego Office: 591 Camino De La Reina, Suite 910, San Diego, CA 92106

Walnut Creek Office: 500 Ygnacio Valley Road, Suite 190, Walnut Creek, CA 94596



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LOS ANGELES OFFICE

Janelle Ruley has been an ardent charter rights advocate since 2007 and has assisted in the establishment or continued operation of hundreds of charter schools. Janelle's primary focus is on charter development, renewal and revocation defense. She has represented charter schools in numerous venues, including before administrative agencies, the courts, school districts, county boards of education, and the State Board of Education. In her daily practice, Janelle regularly counsels clients regarding charter development, charter petition appeals, charter material revisions, drafting MOUs, negotiations with granting agencies, compliance with public transparency laws and related policy development, as well as Local Control Funding Formula/LCAP issues,

student admissions, lottery requirements and a wide range of safe school issues. Janelle is a frequent presenter at CCSA-sponsored events, as well as the annual APLUS+ Conference.

Janelle graduated with a Bachelor of Arts degree in History from Dartmouth College. Janelle was a Senior Fellow at Dartmouth, completing a year-long, College-funded, independent study project on Institutional Change and Coeducation.

Janelle received a Juris Doctor from University of the Pacific, McGeorge School of Law. At McGeorge, she was an editor and staff writer on the McGeorge Law Review, and represented low income clients in family law and general civil litigation matters for two years in McGeorge's Community Legal Services Clinic. She also received a Master of Laws in Government and Public Policy degree from McGeorge. Janelle was an Education Law Fellow while working toward the LL.M degree; as a Fellow, she provided hands-on programmatic support for the Pacific Pathways Pipeline Project, a Sacramento-based partnership that included an elementary school, (charter) middle school, (charter) high school, University of the Pacific, and the law school.



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THE CHARTER LAW FIRM

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Disclaimer

- This webinar cannot substitute for personalized legal advice.
- Presenters may be working from home and apologize in advance for any child or canine interruptions.
- Our advice is based upon the latest available guidance which is subject to change in this ever-evolving landscape.
- During the webinar and after we are happy to answer questions as time permits. Please use the chat box.
- Sign up for our YMC Legal Alerts on our website to receive updated information on the topics discussed today: www.mycharterlaw.com.

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YM&C Firm Overview

- Partners have over 100 years of collective experience working with charter schools
- 34 attorneys working with charter schools throughout the state in all areas of charter school law (e.g., employment/labor, special education, nonprofits, litigation, audits, facilities, etc.)
- Represent more than a majority of California's charter schools
- Conduct workshops for charter schools in all areas of legal compliance


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On the Cutting Edge of the New Era



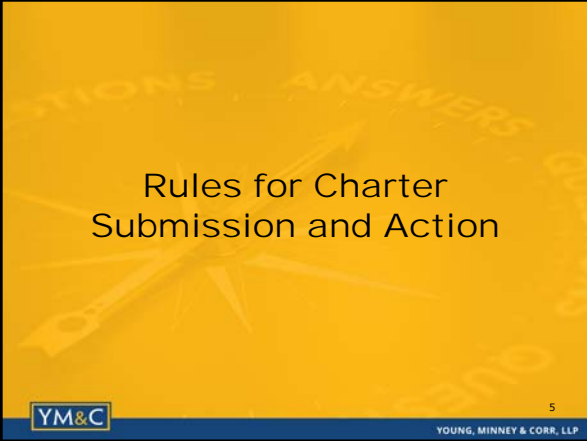
1. Rules for charter submission and action
2. Content for all charters
3. Renewal criteria
4. Standards for approval
5. Standards for denial
6. Standards for appeal
7. Landscape for non-district charters



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Rules for Charter Submission and Action



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Charter Submission and Action



- 60 days for public hearing, 90 for decision.
- 30 days mutual extension.
- Charter is deemed received by the Board on the day submitted to District office with a certification of completeness.
- District must publish recommendations and findings 15 days before decision meeting.
- Decision meeting is a public hearing.
- Equivalent time and procedures to present evidence and testimony to respond to recommendation and findings.

