
***SMARTER CHOICES,
BETTER EDUCATION:
IMPROVING CALIFORNIA CHARTER SCHOOLS***



LITTLE HOOVER COMMISSION

November 2010



LITTLE HOOVER COMMISSION

November 18, 2010

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Dear Governor and Members of the Legislature:

California's economic future and quality of life depend on ensuring that all California students receive a high-quality education. Turning around California's failing education system must be a top priority of every policy-maker. Too many students have been and continue to be short-changed by educational models that no longer prepare them for the challenges they, or the state, face.

Though many schools in California are failing, some schools are defying the odds in some of the toughest inner-city neighborhoods, proving that all students, no matter where they come from, can and will learn when given the chance. Many of these successes are in public charter schools.

California was the second state in the nation to enact a charter school law and has successfully continued to improve on the original legislation. As envisioned by its author, Senator Gary Hart, the 1992 Charter Schools Act was a way to help school administrators who felt stifled by the state's bureaucratic education code. The charter option was designed to provide the flexibility to convert failing schools into successful schools through innovative strategies for teaching California students while, at the same time, giving parents greater choice. Surprisingly, of the 912 charter schools operating in California, only 15 percent are conversions. The majority of charter schools are start-ups, established by petitions filed by parents, teachers and community leaders.

Today, many of the top schools in California's largest cities are charter schools, yet the lessons learned and knowledge gained on what works has not been systematically transferred back to traditional public schools as intended. Green Dot Public Schools in Los Angeles has taken the knowledge it gained in starting charter schools from scratch and is using it to transform one of the most troubled traditional public high schools in Los Angeles. In Oakland, a dynamic district leader has made it a priority to take charter school lessons and integrate them to have a positive impact on the entire public school system. This knowledge transfer, however, is not happening statewide.

The goal – ensuring that one day all California students will have the ability to attend a high-quality school – is not a finish line. The state must encourage the expansion of successful charter school models and allow them to drive further innovation.

In this report, the Commission recommends further refinement of the state's dysfunctional charter school authorization process. Nearly all charter operators begin by petitioning a local district. Ideally, districts authorize valid and viable charters and oversee these schools to ensure that charter operators live up to their promised outcomes. Unfortunately, this is not the case statewide. Too many charter schools must turn to the appellate process and petition the State Board of Education. As a result, the State Board spends as much as a third of its time on charter schools, rather than broader state education policy issues.

The Commission recommends that the state establish a statewide board within the California Department of Education to provide another alternative for authorizing charter schools. Charter petitioners in districts that are either unable or unwilling to authorize charter schools could petition directly to this new board. The board would include members who are knowledgeable in education and are appointed by the Governor and legislative leadership.

The current appellate process should remain, though over time, the need for appeals should diminish. The State Board should play a role in ensuring that charter school authorizers function adequately. The State Board should have the ability to grant exclusive chartering authority to qualified districts as well as the power to withdraw that authority when districts fail to measure up.

The Commission found that while some of the best schools in the state are charter schools, too many of the state's failing schools also include charter schools. Charter school operators trade flexibility for increased accountability; charter schools that do not better student outcomes as promised in their charter petitions should be required to improve or close their doors.

The Commission believes that performance contracts can be an integral part of the relationship protecting both the school authorizer and the charter school. Currently, the charter petition, written by only one party in the charter school partnership, serves as the contract. The new board should be charged with developing a model performance contract and the state should require performance contracts between charter school authorizers and charter schools. The Commission recommends that the new board, working with stakeholders, develop improved charter renewal criteria. Most agree the current renewal criteria set a low bar for achievement. Finally, the Commission recommends extending charter time limits in all but select circumstances, and requiring districts to grant charters for a minimum of five years. The state also should develop rules to allow successful charter schools to renew for up to 10 years.

The Commission wants all California schoolchildren to have access to a high-quality education. Charter schools are not the only schools in California that are providing high-quality education. But in some of California's toughest neighborhoods, they are the only schools consistently succeeding. California must find a way to transfer the lessons learned from these schools to its failing schools so that all of our students have an opportunity to succeed.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel W. Hancock". The signature is fluid and cursive, written in a professional style.

Daniel W. Hancock
Chairman

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Executive Summary

In 1992, the California Charter Schools Act gave teachers, parents and school administrators unprecedented freedom from red tape to use innovative strategies to improve learning opportunities for California students. Former California State Senator Gary Hart, author of the legislation, pronounced it a “license to dream” for teachers, parents and the community to “create educational programs from scratch, unfettered by bureaucratic constraints.”¹

The goal of the legislation was to improve education for all California students at all public schools, with charter schools serving as incubators for innovation. Knowledge gained and successful teaching models honed could be shared with all classrooms across California. Seventeen years later, 912 charter schools in California educate hundreds of thousands of students, or approximately 5 percent of all public school students in the state.²

The Little Hoover Commission first assessed the progress of charter schools in 1996, in the infancy of the implementation of the charter school law. Many of the problems identified in the Commission’s 1996 study – including the 100-schools per year cap on charter schools, funding inequities and limited appellate opportunities for denied charter petitioners – later were resolved through legislation.

This follow-up provides an assessment of the progress of the charter school movement and identifies further opportunities for refining the charter school experiment. California is nationally recognized as a leader in its charter school laws, in part, because of its willingness to continue to refine its laws.³

Many charter schools in California have flourished; some now rank among the top performing schools in the nation. The Commission had the opportunity during the course of this study to visit inner-city schools and meet students who were outperforming their peers in neighboring traditional public schools as measured by success on the state’s mandated achievement tests. More important, these students were graduating with skills ready for a career and getting accepted to and succeeding in college. At the same time, however, California has numerous poor-performing charter schools that continue to stumble

along, short-changing their students of the quality education promised in charter petitions and required by state standards.

This report is divided into two sections: The first focuses on improving accessibility by eliminating artificial barriers and improving the charter school authorization process. The second focuses on improving accountability by promoting the use of performance contracts and eliminating statutory ambiguities.

Improving Accessibility

The California charter school movement has grown considerably in the past eight years, doubling from 454 schools in 2003 to 912 in 2010. Each year, approximately 80 new or converted charter schools have opened across the state, although 115 new or converted charter schools opened for the 2010-2011 school year.⁴ Some suggest this consistent expansion of charter schools reveals the extent to which the current system is working.

The Commission, however, was told that many local districts and school boards, the primary gatekeepers in the state's charter school system, thwart attempts to open additional charter schools, even when charter school operators are expanding or replicating successful schools.

Charter school operators have singled out the state's dysfunctional charter authorization process, which forces districts into a charter school partnership whether they want one or not, as one of the most significant challenges in California's charter school system. Some districts simply lack the capacity to authorize and oversee charter schools.

Other districts are openly hostile to charter schools and view them as enemies that siphon away students and the Average Daily Attendance (ADA) money they take with them. Charter school operators repeatedly described charter authorization and renewal challenges at the local school board level and what they see as an inescapable conflict of interest.

Charter School Authorization Process

Anyone can petition to establish a new charter school. A majority of parents of affected students or teachers must support the petition. To convert an existing school into a charter school, at least half of the school's teachers must support the petition.⁵ Additionally, legislation enacted in 2010 as part of the state's attempt to qualify for federal Race to the Top grants, expanded the opportunity for parents, in certain

limited circumstances and as one of several possible remedies, to petition to convert an existing school to a charter school. The legislation limits this opportunity to 75 schools.⁶

This latest development expanding opportunities for parents to petition to convert existing schools into charter schools is another step in the right direction, although it will be important to assess whether the criteria or the cap of 75 schools proves to be too limiting or if further adjustments are necessary. The Commission believes that parents should have the opportunity to petition to convert poor-performing schools into charter schools.

In all but a few specific situations, charter school petitions are submitted to the school board of the district where the school will be located. If the local school board approves the charter petition, the school board and district become the charter authorizer and provide the required oversight of the school.

If a petition is denied by the local school board, petitioners can appeal to the local county office of education. If the charter is approved, the county office of education then serves as the authorizer. If a petition is denied by the local board and the county office of education, petitioners can appeal to the State Board of Education. The majority of California's charter schools have been authorized through this process, primarily by local authorizers, however, there are alternative routes, including all-district charters, countywide charters and statewide benefit charters.

