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**Begin with the End in Mind:
Key Steps to Take Now to
Win Charter Renewal**


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THE CHARTER LAW FIRM


Disclaimer



- This presentation cannot substitute for personalized legal advice.
- Our advice is based upon the latest available guidance which is subject to change in this ever-evolving landscape.
- Sign up for our YMC Communications on our website to receive updated information on the topics discussed today: www.mycharterlaw.com/email-sign-up.

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YM&C Firm Overview



- Partners have over 150 years of collective experience working with charter schools
- 33 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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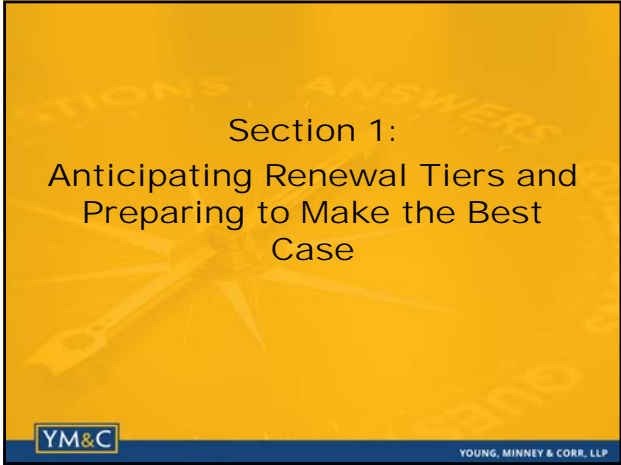
Overview



- **Section 1:** Anticipating Renewal Tiers
- **Section 2:** Anticipating Approval/Denial Standards
- **Section 3:** Anticipating the Renewal Process
- **Section 4:** Heading into Renewal With Sound Operations and in Compliance


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**Section 1:
Anticipating Renewal Tiers and
Preparing to Make the Best
Case**



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Academic Threshold Criteria



Prepare for renewal now by understanding the renewal criteria that will apply for your school:

- Renewal is driven by Dashboard performance
- Charter schools are sorted into three categories: high-performing, middle-performing, or low-performing
- Separate designation for DASS schools
- The role of the California Department of Education
- Role of verified data
- Dashboard in the COVID-19 era; next new Dashboard
- Will your school's category necessarily its destiny?

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Academic Threshold Criteria



Per the CDE as of September 2021:

- The 2022 Dashboard will display “status” only (distance from standard/DFS) based on 2020-21 data.
- Color indicators will return on the 2023 Dashboard, reflecting data from the 2021-22 and 2022-23 school years.
- New growth metric on the Dashboard will, at the earliest, be on the 2024 Dashboard, reflecting data from the 2021-22, 2022-23, and 2022-24 school years.



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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 the **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.**
- CDE interprets “performance levels” for criteria 2 to mean “status” or DFS on the Dashboard – not color.
- 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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Preparing to Make the Best Case For Renewal High-Performing



- Presumptive renewal gives rise to a different objective: a seven-year term
- **Things to do now to position for a seven-year renewal term**
 - Prepare to show how the charter school goes beyond meeting the minimum high-performing criteria
 - Prepare to show why a seven-year term is in the best interest of the charter school, the community, and the chartering authority
 - Prepare to contextualize and address any challenging facts, e.g., a high chronic absenteeism rate




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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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Prepare to Make the Best Case For Renewal Middle-Performing



- Prepare now to demonstrate that the charter school is a high performing school or is on a path to get there
 - What systems can be put in place now to best ensure and demonstrate that all students are well-served?
 - What are the unique features about the charter school's programs that you will be able to show at renewal?
 - What are successes over the past term that you will be able to point to?
- Laying out what you will do in the next charter term may not be enough



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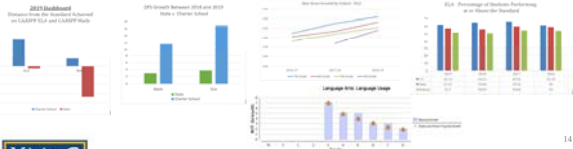
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Prepare to Make the Best Case For Renewal Middle-Performing



What will your data story look like? Each charter school's story will be different.