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Implications: Charter Submission and Action

On the one hand...	...and on the other
Dispenses with charter "receipt" games	Conflicts between statute and authorizer policy
	Conflicts between statute and regulations
15 days to review and respond to findings!	Timeline for action at the first level is increased by 50%
Meaningful opportunity to battle during the decision meeting and lay legal groundwork for appeal	Gamesmanship
Massive turnout during public hearing	Massive turnout during public hearing

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Content for All Charters

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Content for Charter Petitions

Element 7/G:

“The means by which the charter school will achieve a balance of racial and ethnic pupils, special education pupils, and English learner pupils, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”

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Content for Charter Petitions



For charter schools operating as a public school of the District, the District may consider the effect of school placements made by the District in providing FAPE, on the balance of students with disabilities at the charter school.



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Content for Charter Petitions



Also provide names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school.



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Content for Charter Petitions



- Teachers must hold the CTC certificate, permit, or other document [required for the teacher's certificated assignment](#).
- No flexibility for teachers of noncore, noncollege prep courses.
- Direct-funded charter schools may use local assignment options authorized in law for the purpose of assigning teachers, in the same manner as a school district.
- Charter schools shall have the authority to request an emergency permit or waiver from the CTC, in the same manner as a school district.
- By July 1, 2020, all teachers in charter schools must obtain a [certificate of clearance](#) and satisfy the requirements for professional fitness.
- Teachers employed at charter schools in the 2019-20 school year have until July 1, 2025 to obtain a certificate for the certificated assignment.




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Renewal Criteria: High-Performing



Shall not deny renewal if either of the following apply for two consecutive years immediately preceding the renewal decision:


- Criterion 1:** The charter school has received the two highest performance levels schoolwide on **all state indicators** included on the Dashboard **for which it receives performance levels.**
 - To qualify for renewal as high-performing, the charter school shall have received schoolwide performance levels on at least **two measurements of academic performance, per year, in each of the two consecutive years immediately preceding the renewal decision.**
- Criterion 2:** for all **measurements of academic performance**, the charter school has received performance levels schoolwide that are **same or higher** than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average.



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Renewal Criteria: “Criterion 2”



Criterion 2 (high- and low-performing):


- “Measurements of academic performance” means indicators included in the Dashboard that are based on statewide assessments in the CAASPP, ELPAC, and college and career readiness indicators.
- To qualify for renewal, the charter school shall have performance levels on at least **two measurements of academic performance for at least two subgroups.**
- A charter school without sufficient performance levels to meet these criteria shall be considered under [middle-performing].




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Benefits of High-Performing Status




- The chartering authority that granted the charter **may** renew a charter pursuant to this paragraph for a period of between five and seven years.
- “Only” required to update the petition to include a reasonably comprehensive description of any new legal requirement of charter schools after the charter was originally granted or last renewed and as necessary to reflect the current program.



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Renewal Criteria: Middle-Performing



- The chartering authority shall consider the charter school's **schoolwide** and **student subgroup performance** on the **state and local indicators** on the Dashboard.
 - The chartering authority shall provide **greater weight** to performance on **measurements of academic performance** in determining whether to grant a charter renewal.
- In addition to the state and local indicators, the chartering authority shall consider clear and convincing evidence **[of verified data]** showing **either** of the following:
 - The school achieved measurable increases in academic achievement, as defined by at least **one year's progress for each year in school**.
 - Strong **postsecondary outcomes**, as defined by college enrollment, persistence, and completion rates equal to similar peers.
- For a charter renewed through the middle-performing, the chartering authority **shall** grant a renewal for a period of five years.


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Renewal Criteria: Verified Data



- If the Dashboard indicators are not yet available for the most recently completed academic year before renewal, the chartering authority **shall** consider **verifiable data provided by the charter school related to the dashboard indicators**, such as data from the CAASPP, for the most recent academic year.
- **"Verified data"** means data derived from nationally recognized, valid, peer-reviewed, and reliable sources that are externally produced.
- Verified data shall include measures of postsecondary outcomes.
- In November 2020, the SBE established criteria to define verified data and identified an approved list of valid and reliable assessments that shall be used for this purpose; no data sources other than those adopted by the SBE shall be used as verified data.