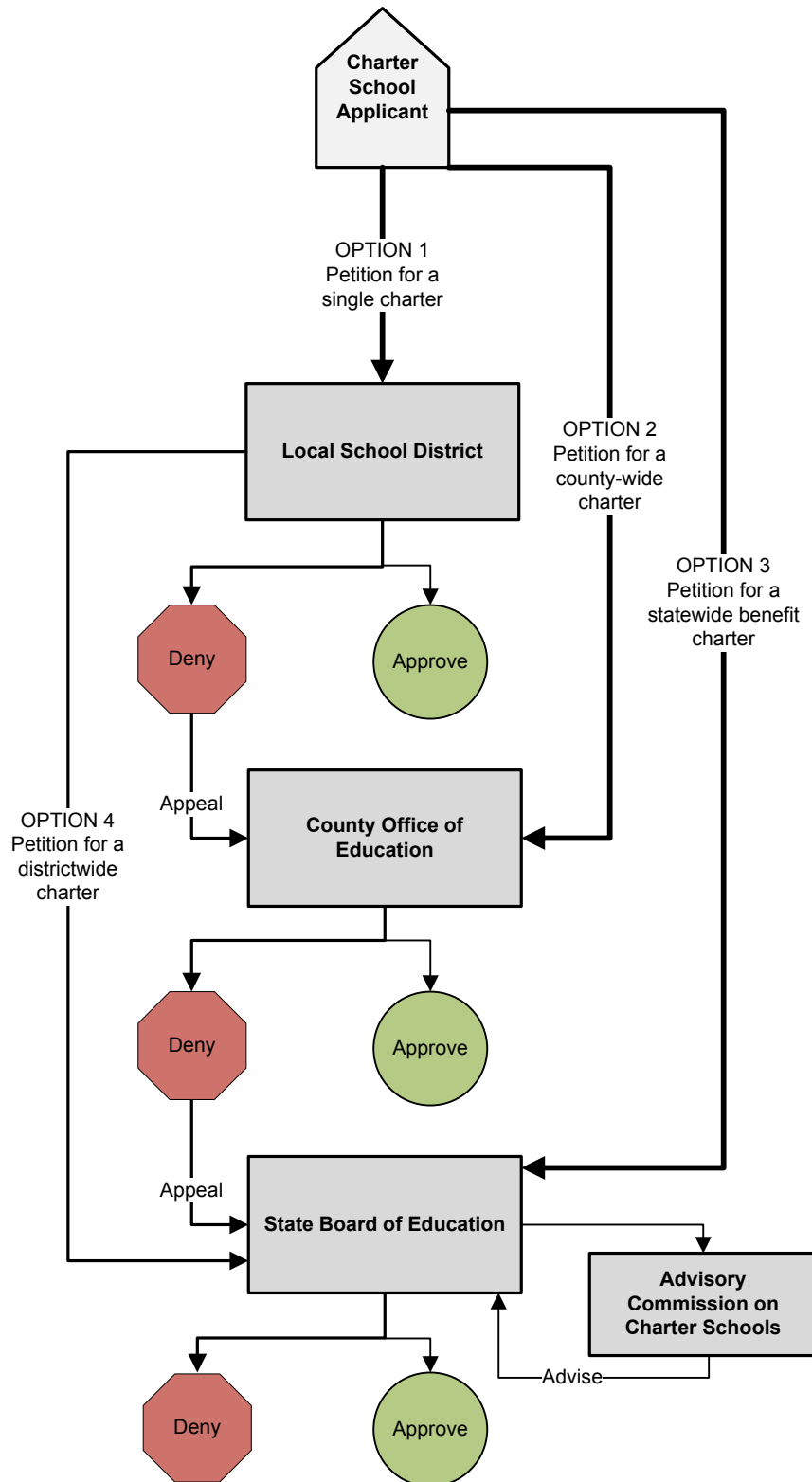
California has more than 1,000 school districts, and each potentially could become a charter school authorizer. In practice, however, only a quarter of California's school districts have authorized one or more charter schools.⁷ Of California's 58 county offices of education, 31 have authorized at least one charter school.⁸

Oversight for roughly half of the state's 912 charter schools is provided by just 32 authorizers including the State Board of Education. The largest, the Los Angeles Unified School District, has authorized 183 operating charter schools.⁹ Other school districts with a significant number of charter schools operating include the San Diego Unified School District with 41 and the Oakland Unified School District with 31 authorized charter schools.¹⁰

Districts with many charter schools have the opportunity to gain experience and can dedicate more resources to charter school authorization and oversight. Districts receive a portion of charter school ADA money to pay for oversight, ranging from 1 percent to 3 percent, so

districts with many charter school students have a greater ability to dedicate staff to charter school oversight and authorization.

Current California Charter School Authorization and Appeals Process



Small, rural districts or districts with few charter schools cannot benefit from these economies of scale and often lack the resources to be effective authorizers, or later, to provide adequate oversight. These authorizers have less experience in charter school oversight and local costs likely are comparatively higher because all of these authorizers essentially must construct an oversight system from scratch. Charter authorization and oversight is complicated and, for most districts, not central to their mission. Districts structured for compliance-based accountability may lack the competencies required for performance-based accountability.

By design, charter schools are all about choice – for the founders and the teachers, parents and students that choose to be part of the school. In contrast, under the current system, districts do not have the opportunity to choose to be a charter authorizer, but denying a viable charter petition violates the intent of California charter school law. This forced partnership is part of the dysfunction of the current charter school system.

Role of the State Board of Education

As a result of the difficulty in getting charter petitions approved or renewed locally, more petitioners are relying on the appellate process. The number of appeals reaching the State Board of Education has increased steadily – both for initially establishing charter schools and for schools that have been denied renewal at the local level. As of November 2010, 83 charter petition appeals had been submitted to the California Department of Education for consideration since the appellate process was established in 1998. The State Board currently has authorized and oversees 31 charter schools. Additionally, the board oversees eight all-charter districts operating 18 schools under the joint authorization of the board and the State Superintendent of Public Instruction.¹¹

A recent ruling by a California appellate court found that the State Board had incorrectly interpreted and implemented the legislation establishing the provision for statewide benefit charters. The State Board has filed a petition for a California Supreme Court review of this ruling and expects to have an answer on whether the Supreme Court will accept the petition in December 2010.¹² The ruling, however, may slow the expansion of charter schools authorized by the board under this provision. Until more local boards follow the intent of the state’s charter school law, however, the steady stream of appeals by petitioners with valid charter petitions or charter school operators denied renewal at the local level will likely continue.

One product of the appeals and the special charter authorizing provisions is that the State Board of Education has become the second

largest authorizing entity in the state. This is a problem as the State Board, given its broader and more significant role in setting statewide education policy, lacks the capacity and focus to provide effective oversight for its growing stable of charter schools.

According to board members and the former executive director of the board, nearly a third of the board's time is consumed by charter school issues, yet charter school students represent only 5 percent of the total public school student body in California. Nearly every State Board meeting has at least one charter petition appeal and often several petition appeals for new petitions denied or existing charters that were not renewed at the local level. Each charter petition is hundreds of pages long. Board members review the petitions prior to the hearings. At the hearings, held during the bi-monthly board meeting, charter petitioners have an opportunity to present their appeal. The local district and county office of education that denied the charter or denied renewal of a charter present their reasons for denying or not renewing a charter school. Both types of appeals, but particularly those where an existing charter has been denied renewal, can draw dozens of affected faculty, parents and students who want to provide public testimony.

The board has established a nine-member Advisory Commission on Charter Schools in part to comply with a law requiring the board to establish a committee to advise it on non-classroom-based charter schools. Non-classroom-based charter schools include schools made up of home-schooled students and independent study schools, including Internet or software-based instruction and distance learning programs where students meet occasionally with a teacher. The board also has charged the commission with providing broader advice on charter school issues. The commission meets bi-monthly and provides a dress rehearsal opportunity for charter petitioners that are making appeals. The California Department of Education has a Charter Schools Division which provides support to both the State Board and the Charter School Advisory Commission as well as provides oversight for charter schools authorized by the board.

The reality that the State Board of Education has become California's second largest charter school authorizer underscores the need for further refining the state's charter school laws. The state needs to establish an alternative option for charter authorization, a recommendation previously made by this Commission and repeated by the Legislative Analyst's Office in 2004.¹³

Many other states have various combinations of authorizers, although local school boards are the predominant group of authorizers nationwide. Seven states have special-purpose statewide public charter school

boards. Other options include higher education institutions and not-for-profit authorizers. Two states allow the office of the mayor or a local city council to authorize charter schools. Due to the variances in state charter school laws, there is no one perfect authorizer model. There is agreement, however, that the best authorizers are those that actually have a clear desire to be an authorizer.¹⁴

Some have suggested and even proposed legislation to allow California's universities and community colleges to authorize charter schools. During the course of this study, representatives from public universities and community colleges made clear that they did not want the authority to approve charter school petitions and have opposed legislation that would have allowed them to become charter school authorizers in the past. Given the reluctance of colleges and universities to participate, an independent statewide charter school board provides the best alternative for California.

Summary

Ideally, local school boards and county offices of education would embrace charter schools as one of several effective tools in their educational toolbox. They would approve viable charters, renew charter schools that meet state performance criteria and close schools that consistently do not. Unfortunately, this has not been the California experience.

By establishing an alternative authorizer at the state level, local districts that do not have the capacity or do not want the responsibility of authorizing or overseeing charter schools could opt out of the authorizing role, eliminating the forced relationship that currently exists. Charter school petitioners facing school boards hostile to charter schools would have another option for approval beyond the current appellate process. The existence of an alternative authorizer at the state level might coax local boards into improving charter school authorization and oversight or risk losing control as charter school petitioners would have a new option of going directly to a statewide charter board. A state level charter school board could develop best practices and provide technical assistance to local boards.

