
California Department of Education Issues Guidance for the Restart of Charter Renewals

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On October 13, 2022, the California Department of Education (CDE) distributed guidance related to the renewals of charter school petitions that will come before charter authorizers in the 2023-2024 school year. The CDE guidance can be found [here](#).

A brief refresher: 2019's Assembly Bill (AB) 1505 modified the criteria for reviewing charter petition renewals, creating a three-tiered renewal system under which charter authorizers are required to consider a charter school's academic performance against the State-published Dashboard data. Under the three-tiered renewal system, charter schools are categorized as (1) high performing; (2) middle performing; or (3) low performing. High performing schools may be renewed for a five-to-seven-year term, middle performing schools may be renewed for a five-year term, and low performing schools may not, in many circumstances, be renewed without meeting certain specifications.

Due to COVID-19, the State waived local educational agency (LEA) data reporting requirements in 2020 and 2021. Additionally, Assembly Bill (AB) 130 automatically extended the term of most charter schools by two years due to the lack of data necessary to update the Dashboard. (See [2021 Client News Brief Number 18](#).)

Anticipated Restart of Charter Renewals and CDE Designation of Performance Categories

The first cohort of charters that received extended terms are set to have their current charter terms expire at the end of the 2023-2024 school year. The CDE anticipates the Dashboard will be available for use in accordance with the normal charter renewal procedures in late 2023. The CDE will then take the Dashboard measures and categorize charters up for renewal in 2023-2024, as "low," "middle," or "high" performing. That process will be completed in early 2024, at which time the statutory renewal process will resume.

The CDE's early 2024 release date may be problematic for the cohort of charter petitions whose terms were extended by AB 130 and are set to expire on June 30, 2024. Historically, petitioners submit renewal petitions months prior to the charter's expiration date to account for the renewal process and possible appeals. For example, a petitioner with a charter expiration date extended from June 30, 2022, to June 30, 2024, may submit their renewal petition as early as August 2023, which would leave them and the authorizer *without* the CDE performance categorization and Dashboard data necessary for a typical renewal review.

Accordingly, the CDE offered an update, clarified below, explaining the standard authorizers should utilize in their renewal process until the CDE publishes the performance categories in early 2024.

Updates to Charter School Renewals

The CDE update to the charter renewal process states:

In the absence of statewide data, charter authorizers must consider clear and convincing evidence of measurable increases in academic achievement and/or strong post-secondary outcomes, demonstrated through verified data, when evaluating a petition for renewal. For all renewals under these criteria:

Greater weight is on academic performance.

Renewal shall be for a five-year term, if renewed.

Use of verified data and postsecondary outcomes, which sunset on January 1, 2026.

The underlined portions of the CDE guidance mirror the required evaluation for a middle performing school. **Therefore, in practice, the CDE update calls for charter renewal petitions made without Dashboard data to be evaluated and approved using the middle performing school criteria.**

The CDE's guidance states that authorizers "must consider" the CDE standard, but no laws or regulations make it mandatory. While administrative agencies, like the CDE, are afforded great deference in interpreting statutes under their jurisdiction, and the guidance is borrowed from an existing statute, the CDE's authority to mandate its use is unclear. Given the ambiguity, authorizers may want to confer with counsel regarding petitions submitted during the timeframes discussed above.

If you have any questions about the updated charter renewal standard, please contact the author 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](#).

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