- A story of stability, growth, or transition?
- Will you compare your data to the state, county, district, or neighboring public schools?
- How will data be put into context – any special circumstances?
- How will you use verified data to support the data story and supplement CAASPP and the Dashboard?



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Prepare to Make the Best Case For Renewal Middle-Performing



Prepare to use non-academic dashboard metrics to bring attention to positive school culture and outcomes.

- Suspension rate
- Chronic absenteeism rate
- Graduation rate



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Prepare to Make the Best Case For Renewal Middle-Performing



Address possible renewal challenges head on now. For example...

High suspension rate

- Put new school climate measures into place now, e.g., restorative justice, PBIS

Low performance in math

- Put new curriculum, professional development, intervention strategies into place now

Slow EL progress

- Put new ELD strategies into place now, e.g., implementation of SiOP, professional development, approaches to designated and integrated ELD



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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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Making the Best Case For Renewal 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

Making the Best Case For Renewal Verified Data



- Plan ahead to have verified data
 - A high-performing charter school one year could be a middle-performing school the next year
 - A middle-performing charter school one year could be a low-performing charter school the next year
 - Verified data for a middle-performing charter school could be outcome determinative
 - Charter schools that serve only elementary or middle grade spans only have one option: showing academic growth
 - The Legislature could modify renewal standards with little opportunity to prepare; the CDE could change or stop publishing its interpretation of the renewal standard
- Although not specified, there should ideally be verified data for each year of the charter term



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: **QR**
 - **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
- Again, CDE says that for criterion 2 “performance levels” = status/DFS; means that academic growth may not be enough to avoid this tier
- For a charter renewed through the low-performing, the chartering authority **may** grant a renewal for a period of two years



Prepare to Make the Best Case For Renewal Low-Performing



- Leave nothing to chance – implement changes now to demonstrate organizational competency, student growth, and value to the community.
- Develop a detailed plan now to address low performance; consider bringing in consultants.
- Prepare to lean into data showing growth and indicia of success:
 - Where do your students start out at when they enroll? Where are they at the time of graduation?
 - Find the bright spots: ELA, math, schoolwide, subgroups, grades, graduation rate, post-secondary outcomes, EL progress? Build on the bright spots.
- If the charter school is at risk of being in the low-tier, consider it an all-hands-on-deck situation; engage teachers, staff, parents, and students in the work ahead.



Renewal Criteria: Dashboard Alternative Status 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.



Section 2: Anticipating the Standards for Approval/Denial



Standard for Approval



- Helpful to anticipate the reasons a petition may be approved/denied.
- The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice and with the interests of the community in which the school is proposing to locate.
- The governing board of the school district **shall consider the academic needs** of the pupils the school proposes to serve.
- Renewals of charters are governed by the **standards and criteria** described in Section 47605.



Standard for Denial: Academic Criteria



- High-performing: shall not deny.
- Middle-performing: may deny with written 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.



Standard for Denial: Academic Criteria



- Low-performing: shall not renew; may renew if written factual findings that:
 - The charter school **is taking** meaningful steps to address the underlying cause or causes of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school.
 - There is clear and convincing evidence 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.
 - Use the time now to build a records of these "steps" and "clear and convincing" evidence of growth/post-secondary outcomes.



Standard for Denial: Academic Criteria



DASS: reviewed pursuant to alternative metrics; may deny with written findings that the closure of the charter school is in the best interest of pupils



Standard for Denial: Substantial Factors



Chartering authority may deny high-, middle-, or low-performing, upon a finding:

- Charter school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors.
- Charter school is not serving all pupils who wish to attend.



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Standard for Denial: Substantial Factors



- Chartering authority may deny renewal only after it has provided at least 30 days' notice to the charter school of the alleged violation and provided the charter school with a reasonable opportunity to cure the violation, including a corrective action plan proposed by the charter school.
- 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.