Additionally, an alternative authorizer at the state level potentially would relieve pressure on the State Board as fewer petitioners would need to use the appellate process, allowing the board to better focus on its broader education mission. As appeals to the State Board are reduced, the need for an advisory committee on charter schools would be diminished. Policy-makers could shift the role of recommending criteria to establish appropriate funding levels for non-classroom based charter

schools from an advisory committee established by the State Board, as current statute requires, to a state-level charter board.

As well as adding an alternative authorizer, policy-makers should implement a process to assess the viability of local districts and county offices of education to effectively authorize and provide oversight for charter schools. Those districts that have proven effective should have an option to continue to control charter authorization within their districts. The State Board should be given the authority to grant districts and county offices that meet clearly established criteria exclusive authority to approve and oversee charter schools, similar to a model used in Colorado. Criteria would include a local entity's effectiveness in approving valid charters and willingness to renew existing charter schools that meet established performance criteria, as well as the willingness to shut down charter schools that fail to meet goals set in the charter petitions as well as established state benchmarks. The State Board also should have the ability to revoke exclusive chartering authority

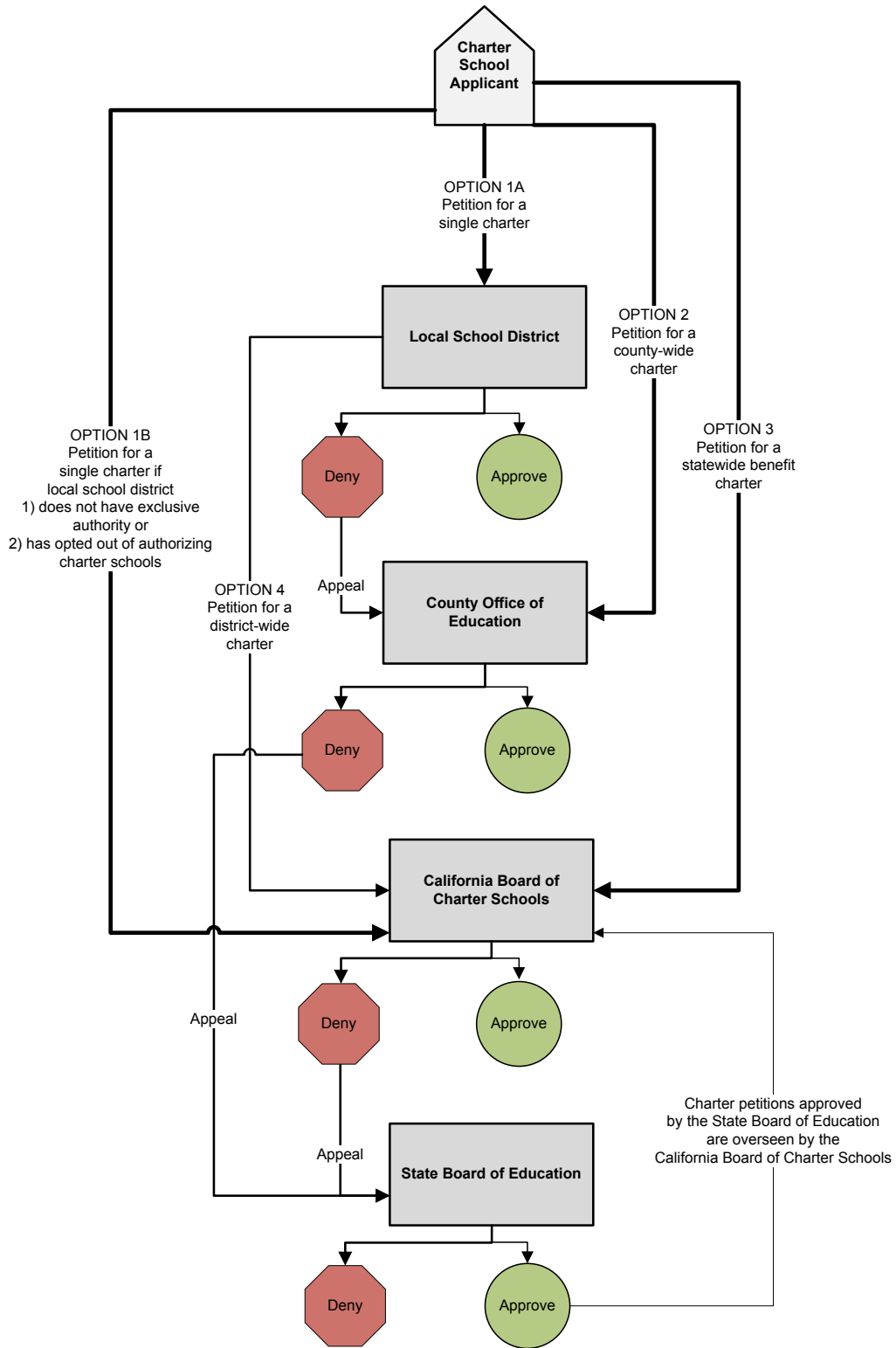
Recommendation 1: California should establish the California Board of Charter Schools as an independent entity within the California Department of Education, to directly authorize charter petitions and to oversee charter schools.

- ❑ The board should include an odd number of members with staggered appointments; members should be appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly; members should have knowledge and experience with effective charter school authorization and oversight and should include, but not be limited to, people with experience as school superintendents, charter school administrators, teachers, parents and school governing boards. The board shall be bipartisan with no more than half the appointed members plus one registered as members of the same political party. The Superintendent of Public Instruction or his or her designee should serve on the board. A member of the State Board of Education should serve as an ex-officio member.
- ❑ Charter school-specific functions currently performed by the State Board of Education should shift to the new California Board of Charter Schools. Existing staff positions in the California Department of Education's Charter Schools Division and the funding that supports charter school oversight activities and the Advisory Commission on Charter Schools gradually should be shifted to support the new California Board of Charter Schools.
- ❑ As the number of appeals to the State Board of Education is reduced, so will be the workload of the Advisory Commission on Charter Schools, potentially eliminating the need for this commission. The

Legislature and the Governor should enact legislation that would shift the role of recommending criteria to establish appropriate funding levels for non-classroom based charter schools from an advisory commission established by the State Board of Education to the new California Board of Charter Schools, further reducing the need for the advisory commission.

- ❑ As the primary goal of establishing an independent state-level board should be to encourage improvement in charter school authorization at the local level, the board should not automatically become a permanent state government entity. The California Board of Charter Schools should face a sunset review in 10 years.
- ❑ The California Board of Charter Schools should provide technical assistance on best practices on charter school authorization and oversight to districts and county offices of education.
- ❑ The State Board of Education should retain its current appellate authority for approving charter petitions and renewals denied at the district or county level and also have the authority to approve charter petitions and renewals that are denied by the California Board of Charter Schools. The State Board of Education should retain its current authority to revoke charters.

Proposed California Charter School Authorization and Appeals Process



Recommendation 2: To improve accountability and oversight capacity of charter school authorizers, the State Board of Education should be given the authority to oversee charter school authorizers. Specifically, the State Board of Education should be given the authority to:

- ❑ Allow school districts to opt out of the role of charter school authorization and oversight and turn over that responsibility to the California Board of Charter Schools.
- ❑ Grant exclusive chartering authority to certain qualified local school districts. To qualify, local school districts must approve charter petitions that meet state criteria, approve renewals for successful charter schools that have met the state’s renewal criteria and must not renew charter schools that have not met the state’s renewal criteria. The new California Board of Charter Schools should establish other performance criteria to qualify as exclusive charter authorizers based on national best practices.
- ❑ Revoke local district charter authorizing and oversight powers, when local districts fail to authorize charters that meet state criteria as required by current state law, fail to renew charter schools that meet state renewal criteria or fail to close charter schools that do not meet state renewal criteria.
 - ✓ Potential charter school operators or existing charter school operators in districts that have opted out or in districts that have had charter authorizing powers revoked would be authorized and overseen by the California Board of Charter Schools.
 - ✓ Potential charter school operators should have the option of petitioning either the California Board of Charter Schools or the local school district in which the charter school will be located for charter authorization and oversight, unless the district has been granted exclusive chartering authority by the State Board of Education.

Improving Accountability

Charter schools have the opportunity to operate free from the rules and regulations that often constrict public schools. In exchange for the freedom, charter schools commit to increased accountability for student outcomes.

Independent assessments of charter school outcomes have shown mixed results. A June 2009 Stanford University Center for Research on Education Outcomes (CREDO) study on charter school outcomes assessed data from 15 states and the District of Columbia, and covered

approximately 70 percent of all charter school students enrolled nationwide. The research found wide variations between states, but found, on average, test scores in reading and math of California charter school students, the measurement method used in the study, were similar to test scores of students in traditional public schools.¹⁵

The California Charter Schools Association has assessed charter schools by reviewing the number of schools that meet their predicted Academic Performance Index (API) score. When not viewed in the aggregate, more than 20 percent of charter schools fall in 90th percentile or above in the predicted API, while nearly 20 percent fall in the bottom 10th percentile of the predicted API.¹⁶

When initially submitting a charter petition, petitioners are required to provide reasonably comprehensive descriptions of 16 elements required by state law. Two of these required elements are the measurable student outcomes that the school plans to use and the method the school will use to measure the identified outcomes.¹⁷ In California, the charter petition, once approved, becomes the document that the charter school and its authorizers use to measure progress.

