

CLIENT NEWS BRIEF

Governor Newsom Signs Comprehensive Reforms For Charter Schools

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In the largest overhaul of California's Charter Schools Act ("Act") since it was enacted in 1992, Governor Gavin Newsom signed AB 1505 and AB 1507 on October 3, 2019. The Act authorizes the establishment and operation of charter schools in California. The closely watched and hotly debated reforms impact most aspects of charter school authorization, including oversight, appeals, and renewals. Enactment of AB 1505 and AB 1507 follows months of negotiations and compromises from both sides in the ongoing charter school debate.

Background

Charter schools operate independently from school districts, but they require oversight from the school district or county board that authorizes them. In the last decade, California has seen unprecedented growth in the number of charter schools. According to the California Department of Education ("CDE"), there were approximately 1,306 charter schools and seven all-charter districts in California at the beginning of the 2018-19 academic year. With this growth has come criticism that the law was not keeping pace with necessary checks and balances on charter school operation and the impacts charter schools have on public school districts. These bills were introduced to correct deficiencies and close loopholes brought to light by litigation, including *Anderson Union High School District v. Shasta Secondary Home School* (2016) 4 Cal.App.5th 262 handled by Lozano Smith ([see Client News Brief](#)), as well as a subsequent Legislative Audit examining charter school operation and oversight, and the work of the Governor's California Charter School Policy Task Force.

AB 1505

Most provisions of AB 1505 are set to go into effect on July 1, 2020. Major highlights of AB 1505 include the following changes:

- **Petition Approval Criteria.** When considering whether or not to grant or deny a petition for a new charter school, a district may consider whether the charter school will serve the interests of the entire community in which the charter school is proposing to locate. Further, if a district meets certain criteria, the district may also consider whether or not it is positioned to absorb the fiscal impact of the proposed charter school.
- **Petition Review Timelines.** The timeline for a school district to review an initial charter petition and a renewal petition has been extended. The district must hold a public hearing to consider the level of support for the petition 60 days after the petition is submitted, and the district must now hold a second public hearing to take action on a petition 90 days after the petition is submitted. Additionally, the governing board of a school district or county board of education is now required to publish all staff recommendations and findings regarding a charter petition at least 15 days before the public hearing at which the board



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will either approve or deny the initial or renewal petition. Petitioners must also be afforded equivalent time to present evidence and testimony to the governing board at the public hearing in which the petition will be approved or denied.

- **Petition Renewal Criteria.** Charter petition renewals will be considered under a 3-tiered system whereby authorizers must consider the academic performance of the charter school on the state indicators included in the evaluation rubrics (the “Dashboard”) adopted by the State Board of Education (“SBE”). Under the tiered system, a “high performing” charter school may be renewed for five to seven years, an “average performing” charter school may be renewed for five years, and a “low performing” charter school, generally, may not be renewed. However, under certain conditions, a “low performing” charter school may be renewed for a two year period. Additionally, the requirement to consider increases in pupil academic achievement as the most important factor in determining whether to grant or deny a renewal has been eliminated.
- **Appeal Process.** The new law modifies the appeal process for denials of a new charter school petition or renewal of an existing charter at both the county and state level in a variety of ways. For example, a petition submitted on appeal to a county board of education or the SBE containing “new or different material terms” will be immediately remanded back to be reconsidered by the district within 30 days of remand. Additionally, districts and county boards of education are required to prepare and submit an administrative record to the SBE upon request of the petitioners. The SBE may only reverse the denial of a petition or renewal if it finds there was an “abuse of discretion” by the county or district, or both. If a petition is approved on appeal to the SBE, either the district or county office of education will be designated as the authorizing authority, effectively eliminating the SBE as a charter school authorizer.
- **Nonclassroom-Based Charter Schools.** The new law creates a 2-year moratorium on the approval of a petition for the establishment of a new charter school offering nonclassroom-based instruction, effective January 1, 2020 to January 1, 2022. According to the California Charter School Policy Task Force Report, the two year freeze on nonclassroom-based charter school will allow advocates to spend the time studying issues related to the establishment of nonclassroom-based charter schools, such as their operational practices and performance, and to make further recommendations to ensure students are receiving appropriate instruction.
- **Teacher Credentialing.** Under prior law, charter school teachers were only required to hold a state-approved credential if teaching a Core course. Under the new law, all teachers hired after July 1, 2020 must have the appropriate credential for their certificated assignment regardless of whether they teach a core subject. All teachers employed at a charter school during the 2019-2020 school year without a credential will have until July 1, 2025 to obtain the appropriate credential for their certificated assignment. By July 1, 2020, all charter school teachers must also obtain a certificate of clearance and satisfy the requirements for professional fitness under the Education Code.

AB 1507

AB 1507 makes two major changes to the location requirements for charters schools, effective January 1, 2020.

- **Charter School Location.** Under prior law, a charter school that was unable to locate within the geographic boundaries of its authorizing district was permitted to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if specific requirements were satisfied. AB 1507 eliminates this loophole and requires all charter schools to locate within the geographic boundaries of the authorizing district. A charter school lawfully established outside the boundaries of the authorizing district, but within the county, before January 1, 2020, may continue to operate at the site until the charter school submits a renewal petition. At that time, to continue operating at the same location, the

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charter school must either obtain written approval from the district where the charter school is operating, or submit a renewal petition to the district in which the charter school is located.

- **Resource Centers.** Under prior law, a nonclassroom-based charter school was able to establish a resource center in a county adjacent to the county in which the charter school was authorized, if certain conditions were met. The new law eliminates the ability of a nonclassroom-based charter school to establish a resource center in an adjacent county. A charter school that was lawfully operating a resource center outside the geographic boundaries of the authorizing district before January 1, 2020, may continue to operate at the site until the charter school submits a renewal petition—at which time the charter school must obtain written approval from the district where the resource center is located to continue operations at the same site.

Charter School Toolkit

Lozano Smith will soon be publishing an in-depth resource with important background information, answers to frequently asked questions, an implementation checklist, and more, regarding the recent amendments to the Act. If you are interested in receiving the toolkit, please email [Client Services](#).

Takeaways

The current legislation reflects a shift in the charter school debate in this state. Rather than an emphasis on the performance of charter schools compared to district operated schools, the changes in the Act reflect a focus on the fiscal and operational impacts that new and existing charter schools have on public school districts. The enactment of AB 1505 and AB 1507 signals a policy shift in California and marks a victory for school districts that have been advocating for more local control of the approval, renewal, and oversight process. However, as part of the legislative compromise process, some significant new obligations have been placed on districts and will likely have long term impacts on the charter school landscape in California. In the short term, school districts should expect an influx of charter petition submissions in the coming months in anticipation of the comprehensive reforms going into effect on January 1, 2020 and July 1, 2020.

If you would like more information regarding AB 1505 and AB 1507, or if you have any questions regarding charter school authorization and oversight generally, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#), and [LinkedIn](#) or download our [mobile app](#).