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Standard for Denial: Not Serving All Pupils



As part of its determination of whether to grant a charter renewal based on the criterion established pursuant to [high-, middle-, or low-performing], the chartering authority may make a finding that the charter school is **not serving all pupils who wish to attend** and, upon making such a finding, specifically identify the evidence supporting the finding.



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Standard for Denial: Not Serving All Pupils



- The chartering authority **may** request, and the CDE shall provide, aggregate data reflecting enrollment patterns at the charter school:
 - The cumulative enrollment for each school year of the charter school's term.
 - For each year of the charter term, the percentage of pupils enrolled at any point between the beginning of the school year and census day who were not enrolled at the conclusion of that year, and the average results on the statewide assessments on the CAASPP, for any such pupils who were enrolled in the charter school the prior school year.
 - For each year of the charter term, the percentage of pupils enrolled the prior school year who were not enrolled as of census day for the school year, except for pupils who completed the grade that is the highest grade served by the charter school, and the average results on CAASPP, for any such pupils.
- When determining whether to grant renewal, the chartering authority **shall** review this specific data from CDE, generalized data from CDE, and any substantiated complaints that the charter school has not complied with [suspension, expulsion, and involuntary removal procedures].



Standard for Denial: Fiscal Impact Inapplicable




- Section 47605(c)(7) and (8) **shall not** be used to deny a renewal of an existing charter school **but may be used to deny a proposed expansion constituting a material revision.**



Section 3: Anticipating the Renewal Process and Putting a Plan in Place



Facility Location




Education Code Section 47605(a)(5):

A charter school that established one site outside the boundaries of the school district, but within the county in which that school district is located before January 1, 2020, may continue to operate that site until the charter school submits a request for the renewal of its charter petition. To continue operating the site, the charter school shall do either of the following:

- (i) First, before submitting the request for the renewal of the charter petition, obtain approval in writing from the school district where the site is operating.
- (ii) Submit a request for the renewal of the charter petition pursuant to Section 47607 to the school district in which the charter school is located.

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Understanding the Timeline for Submission and Appeal



- Charter is **deemed received** by the Board on the day submitted to District office with a **certification of completeness**
- **60 days for public hearing, 90 days for decision**
- Extension of 30 days with mutual agreement
- District Board shall publish staff recommendations, including recommended findings, 15 days before decision meeting
- Decision meeting is a public hearing
- Appeal of denial to the County Board of Education must be submitted within **30 days**

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Understanding the Timeline for Submission and Appeal



Prepare to Submit Early

- For June 30, 2024, term expirations, consider submitting in July/August 2023.
- Plan on using the 2022-23 school year (not too far away) to prepare your renewal petition and avoid the spring/summer crunch.
 - Consider forming a renewal committee with staff, teachers, parents, students.
 - Take the time to consult with staff, teachers, parents, and students about the successes that will be highlighted in the petition.
 - Take the time to plan ahead for what the program ahead should look like, and how it will be described in the petition.
 - Take the time to develop goals for the next charter term
 - Take the time to ensure that drafts can be shared internally and discussed

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Sample Timeline – Importance of Submitting Early



- District submission: **August 24, 2023**
 - District decision: November 22, 2023
 - County appeal filed: December 22, 2023
 - County decision: March 21, 2024
 - SBE appeal filed: March 28, 2024*
 - SBE meeting/decision: **July 2024 meeting**
- *Example only – submission deadlines to make 2023-24 SBE meetings TBD
- **Might you need to appeal to the SBE?**
 - **Could you retain staff, teachers, and students if renewal were not decided until July?**



Sample Timeline – Importance of Submitting Early



- District submission: **July 1, 2023**
 - District decision: September 29, 2023
 - County appeal filed: October 15, 2023
 - County decision: January 13, 2024
 - SBE appeal filed: January 24, 2024*
 - SBE meeting/decision: **May 2024 meeting**
- *Example only – submission deadlines to make 2023-24 SBE meetings TBD



Understanding the Timeline for Submission and Appeal



- **De novo review by the County Board** of Education.
- State Board of Education review only on an **abuse of discretion** standard.

Takeaway: important to focus efforts on district/county approval; limited opportunity for appeal before the SBE.