Performance Contracts

California, unlike most other states, does not differentiate between charter petitions and performance contracts. More than 90 percent of the nation's largest authorizers enter into contracts with their charter schools. This is the norm across the nation.¹⁸ A charter petition is a proposal written by one party in the relationship, the potential charter school operator, for review and approval by an authorizer. The petition describes the educational outcomes the school hopes to achieve in return for public funding and freedom from many rules. In most other states, once a petition is approved, the authorizer and the charter school negotiate and enter into a binding performance contract.

Performance contracts describe the rights and responsibilities of the charter school operator and the authorizer, such as when and how to evaluate academic progress, facility use, administrative services, costs and other contractual issues.¹⁹

A performance contract can be used to hold both the school operator and authorizer accountable and to define and enforce each party's rights. Many charter schools outside of California view their contract "as their best defense against unfair authorizer practices."²⁰

Still, some advocates caution that in California, larger issues make performance contracts nearly impossible. Namely, many charter school

authorizers do not want the role of authorizer; the introduction of a contract does nothing to improve their interest in oversight. Additionally, under the current system, some are concerned that charter authorizers could force petitioners into contractual obligations that limit charter school autonomy.²¹

Some local charter school authorizers in California and the State Board of Education use a memorandum of understanding, a less formal, less rigorous approach than a performance contract that lays out minimum expectations for both the authorizer and the charter school. The State Board's memorandum of understanding sets minimum requirements and establishes a course of action if the charter school fails to meet the minimum requirements.

Charter School Revocations and Renewals

Charter schools authorizers, whether local, county or the State Board, are required to revoke charters if there are serious fiscal issues or if students are in physical danger. The State Board also has the authority, upon a recommendation from the Superintendent of Public Instruction, to revoke the charter of any academically poor-performing school, although it has never used this authority, in part because regulations for doing this had never been developed and in part because the Superintendent of Public Instruction has never recommended the board revoke a charter school. On one occasion, the State Board revoked a charter school that it had authorized through the appellate process.²² Over the course of the past year, the State Board has painstakingly worked with stakeholders to establish revocation regulations that it adopted in November 2010.

Authorizers also are required to ensure that the schools meet criteria established in the charter petition and to assess whether a charter school petition should be renewed. During this study, the Commission was told repeatedly that the state's renewal criteria are too vague and the bar is set too low, making it difficult for authorizers to close down poor-performing schools. Many recommended that the Legislature change the renewal criteria. Some emphasized that the renewal criteria must remain flexible enough to account for charter schools that serve particularly difficult populations, such as dropouts who otherwise would not be attending school at all.

Currently, a consistently low-performing school can meet the renewal criteria if it meets just one of four criteria, for example, the school meets its Academic Performance Index (API) growth target in the year prior to renewal even if it had previously been a consistent under-achiever. Another of the four criteria allows authorizers to determine that the

school's performance is comparable to that of district schools its students otherwise would attend.

In some districts, all schools within a neighborhood may perform poorly, but the charter school may provide a safe haven for students. Parents and students will beg the local school board to keep a safe charter school open, even if it is not achieving its academic goals. One charter school operator told the Commission that it is unacceptable for poor performing charter schools to remain open simply because all schools in the district are performing poorly and the charter school provides a safe alternative. Several charter school operators told the Commission that a charter school should be required to outperform similar district schools.

Many agree that what is most important – student learning – is difficult to measure based solely on achievement test scores. Unfortunately, as noted in previous Little Hoover Commission studies, the state lacks the data to measure outcomes beyond test scores. As the California Longitudinal Pupil Achievement Data System (CALPADs), still in its infancy, matures and more data becomes available, the state should expand the renewal criteria to include other factors, such as graduation rates, employment readiness as well as college attendance and completion rates.

Charter Renewal Time

Most experts and charter school operators agree that it can take several years after a conversion of an existing school or the start-up of a new charter school to establish a successful track record. Yet local authorizers sometimes approve charter petitions for only two or three years, causing schools to be in perpetual renewal mode instead of focusing on teaching students. Many agree that all new charter schools, with limited exceptions, should be granted the current maximum five-year charter term.

Some have suggested that charter schools with a successful track record after their first five or more years in operation should be renewed for a longer time period. Recent legislation, AB 1991 (Arambula), would have allowed authorizers to renew charter schools that met and exceeded accountability standards for up to 10 years.²³

Summary

California charter school operators have been wary about implementing performance contracts that are embraced by charter schools in other states. This, at least in part, is due to the dysfunctional authorization

process. In establishing an alternative independent statewide authorizer, as previously recommended, the Commission sees the potential for significant improvements in the authorization process and an opportunity to introduce performance contracts. In fulfilling its role as technical advisor on best practices, the new California Board of Charter Schools should develop a model performance contract that could become a required element between authorizers and charter school operators.

The state must raise the bar for charter school renewal while still maintaining options for certain charter schools serving the most difficult student populations. There is broad agreement that the current renewal criteria for charter schools must be improved, though stakeholders do not agree on how to most effectively improve renewal criteria. Two recent bills, AB 1950 (Brownley) and AB 1991 (Arambula) took significantly different approaches to changing charter school renewal criteria and both bills failed to pass. The two bills contained provisions to eliminate one of the four renewal criteria that allows a charter school to be renewed if its performance is comparable to that of the district schools its students otherwise would attend. To establish other areas of common ground to improve renewal criteria, the new California Board of Charter Schools should work with stakeholders to develop recommendations for policy-makers to strengthen the charter school renewal criteria.

Additionally, the state should take steps to ensure that charter operators be allowed a minimum of five years to establish schools, before facing renewal, except in extreme circumstances. To reward schools with consistently successful track records, the state should reduce bureaucracy by extending charter renewal time periods for established charter schools that consistently meet high benchmarks.

Recommendation 3: The California Board of Charter Schools should develop a model performance contract for authorizers and charter schools by 2012.

- ❑ The California Board of Charter Schools should use input from state and national experts, and build on the memorandum of understanding currently used between the State Board of Education and the charter schools it has authorized.
- ❑ Once a model contract is developed, the state should require performance contracts between charter school authorizers and charter schools.
- ❑ The model contract should provide a basic framework, but allow enough flexibility for authorizers and charter schools to address special circumstances and unique characteristics of innovative school models.

Recommendation 4: To ensure that charter schools that have benefited from the flexibility from state education rules are best serving students, the state should improve its charter school renewal criteria. Specifically:

- The California Board of Charter Schools should develop recommendations to improve the effectiveness of the charter school renewal criteria by 2012. The Legislature and the Governor should enact legislation based on these recommendations.

Recommendation 5: To ensure new charter schools are granted enough time to incubate, and to reward high-performing charter schools for consistent achievement, the state should change the time limits granted for charter petitions. Specifically:

- The Legislature and the Governor should enact legislation that requires new charter petitions that meet state established criteria to be authorized for five years. Any authorizer that chooses to authorize a charter school for a period of less than five years must obtain approval from the State Board of Education.
- The Legislature and the Governor should enact legislation that allows high-performing charter schools that meet specified criteria to be renewed for up to 10 years.

Background

Reforming education is an American tradition as old as its public schools. One of the most controversial reforms has been the introduction of charter schools, a movement that has its roots in earlier reforms aimed at improving outcomes by allowing greater school-level autonomy in return for higher standards of accountability.

California began its charter school experiment in 1992, becoming the second state in the nation to establish public charter schools. From the beginning, the charter school movement was driven by the theory that educational outcomes could be improved if schools were freed from some of the restrictive rules and regulations affecting traditional schools, but were held accountable for achieving results. The Charter School Act of 1992 codified this theory and provided virtually unlimited flexibility for charter schools in return for documented goals and rigorous accountability. The Charter School Act articulated a key goal for California to “provide vigorous competition within the public school system to stimulate continual improvements in all public schools.”²⁴ Additionally, the Act would “provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.”²⁵ Clearly, the goal was not to replace the public school system, but to provide a path for improving all public schools for all students.

Charter schools differ from traditional public schools in that they have been given flexibility from rigid education rules in exchange for increased accountability. Teachers and principals have the freedom to try innovative teaching strategies and program design. Free from union hiring constraints, administrators can hire staff that share a common vision laid out in the charter. For many charter schools, this vision is setting high expectations for all students and then doing whatever it takes to help students succeed. In many of the most successful charter school models, this means longer school days and longer school years.

The charter school movement has shown that there is no silver bullet or one-size-fits-all solution to improving education. Key commonalities in successful charter school models include smaller school and class sizes, high expectations for all students, funding that goes directly to the schools with more going toward the classroom than in traditional public schools and creating a welcoming environment for parents where they

“There is no reason why every child cannot succeed. The problem is not the student, the problem is the system.”