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Verified Data



Data only counts as "verified data" if it is on the State Board of Education's approved list:

Academic Progress	Post-Secondary Indicators
mCLASS by Amplify SAT Suite by College Board iReady by Curriculum Associates ELPAC by Educational Testing Service Math Inventory by Houghton Mifflin Harcourt Reading Inventory by Houghton Mifflin Harcourt FastBridge by Illuminate Diagnostic Online Reading Assessment (DORA) by Let's Go Learn Adaptive Diagnostic Assessment of Mathematics (ADAM) Diagnostic Online Math Assessment (DOMA) by Let's Go Learn RAPID by Lexia Learning Measures of Academic Progress by NWEA Star Assessments by Renaissance easyCBM by Riverside Insights California Assessment of Student Performance and Progress (English Language Arts/Literacy and Mathematics)	Cal-PASS Plus High School to Community College Transition Report California State University Enrollment Dashboard Student Origin California Department of Education DataQuest College-Going Rate National Student Clearinghouse StudentTracker University of California Admissions by School Source University of California Undergraduate Graduation Rates


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Renewal Criteria: Low-Performing




- The chartering authority **shall not renew** a charter if **either** of the following apply for **two consecutive years immediately preceding** the renewal decision:
 - **Criterion 1:** The charter school has received the two lowest performance levels schoolwide on all the state indicators on the Dashboard for which it receives performance levels; **OR**
 - **Criterion 2:** For all measurements of academic performance, the charter school has received performance levels schoolwide that are the **same or lower** than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.
- If Criterion 2 is based on the “same” performance levels, the charter school only qualifies for renewal under low-, not high-performing.
- For a charter renewed through the low-performing, the chartering authority **may** grant a renewal for a period of two years.




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Renewal Criteria: DASS Schools




- High-, middle-, and low-performing categories shall not apply to a DASS charter school.
- The chartering authority shall consider, in addition to the charter school's performance on the **state and local indicators on the Dashboard**, the charter school's performance on **alternative metrics** applicable to the charter school based on the **pupil population served**.
- The chartering authority shall meet with the charter school during the first year of the charter school's term to **mutually agree to discuss alternative metrics** to be considered pursuant to this paragraph and shall **notify the charter school of the alternative metrics** to be used within 30 days of this meeting.
- The chartering authority **may deny** a charter renewal pursuant to this paragraph only upon making written findings, setting forth specific facts to support the findings, that the **closure of the charter school is in the best interest of pupils**.
- No legal requirement specified for charter term.




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Implications: Charter Renewal Criteria



On the one hand...	...and on the other
Term length up to 7 years	Term as short as 2 years
Blues + greens = golden	Reds + oranges = prepare for battle
Verified data	Data may be difficult to compile
No comparison requirement	How to demonstrate data in a vacuum
Must show one year's growth for each year in school	Which students? How many?
Document college enrollment and persistence	Document college enrollment and persistence
Plan for improvement for low performing schools	Plan may be deemed insufficient
DASS schools get to discuss renewal criteria	Authorizer gets ultimate choice on criteria



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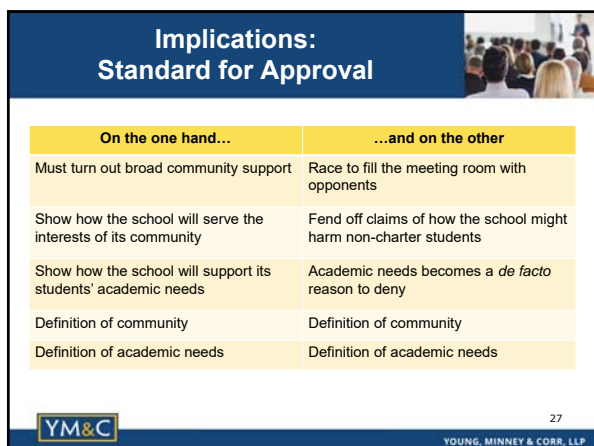
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Standards for Denial

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Standard for Denial (New)

- Adds reasons #7 and 8 to deny a **new** charter petition
 - Demonstrably unlikely to **serve the interests of the entire community**.
 - Shall include consideration of the fiscal impact + shall analyze 2 factors.
 - Extent to which charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
 - Whether the charter school would duplicate a program currently offered within the District, and the existing program has sufficient capacity to serve proposed charter school students in reasonable geographic proximity.
 - District is **not positioned to absorb the fiscal impact** of the proposed charter school.
 - Qualified interim certification and County Superintendent, in consultation with FCMAT, that would move to negative interim certification.
 - Negative interim certification.
 - Under state receivership.
 - Rebuttable presumption of denial.