Consider the Dynamics for Approval and Build Relationships



- Whose opinion matters most at renewal? Who are the key votes? Who can become a “yes” vote?
- What are the focus areas of the authorizer/board of education?
- What is the climate of the relationship with your authorizer/board of education? How do board members view the charter school?
- Is there anything that your charter school can do to be a helpful partner to the authorizer? Share resources? Reduce burdens? Provide technical assistance?



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Consider the Dynamics for Approval and Build Relationships



- What direct relationships can be built/improved now with authorizer staff and board members?
- What indirect relationships can be built/improved now with members of the community who are credible to the authorizer/board members?
 - Government officials?
 - Business leaders?
 - Community organizations?
 - Academia?
- What opportunities are there to bring authorizer/board member/community members onto campus who will become advocates of the charter school?
- What opportunities are there for relationship building beyond the ED role? E.g., relationships between charter school board members and authorizer board members, relationships between charter school staff and authorizer staff.



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Build Relationships with the County Board of Education



- Will the district be a reliable partner going forward? What will the politics look like at renewal?
- Might the County Board of Education be a welcome partner if the district denies renewal?
- Important to build relationships with County Office of Education staff and County Board of Education members, e.g., participate in PD, attend events/meetings
- Also helpful to build relationships with individuals and organizations who are trusted by the County Board/Staff



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Building Relationships with Other School Districts



- Are conditions more favorable in an adjacent school district?
- Are there any opportunities to be authorized by an elementary school district by adding grades K-8? A high school district by adding grades 9-12?
- Is the charter school tethered to its location, e.g., due to facilities obligations? Could the charter school move its program to a neighboring district?
- Could the charter school mitigate risk of nonrenewal by expanding now?



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Section 4: Heading into Renewal With Sound Operations and in Compliance



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Homework



Read and review your current charter

- Is the charter school doing the things it said it would?
- Operating the academic program, EL program, special education program as indicated?
- Serving low/high achieving students and providing supports as indicated?
- Operating the councils/committees that were indicated?
- Efforts to recruit diverse student body as stated?
- Engaging parents as described?
- Implementing student discipline programs as indicated?
- Subsequently made any changes that might have required a material revision?



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Common Areas for Authorizer Scrutiny



- **Academics**
 - Challenges experienced by subgroups that may lead an authorizer to contend that the program is “unsound”
 - Adequacy of curriculum, implementation of curriculum, sticking with programs that have been unsuccessful, not yielded growth, e.g., math
- **Special education program**
 - Academic performance/growth for special education students
 - Adequacy of staffing, capacity to serve students with a range of disabilities
 - Compliance with IEPs, IEP timelines/assessment obligations, extent of complaints and resolution of complaints, due process actions



Common Areas for Authorizer Scrutiny



- **EL program**
 - Existence of a mature EL program that incorporates designated and integrated ELD and enables EL students to overcome language barriers that impede equal participation in instructional programs
 - Reclassification rates
 - Adequacy of staffing, CLAD certificates
 - Maintain an ELAC? Expected to maintain one?



Common Areas for Authorizer Scrutiny



- **Student discipline**
 - Issues around disproportionate discipline, e.g., particular subgroups with inordinately high discipline rates
 - Spikes in suspensions/expulsions; promises at renewal to implement “restorative justice” practices may be too late
- **To be expected: concerns regarding quality of independent/virtual learning programs**
 - Compliance with independent study laws/AB 130/AB 167
 - Quality of independent study/virtual learning, daily engagement
 - Accessibility for all students, including socioeconomically disadvantaged students, ELs, students with disabilities
 - Recordkeeping; compliance with instructional minutes obligations



Following and Updating School Policies

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- **Conduct an internal policy audit**
 - Review each policy to ensure that they are being followed in practice
 - If policies need revision to reflect actual practices, work with legal counsel/charter school board
 - Review policies with staff in live trainings – not everyone reads policies as they should
- **Policy manual updates**
 - Employee handbook
 - Student/family handbook
 - Annual notices
 - School safety plan (update by March 1 every year)