Yolie Flores, Vice President
LAUSD Board of Education

are encouraged to be a part of the school. But different students in different communities respond to different models, and providing an alternate option is the hallmark of charter schools. The best school districts ensure that parents and students have choices, including charter schools as one viable option in the district's educational portfolio. At their best, free from rigid education rules, charter schools innovate and incubate new educational models. Ideally, successful innovations are brought back and integrated into traditional public schools.

As a result of this flexibility, many charter schools succeed where traditional public schools have failed. In tough inner-city neighborhoods across America, charter schools are providing choices that did not previously exist and with test scores, graduation rates and college acceptance rates that exceed neighboring schools serving similar students, they are proving that all students, regardless of their socio-economic status can learn and succeed.

The Commission first reviewed the state's charter school system in 1996, shortly after the charter school movement came to California. At the time, California had reached the statewide cap of 100 charter schools established by the Charter School Act and charter school proponents pushed for expansion. In its report, *The Charter Movement: Education Reform School by School*, the Commission offered an early evaluation of the state's charter school experiment, making more than 20 recommendations to modify the initial charter law and allow room for more schools, and students, to participate in innovative educational opportunities. Many of the Commission's recommendations were implemented through legislation enacted in 1998, including lifting the then-100-school cap; providing direct state funding of charter schools; recognizing charter schools as separate, legal agencies; creating alternative sponsors and petition mechanisms; and, clarifying the funding base for charter schools.

The state has since made numerous modifications to its charter school laws. Some of these changes, including expanding the appeals process to include county boards of education and the State Board of Education, and enabling the State Board of Education to approve statewide benefit charter petitions, have partly mitigated the problems that led to the recommendations in the Commission's first charter school review. A summary of significant charter school legislation is included as Appendix C.

Part of the theory of charter schools was that they would serve as incubators for ideas and practices for the rest of the public education system. In its 2008 report, *Educational Governance & Accountability: Taking the Next Step*, the Commission recommended that the state

coordinate and combine the state's numerous categorical funded programs for traditional public schools, allowing them some of the same financial flexibility afforded to the state's charter schools. School district leaders told the Commission that this financial flexibility would result in improved student outcomes. As part of the 2009-10 budget deal, rules for approximately half of the categorical programs were suspended for the next five years for traditional public schools, although this new flexibility also came with significant spending cuts.

Steve Barr, founder of Green Dot Public Schools, a charter management organization with 19 charter schools in the Los Angeles area and one in the South Bronx in New York, in testimony told the Commission that "this is about great public schools, this isn't about great charter schools. It's about the vision for schools and what our 21st Century schools

Green Dot Public Schools: Transforming Education in Los Angeles

Locke High School was founded more than 40 years ago following the 1965 Watts riots. Until recently, it was one of the most troubled and chronically under-performing high schools in Los Angeles. Since its founding in 1967, 60,000 people have attended the school. In testimony, Steve Barr, founder of Green Dot Public Schools, challenged the Commission to imagine gathering these 60,000 former Locke High School students into Dodger Stadium. He said if all of those in the stadium who did not graduate from Locke were asked to leave, about 40,000 people would exit. Of the 20,000 left, if all those who did not get into a four-year university were asked to leave, another 12,000 would exit. Of the 8,000 left, if all of those who didn't complete their bachelor's degree were asked to leave, all but about 2,100 people would be gone. Mr. Barr said that if one then asked, "Step out if you didn't come back to your neighborhood and become a teacher, become politically active, start a business or a charter school," just a handful of people would remain in the stadium. According to Mr. Barr, "Nothing will fix that neighborhood until you fix that school."

In 2007, Green Dot, in partnership with community leaders and teachers from Locke High School, successfully petitioned the Los Angeles Unified School District to convert the traditional public school to a charter school, a first for the district and the first conversion charter school for Green Dot. It is by far the biggest challenge undertaken by Green Dot, a Los Angeles charter management organization founded in 1999. With the Locke conversion, Green Dot now operates 18 small preparatory charter high schools – 17 in the highest need areas in Los Angeles and one in New York City's South Bronx. In the fall of 2010, Green Dot opened its first middle school in Los Angeles.

After gaining approval from the district, Green Dot reopened Locke High School as a cluster of 8 small, separate charter schools, each with a different focus, all aimed at "preparing students for college, leadership and life." Since the 2008 Green Dot transformation, standardized test results have shown dramatic improvement – the number of proficient or advanced students increased 74 percent on the standardized English exam, and 295 percent for the standardized math exam. Additionally, student retention rates – students starting the school year and remaining at the school through the end of the year – improved to 95 percent from approximately 80 percent.

According to Mr. Barr, Green Dot's own operational experience with its start-up charter high schools was applied to the Locke Transformation Project. Green Dot's research results were clear, he said: "African-American and Latino kids can learn when they're in a system that's small; has high expectations; the dollars get in the classroom; there's support for our product (which is teaching); we're accountable to parents, and we ask parents to be involved."

Green Dot is unique in that it takes a pro-active approach to teachers' unions. Although most charter school teachers are not affiliated with a union, Green Dot developed its own teachers' union and has a contract that instead of teacher tenure, includes a "just cause" clause to provide job protection. This provides greater accountability – job stability is not just based on seniority, but performance as well.

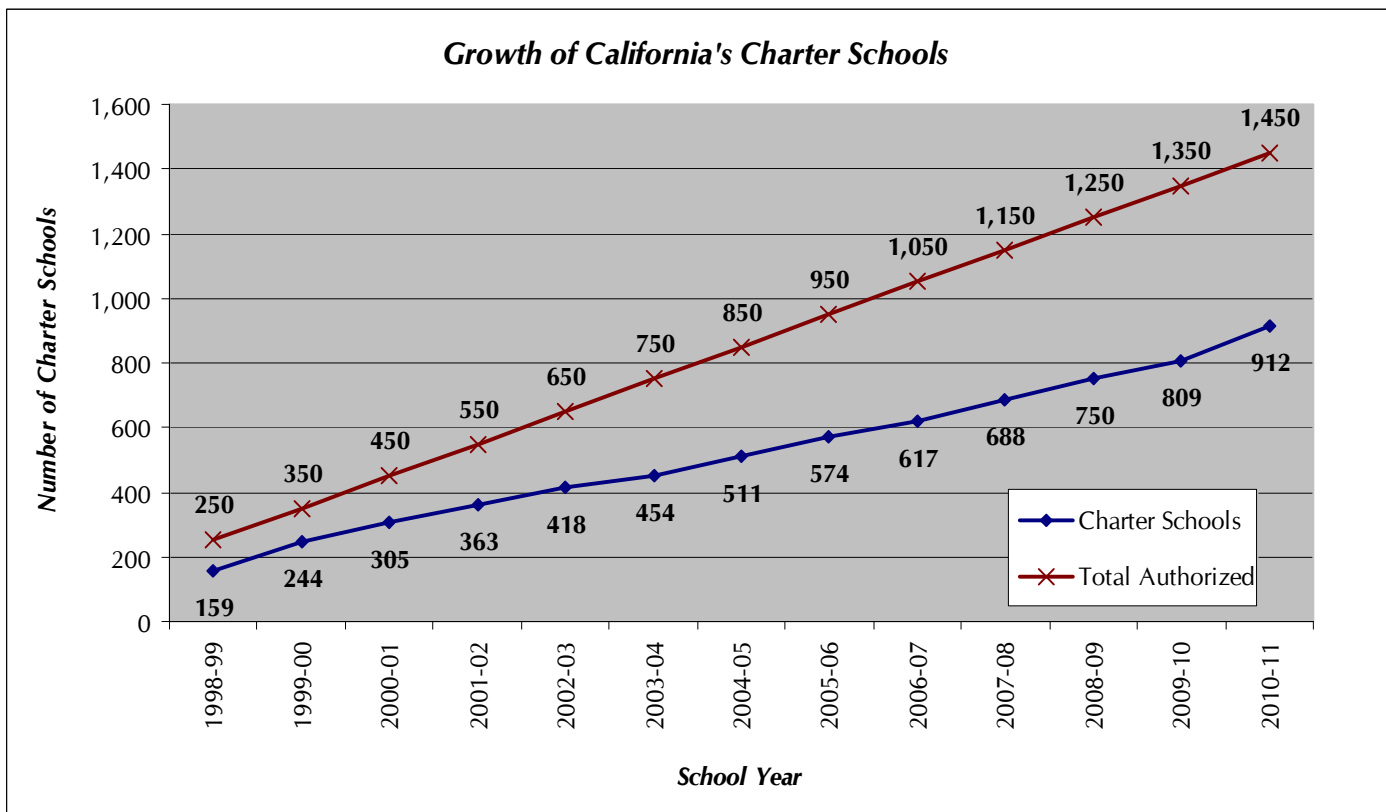
Sources: Steve Barr, founder and chairman, Green Dot Public Schools. Written and public testimony to Little Hoover Commission. November 18, 2009. Also, Green Dot Public Schools Web site www.greendot.org. Accessed October 22, 2010.

should look like.” He said that the goal should be how to scale up what has been learned in charter schools, in private schools, in magnet schools and in other great traditional public schools. “Scale that up and eliminate the need for charter schools,” he said.