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Standard for Denial (Middle)

Denial based on middle performing designation:


Chartering authority may deny only upon making written findings, setting forth specific facts to support the findings, that the charter school has **failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils of the school, that closure of the charter school is in the best interest of pupils** and, if applicable, that its decision provided greater weight to performance on measurements of academic performance.

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Standard for Denial (Renewal)



Due process:

- In addition to academic factors, may also deny renewal upon a finding that the school is demonstrably unlikely to successfully implement the program set forth in the petition due to **substantial fiscal or governance factors**, or is **not serving all pupils who wish to attend**, as documented pursuant to data to be requested from the CDE.
- May deny renewal of a charter school only after it has provided at least 30 days' notice to the charter school of the alleged violation and provided a reasonable opportunity to cure the violation, including a corrective action plan proposed by the charter school. The chartering authority may deny renewal only by making either of the following findings:
 - The corrective action proposed by the charter school has been unsuccessful.
 - The violations are sufficiently severe and pervasive as to render a corrective action plan unviable.
- DASS: The chartering authority may deny a charter renewal only upon making written findings, setting forth specific facts to support the findings, that the closure of the charter school is in the best interest of pupils.


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Implications: Standard for Denial



On the one hand...	...and on the other
Reason #8 limited to a small number of school districts	Fiscal impact in reason #7 is undefined and could be widely cited
Reasons #7 and 8 do not apply to renewals	...unless the renewal seeks to expand by adding additional facilities or grade levels
To deny a renewal for non-academic reasons, the authorizer must first give the charter school notice and an opportunity to cure	Additional, unclear reasons for denial of renewal: substantial fiscal or governance factors, or not serving all students who wish to attend
Difficult for an authorizer to say a charter does not serve the interests of the entire community, if we show up with a crowd of people (note: burden on authorizer)	...and vice versa

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STANDARDS FOR APPEAL

Standards for Appeal


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Standard for Appeal




- *De novo* review by the County Board of Education.
- State Board of Education review only on an abuse of discretion standard.
- 30 days to appeal any charter.

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Standard for Appeal (County)




- Provide a copy of appeal to District.
- If new or different material terms are included in the appeal, the County shall immediately remand to the District for reconsideration (30 days).
 - Material terms: signatures, affirmations, disclosures, documents, and descriptions; not administrative updates due to changes in circumstance based on the passage of time related to fiscal affairs, facilities, or state law.
- If District denies again, can resubmit to County.
- County reviews pursuant to procedures and substance of charter.
- County must review District findings for reason for denial #8 (financial impact), if utilized.

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Standard for Appeal (SBE)



- Must include findings and documentary record from the District and County.
- Written submission must detail specific citations to the documentary record regarding abuse of discretion by District, County, or both.
- Board of District and County must prepare the documentary record, including transcripts, no later than 10 business days after request.
- Provide a copy of appeal to District and County.
- If new or different material terms, State Board shall immediately remand to District for reconsideration (30 days).

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Standard for Appeal (SBE)

- District or County may submit written opposition within 30 days of appeal with specific citations to the documentary record explaining how the entity did not abuse its discretion.
- ACCS shall hold a public hearing to review appeal and documentary record; shall submit a recommendation to the SBE whether there is sufficient evidence to hear the appeal or to summarily deny.
- If no ACCS recommendation, the SBE shall either hear the appeal or summarily deny review based on the documentary record.
- SBE may reverse only upon determination that there was an abuse of discretion.
- If SBE reverses denial, it will designate authorization to the District or County.

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Landscape for Non-District Charters

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Non-District Charters

- Clarifies receipt of a **countywide benefit** charter petition, and recommendations and findings published 15 days in advance of Board action.
- Same additions to racial and ethnic balance Element.
- Similar changes regarding teacher credentials, but countywide benefits did not have flexibility in credentialing.
- Fiscal impact not included, due to existing broad discretion to deny.


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Non-District Charters




Statewide benefit charter schools are no longer permitted.



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Non-District Charters




- Continue to operate as State Board-authorized, until next renewal.
- Submit renewal to District.
- If denied, appeal directly to State Board (utilize County appeal procedures).
- If approved, State Board will designate authorization to the District or County.
- Subsequent renewals submitted to the designated authorizer.

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