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Conduct a Website Audit



- Numerous laws require content to be posted to charter schools' websites, including:
 - CDE charter school complaint form (admission)
 - Meeting agenda accessibility
 - Federal Title IX notice
 - Health/safety postings, including suicide prevention policy, anti-cyberbullying policy, sexual harassment policy, anti-discrimination/harassment policy, hate violence policy, etc.
 - LCAP (homepage)
 - Competitive athletics notice
 - Homeless student liaison information
 - Staff-student interaction policy
 - Math placement policy
 - Title I report card



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Review Governance Documents and Practices



- Bylaws/COI code updates; COI code sent to County Board of Supervisors?
- Be vigilant for conflict issues in making contracts, hiring family
- Board composition check
 - Composition/appointments compliant with bylaws?
 - Time to refresh/rotate membership?
 - Add members with particular expertise? Members who would be an asset at renewal?
 - Add parents/community members?
- Employment of executive administration
 - Follow-through with performance reviews and contractual terms
 - Observance to executive compensation protocols
- Brown Act
 - Conducting virtual meetings in compliance with AB 361
 - Annual Brown Act training as a best practice
 - Watch for agenda posting compliance, closed session compliance



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Student Balance Checkup



Element 7/G Checkup

"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 ... that is reflective of the **general population** residing within the territorial jurisdiction of the school district to which the charter petition is submitted."

- Has the charter school achieved the target balance?
- What work lies ahead?
- What recruitment activities can be pursued now?



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Teacher Assignments



- Ensure teachers hold the Commission on Teacher Credentialing certificate, permit, or other document required for the teacher's certificated assignment. **No more core/noncore flexibility.**
- **Authorizers are increasingly focused on assignment compliance**, particularly with the launch of CalSAAS; misassignments have been brought up in renewal as findings for denial.
- Assignment compliance is complicated; **refer to the CTC Administrator's Assignment Manual**, call counsel for help



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Teacher Assignments



- **Local assignment options may be used for direct funded charter schools**, but there are very specific compliance obligations to use them, including qualifications, teacher consent, board approval.
- Teachers employed by charter schools during the 2019-20 school year lacking the correct certification shall have **until July 1, 2025, to obtain the certificate required for the teacher's certificated assignment.**



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Fiscal Issues



- Ensure **fiscal control policy is in place** and that actual practices match policies; assign board treasurer/staff to monitor compliance
 - Who has access to bank accounts/credit cards; what controls are in place to protect public funds?
- Authorizers are paying closer attention to **charter school debt**, ability to service/refinance, balloon payments; any looming issues?
- Watch for **gift of public funds issues** – meals, travel, parties, holiday gifts
- On fiscal matters, consider “**what would FCMAT think?**”



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Complaints(!)



- Former/current parent and employee **complaints often find their way into the notice of violation/renewal process.**
 - Consider opportunities for complaining parties to be heard and have their concerns addressed.
 - Consider how best to de-escalate difficult situations; involve legal counsel when it doubt
 - Maintain thorough documentation showing how complaints are handled and resolved.
 - Conform to the Uniform Complaint Procedures/General Complaint Policy requirements and professionalize the complaint process



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Complaints(!)




- Charter schools are seeing high temperatures around masking/vaccine issues – look for opportunities to constructively engage with parents
- Consider whether outstanding litigation can be resolved pre-renewal



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Oversight



- Authorizer requests for information frequently precede notices of violation. **Take them seriously and involve legal counsel right away.**
 - Information requests may be part of an early effort to build a case for denial
 - There may be opportunities to de-escalate early on, make program changes, or prepare to preempt issues at renewal
 - Inadvertent mistakes around transparency/candor can blow up later
 - In the case of overbroad/burdensome requests, sometimes authorizers are receptive to narrowing

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Oversight



- Do not miss deadlines; if deadlines are unreasonable, work out an extension
- **Notices of violation can turn renewal sideways**, even if the notice of violation process did not lead to revocation.
- Involve legal counsel right away if a notice of violation may be looming.

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THANKS FOR ATTENDING TODAY!

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