Today, 1.6 million students are enrolled in more than 4,900 charter schools across 39 states and the District of Columbia.²⁶ Charter schools have flourished to some degree in California – 809 schools served 341,000 students during the 2009-10 school year; an additional 115 schools opened for the 2010-11 school year.²⁷ Despite the growth, students still find themselves on waiting lists and in lotteries for some of the best charter schools in California.

California’s Charter Schools, By The Numbers

By 1996, California had already reached the 100-school cap established by the state’s original charter school law. Lawmakers increased the cap to 250 in the 1998-99 school year and allowed the state to approve up to 100 additional charter petitions annually.²⁸ Enrollment in California’s charter schools has continued to grow. In the 1998-99 academic year,



Note: 2010-11 school year data is an estimate based on information from the California Charter Schools Association.

Sources: California Education Code, Charter Schools Act of 1992. Section 47600-47604.5. Also, EdSource. "Charter Schools - Their Numbers and Enrollment." http://www.edsource.org/sch_ChSch_VitalStats.html. Accessed March 3, 2009 and October 27, 2010. Also, Colin Miller, Vice President of Policy, California Charter Schools Association. October 27, 2010. Written communication.

67,924 students, representing 1.2 percent of the state's students, were enrolled in a charter school. A little more than 10 years later, approximately 341,000 students, representing 5.5 percent of all students, are enrolled in a charter school.²⁹

The current growth of California's charter schools does not appear to be limited by the legislative cap on the number of schools that can be authorized each year. Since the 1998 change in the charter school cap, no charter school has been denied approval because of the cap. According to the Department of Education, 235 charter schools have closed; others never opened upon approval; some had their charters revoked by an authorizing entity; some applications are pending, and a small number are simply listed as inactive or withdrawn.³⁰

Like traditional public schools, California's charter schools serve a student body reflective of the state's diversity. Charter schools serve a greater percentage of African-American students, but less Asian and Latino students than non-charter schools.³¹ About 20 percent of California charter school students are English language learners and about 7 percent are students with special needs.³² During the 2008-09 school year, more than half of the students in California's non-charter schools were eligible for free or reduced price lunches, compared to just over one third of charter school students.³³

Charter Schools and Civil Rights

On February 4, 2010, researchers from the Civil Rights Project at the University of California, Los Angeles released a report that found that charter school students are more racially and ethnically segregated than traditional public school students. The report recommends the Obama administration take immediate action to reduce segregation in charter schools by updating civil rights regulations for charter schools. The report decried the lack of socio-economic data available on students and recommended new legislation to ensure enough information is collected on charter school students so that student access to charter schools and outcomes can be monitored by race, socio-economic status and language ability.

This issue was discussed at the Commission's advisory committee meeting in Los Angeles. Meeting participants said that racial and ethnic segregation is problematic across many school districts in California, and is not limited to charter schools, making this a much broader education issue.

Charter school proponents argue that many charter school operators have focused on the most underserved students and communities that are often, but not always, minorities. Charter school proponents fear that districts already adverse to opening charter schools will cite the UCLA report as a rationale for denying a charter application or that the report will lead states to create new demographic requirements making it more difficult for charter school operators to open schools in many urban districts.

Sources: Erica Frankenberg, Genevieve Siegel-Hawley, and Jia Wang. UCLA Civil Rights Project. January 2010. "Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards." Also, Little Hoover Commission Charter Schools Advisory Committee meeting discussion. March 15, 2010.

Serving Students with Special Needs. Like all other public schools, California’s charter schools are required to serve students regardless of income, ethnicity, English language ability or special needs. Stakeholders have provided data to the Commission on the low percentage of special needs students in individual charter schools as compared to an overall district, but statewide data that could provide a more complete picture is lacking.

The Commission heard from some stakeholders who perceived a general lack of availability of special education services in California’s charter schools. Parents told the Commission they were concerned that charter schools regularly counsel-out students with special needs, leaving traditional public schools to serve a disproportionately high number of special needs students. They also said charter schools accept a greater proportion of students with moderate needs who require a lower level of additional services than students with severe learning disabilities. Others told the Commission that charter schools serve special needs students, but have difficulty obtaining special education resources from their school districts, which often give preference to “district” schools over charter schools when allocating the limited resources.

Although the Commission did not delve into this topic, there appears to be room to further explore how the state can ensure that it is serving students with special needs throughout the public education system – regardless of a student’s placement in a charter school or a traditional public school.

Special Education in California's Charter Schools

The Commission heard various conflicting perspectives on the ability and willingness of charter schools to serve students with special needs. On one side of the issue, groups of parents are genuinely concerned that students with special needs are being left out of the innovative and successful models developed by the state's charter schools. They charge that charter schools "cherry-pick" the students they want to serve and selectively counsel-out students with moderate to severe learning disabilities or language impairments, leaving traditional public schools to serve a more difficult to educate and costly student body. On the other side, the Commission heard from charter school teachers and administrators who took on the challenge of finding ways to support their special needs students despite bureaucratic red tape. Part of the problem clearly is a lack of conclusive data about how well California's students with special needs are being served by the public education system and an understanding of how the state can do a better job ensuring that all of its students receive a quality education.

Administering Special Education. Beginning in 1977, all school districts and county school offices were required to form geographical regions to provide for all special education needs of children residing within the region. California's 120 Special Education Local Plan Areas, or SELPAs, are organized around the principle that all students can learn and that special needs students must be guaranteed equal opportunity. Some SELPAs serve fewer than 1,000 students while others serve more than 10,000 students. They also vary in governance structure. SELPAs collaborate with county agencies and school districts to develop and maintain environments in which special needs students can succeed.

California law allows for the formation of a charter SELPA. The state in 2007 launched a three-year pilot project to examine the issues that arise when SELPAs accept charters outside their geographic region and test whether the services can be delivered successfully to meet the needs of geographically dispersed member charter schools. Desert Mountain, El Dorado County, Yuba County and Lodi Area Special Education Region SELPAs participated in the pilot, each developing different models for providing regional SELPA services. The State Board of Education voted in January 2010 to lift the pilot status and also approved regionalization models developed by the Department of Education for other SELPAs to expand services to students with disabilities in charter schools outside their region. Two counties, Los Angeles and El Dorado, respectively, are in the process of or have already formed an all-charter SELPA.

Perspectives On-the-Ground. At the Commission's advisory committee meeting in Los Angeles, representatives from Los Angeles Unified School District explained that traditional public schools, including affiliated charter schools, receive special education services directly through their school district. Independent charter schools, however, are not required to use a district's services. An independent charter school can partner with the district to purchase special education services, on a fee-for-service basis, or can hire independent contractors to provide the services.

In Los Angeles, the fee-for-service model is not without challenges: When the district has a personnel shortage, it is obliged to provide services for traditional public schools and affiliated charter schools before it can assign service providers to independent charter schools. "Where we have a shortage area, such as speech therapy, we don't provide the service to independent charter schools because we have to cover our own first," the representative said. If independent charter schools paid for services in advance, through a pre-pay model, the district could ensure a sufficient number of staff were available to provide services.

Charter school representatives noted problems with this model. They voiced concern that school districts typically assign charter schools with resource specialists to work with their students with special needs, but leave the charter schools out of the process of selecting a specialist. Charter schools want to be involved in the selection process to help ensure that all school staff fit in with the teaching philosophy and mission of the school. They also said school districts often are late or lag behind in making the staffing assignments – sometimes leaving charter schools without resource specialists until well-into the school year. Other times, the district-hired staff is not available to serve students during regular school hours or visit during core class time, or visit schools so sporadically that they do not meet the students' needs.

Still, some charter schools have found innovative ways to serve students with special needs, providing additional tutoring, training teachers to meet students' individual needs and working collaboratively with special education instructors or negotiating outside of their charter to hire their own resource specialists. Some of these options often require a high level of trust that does not always exist between a charter and its authorizing school district.

Sources: Sonja Luchini. November 19, 2009. Personal communication to the Commission. Also, California Department of Education. December 2009. "California Special Education Local Plan Areas." www.cde.ca.gov/sp/se/as/caselpas.asp. Also, State Board of Education. January 5-7, 2010 Agenda. Item 32. "Special Education Local Plan Area Regionalization Models." Also, Little Hoover Commission, charter school advisory committee meeting. March 15, 2010. Los Angeles. Also, Little Hoover Commission site visit to Lighthouse Community Charter School. June 14, 2010. Oakland, CA. Also, Little Hoover Commission site visit to View Park Preparatory Charter Schools. March 15, 2010. Los Angeles, CA.

Establishing a Charter School

All charter schools share some similarities – they are semi-autonomous public schools that operate under a written contract, a charter, overseen by an authorizing entity. All charter schools also are public schools – they are required to admit all students who wish to attend – however, if demand for admission exceeds a school’s capacity, law requires that admission is determined by a random public drawing, with preference given to those students who already attend the school and those who live in the school’s district.³⁴

Charter schools vary from traditional schools and from other charter schools in many of their characteristics. A charter school can be an independent study school, a virtual school using distance learning or a network of home-schooled students. A school can use project-based learning programs or focus on programs for adults to earn a high school diploma or GED. Charter schools also have flexibility in the grades served; for example, some charters may serve grades K-8 or K-12.³⁵

The Charter Petition Process

Anyone can petition for the establishment of a charter school, although the requirements vary slightly depending on whether the school will be a new charter school or a conversion charter school.

A charter petition describes the educational program of the school, pupil outcomes and the method that will be used to measure those outcomes, school governance and other elements required by statute. California’s education code requires potential charter school operators to include 16 elements in the petition.³⁶

A petition for a new charter school must be signed by either 1) a number of parents or legal guardians of students equal to at least half the number of students that the charter school estimates will enroll in the school or 2) a number of teachers that equals at least half the number of teachers who will work at the school during its first operating year.

A petition that would convert an existing traditional public school into a charter school must be signed by not less than 50 percent of the permanent status teachers who work at the existing school.³⁷ Recent legislation has opened the window of opportunity for a majority of parents to convert a poor-performing school into a charter school.

Parent Empowerment. Legislation enacted in January 2010 as part of California’s effort to qualify for the federal Race to the Top program

empowers parents to petition for the conversion of an existing school into a charter school.³⁸ California ultimately did not qualify for the first or second round of the grants, but the legislation enacted significant changes to state education policy.

The parent empowerment provision included in SB X5 4 (Romero), provides parents the opportunity to petition a district to implement one of five remedies to fix a failing school, one of which is the opportunity to convert a failing traditional public school into a charter school. The parent empowerment provision has limitations: the school can not be on the California Department of Education's annual list of persistently lowest-achieving schools. These schools require a remedy proposed by a school board as required by another bill enacted in 2010, SB X5 1 (Steinberg). Districts with schools on the annual list can apply for federal grant money to pay for the selected reform.

The parent empowerment provision applies to other failing schools that meet certain criteria: the school must have an API score less than 800; the school must not have met its Adequate Yearly Progress (AYP) requirement; and, the school must currently have progressed to year four of program improvement under federal No Child Left Behind Act rules. The petition request can only be made to address academic or safety deficiencies. The new law limits the number of schools that can be petitioned this way to 75 schools statewide.³⁹

Parents and legal guardians of students in schools which meet those criteria have the opportunity to petition their local district to implement several corrective actions, one of which is conversion to a charter school. Parents petitioning a school that meets the criteria established by the new law would submit a charter petition following the same rules as any other charter petition at the same time they submit the petition for corrective action.⁴⁰

The petition must be signed by at least half of the parents or legal guardians of students attending the school or a combination of at least half of the parents or legal guardians of students attending the school and of students of elementary or middle schools that normally feed into the school. By providing written findings, the district can opt not to implement the remedy requested by the parents, but the district then is required to use one of the other remedies enacted in the parent empowerment provision.⁴¹

As the parent empowerment provision is implemented, policy-makers should monitor its progress and determine, if at some point in the future, some of the limitations should be lifted to expand the option for parents to petition to convert poor-performing schools to charter schools.

The Charter Petition Process

In California, charter school authorizers – bodies charged with approving charter petitions, monitoring schools and providing oversight and, if necessary, shutting down charter schools – can be a local school board, a county office of education or the State Board of Education.

The default process to establish a charter is set up to favor authorization at the local level. Most commonly, charter school petitions are submitted to the school board of the district where the school will be located. Once a petition has been submitted, the local school board has 30 days to hold a public hearing on the petition and 60 days from the date it receives the petition to grant or deny it.

In California, What Are the Required Elements of a Charter Petition?

Each charter petition must contain reasonably comprehensive descriptions of each of 16 required elements:

1. A description of the educational program of the school. If the proposed school will serve high school pupils, a description of how the school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements must be included in the petition.
2. The measurable pupil outcomes identified for use by the school.
3. The method by which pupil progress in meeting those pupil outcomes is to be measured.
4. The schools governance structure, including parental involvement.
5. The qualifications to be met by individuals employed by the school.
6. Procedures to ensure health and safety of pupils and staff.
7. The means by which the school will achieve racial and ethnic balance among its pupils, reflective of the general population residing in the district.
8. Admission requirements, if applicable.
9. The manner in which annual financial audits will be conducted, and the manner in which audit exceptions and deficiencies will be resolved.
10. The procedures by which pupils may be suspended or expelled.
11. Provisions for employee coverage under the State Teachers Retirement System, the Public Employees Retirement System or federal Social Security.
12. The public school alternatives for pupils residing within the district who choose not to attend charter schools.
13. A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
14. A dispute resolution process.
15. A declaration whether or not the charter school will be the exclusive public school employer of the charter school employees.
16. The procedures to be used if the charter school closes.

Sources: Education Code, Section 47605(b)(5)(A-P). Also available at the California Department of Education. Charter School FAQ. www.education.ca.gov/sp/cs/re/ganasec2mar04.asp.

In reviewing charter petitions, California law requires the charter authorizers to be guided by the intent of the Charter Schools Act of 1992 that charter schools should become an integral part of the California educational system and that establishment of charter schools should be encouraged.⁴² Authorizers also must ensure that the petition contains all 16 required elements and determine whether granting the charter is consistent with sound educational practice. Based on this determination, the local school board either grants or denies the charter petition.

If the local school board approves the charter petition, the local school board and district become the charter authorizer. The elements identified in the charter petition become the performance criteria for measuring the progress of the charter school. Unlike other states, in California, the charter petition submitted by a charter school becomes the performance agreement between the school and the authorizer.

If the local school board denies the petition, it must provide written factual findings, specific to the particular petition, supporting one of the five following findings:

1. The charter school presents an unsound educational program.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the required number of signatures.
4. The petition does not contain reasonably comprehensive descriptions of the 16 elements.
5. The petition does not contain an affirmation that the school shall be nonsectarian, shall not charge tuition, shall not discriminate against any student and shall not determine admissions based on residency except for certain preferences granted for conversion schools.⁴³

Petitioners denied by a local school board can appeal to the county office of education. If approved, the county office of education serves as the authorizer. Similarly, petitioners denied by a county office of education can be appealed to the State Board of Education; the State Board serves as authorizer for those petitions it approves.

Alternative Types of Charter Petitions

The majority of California's charter schools are authorized through the process described above, however, there are alternative routes for petitioners who seek different types of charters.

County-wide Charters. A petition can be submitted directly to a county office of education if the charter school will serve students that normally would be directly served by the county office of education. Charter petitions denied by the county office of education may appeal to the State Board of Education. Currently, there are 29 county-wide charter schools in California.⁴⁴

Districtwide Charters. Any of the state's 1,042 school districts may convert all of its schools to charter schools upon joint approval by the State Superintendent of Public Instruction and the State Board of Education. Fifty percent of the teachers within the district must sign the district charter petition and the petition must specify alternative public school arrangements for students living within the school district boundary who choose not to attend charter schools.

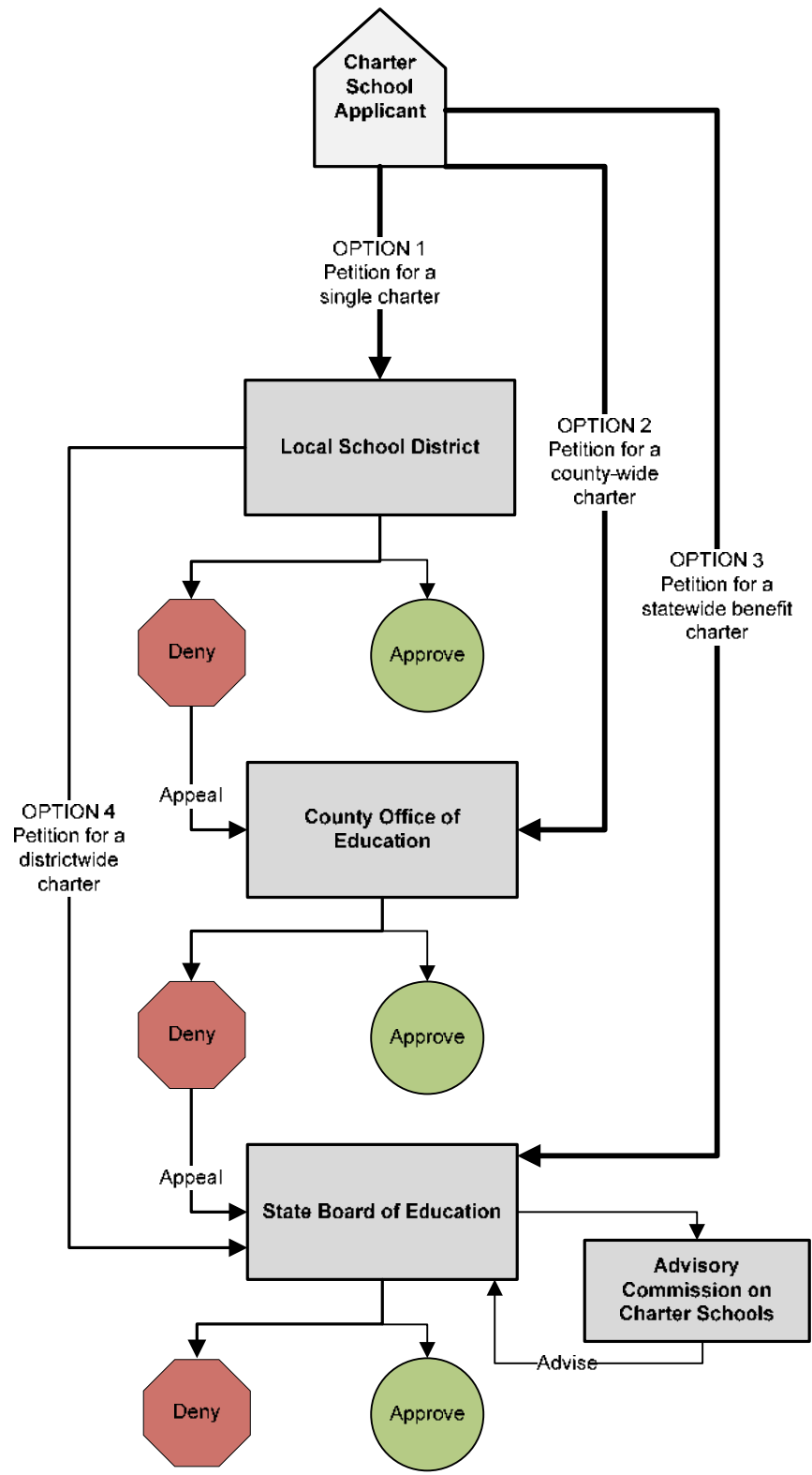
Eight all-charter districts in California operate 18 schools that are jointly overseen by the State Board of Education and the State Superintendent of Public Instruction.⁴⁵

Statewide Benefit Charters. In order to expand school choice, particularly to isolated rural communities and urban areas plagued by failing schools, the state enacted legislation in 2002 that enables a charter operator to apply directly to the State Board of Education for authorization to open schools in multiple sites throughout the state under the same charter.⁴⁶ To qualify as a statewide benefit charter, the State Board must find that the operator will provide instructional services of a statewide benefit that cannot be met by a district or county authorized charter. Charter school operators also must demonstrate a history of high academic performance.

Once approved, a statewide benefit charter has the authority to open charter schools in multiple locations across the state without district or county approval, but must notify each local school district of its intent to open a school. To open, these schools must establish at least two new sites or schools in different counties in areas with struggling schools. Expansion at a rate of two new sites per year can occur after the first two years of operation, once the school has met performance objectives. Statewide benefit charter operators cannot convert an existing traditional public school into a charter school without going through the traditional district charter approval process.

To date, the State Board has approved three statewide benefit charters, which operate eleven schools: High Tech High, Pacific Technology School and Aspire Public Schools.⁴⁷

Current California Charter School Authorization and Appeals Process



Ongoing Oversight

Authorizers are required to provide oversight of charter schools. For each school authorized by a district, county office of education or the State Board, the authorizer must:

1. Identify at least one staff member as a contact person for the charter school.
2. Visit the school at least annually.
3. Ensure that the school complies with all reports required of charter schools.
4. Monitor the fiscal condition of the school.
5. Provide timely notification to the California Department of Education if any of the following circumstance occur or will occur:
 - A renewal of the charter is granted or denied.
 - The charter is revoked.
 - The charter school will cease operation for any reason.⁴⁸

Authorizers may charge charter schools for the costs of oversight up to 1 percent of the revenue of the charter school or, in cases where the charter school has obtained substantially rent free facilities from the chartering authority, up to 3 percent of the revenue of the charter school.⁴⁹

Ongoing funding scandals have fueled discussions about opportunities to improve oversight and accountability, including requiring more transparency of charter school governing boards. The Legislature in August 2010, passed AB 572 (Brownley) which would have required charter school governing boards to abide by the same conflict of interest requirements as school districts, including the Brown Act, the California Public Records Act, the Political Reform Act of 1974 and government code which specifies that board members may not be financially interested in decisions made by the board. Governor Schwarzenegger, who had previously vetoed similar legislation, vetoed AB 572 in September 2010. In his veto message, the Governor indicated that although the bill may be well-intended at first glance, it actually applied “new and contradictory requirements which would put hundreds of schools immediately out of compliance, making it obvious that it is simply another veiled attempt to discourage competition and stifle efforts to aid the expansion of charter schools.”⁵⁰

Fiscal Improprieties and Conflicts of Interest

Lawmakers have repeatedly attempted to improve the transparency of charter schools by enacting legislation that would require charter school governing boards to abide by the same conflict of interest requirements as school districts and prohibit members from participating in board decisions when they have a financial interest in the decision's outcome. Governor Schwarzenegger has repeatedly vetoed this legislation.

Fairly isolated yet disturbing reports of fiscal improprieties and conflicts of interest suggest the need for improved transparency and stronger rules for charter governing boards.

In August 2010, the inspector general's office of the Los Angeles Unified School District released an audit alleging a former principal of the NEW Academy Canoga Park charter school misappropriated \$1.6 million in public money. The audit found more than \$1 million was withdrawn from the school account and deposited in a personal online stock trading account.

A 2006 state audit of Options for Youth and Opportunities for Learning, a chain of independent study charter schools found widespread accounting problems and conflicts of interest and recommended the state attempt to recover more than \$57 million in potentially inappropriately used funds. At the time of the audit, the school had approximately 15,000 students enrolled through 40 sites across the state.

In an independent investigation of another independent study school, West Park Charter Academy, in November 2009, auditors found systemic violations of laws and regulations. The investigation, performed at the request of the Fresno County Office of Education, found, among other California Department of Education rule violations, that school operators were instructing teachers to alter learning logs and attendance so that no student absences would be recorded, ensuring that the school would receive full ADA payments, even when students did not appropriately turn in school work. The charter school authorizer, West Park School District, has just two schools in the district, the independent study school and a traditional public elementary school.

In another case where charter school officials' roles and duties overlapped with district officials, a Lassen County district attorney found violations when the same person served as superintendent of the Westwood Charter School and as superintendent of the Westwood Unified School District, which authorized and provided oversight for the charter school. The same person also was listed as the chief executive officer of Westwood Charter School Services, Inc., a corporation that provides financial services to the charter school.

Although these incidents may be isolated, currently it is difficult to know whether expanded or improved oversight would reveal additional illegal or improper use of the state's public education funds.

Sources: Howard Blume. August 30, 2010. "Local Charter School Accused in Audit of Alleged Misappropriation of \$2.7 Million." [Los Angeles Times](#). Fiscal Crisis & Management Assistance Team. August 9, 2006. "Extraordinary Audit of the Options for Youth, Inc. and Opportunities for Learning, Inc. Charter Schools." Also, Price Paige & Company Accountancy Corporation. "West Park Charter Academy Investigation." December 3, 2009. Also, Fresno County Office of Education. "Westwood Conflict of Interest Case Referred to Attorney General." August 18, 2009. [Lassen County News](#).

Charter Renewal

Beyond regular oversight, charter school authorizers also have the responsibility to review a school's performance – both in terms of its academic achievement and management practices – and to decide whether a school's charter should be renewed or denied.

Most charter schools are approved for periods of five years, although on some occasions, schools are granted charters for less time.

Charter school renewal criteria is listed in statute enacted in 2005. Charter schools are required to meet at least one of the following performance criteria prior to receiving a charter renewal:

1. It attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
2. It ranked above the 30th percentile on the API in the prior year or in two of the last three years.
3. It ranked above the 30th percentile on the API for a demographically comparable school in the prior year or in two of the last three years.
4. Its charter authorizer determined that the academic performance of the charter school was comparable to the performance of district schools its students otherwise would attend.⁵¹

In certain circumstances, if the charter school qualifies for an alternative accountability system, an authorizer can renew the charter petition even if the school does not meet one of the four renewal criteria. The alternative accountability system applies to schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. The alternative accountability system was developed for both traditional public schools and charter schools. Alternative accountability became an option for charter schools when the current renewal criteria were established through legislation in 2005. As of 2008, out of 164 charter school renewals, 11 qualified for renewal based on the alternative accountability system.⁵²

Charter School Revocations

Charter authorizers have the authority to revoke a charter if it finds a charter school has done any of the following:

1. Committed a material violation of any of the conditions, standards or procedures set forth in the charter.
2. Failed to meet or pursue any student outcomes identified in its charter.
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement.
4. Violated any provision of law.⁵³

Unless an authorizer determines that the violation constitutes a severe and imminent threat to the health or safety of the students, the authorizer must notify the school of any violation and give the school reasonable opportunity to remedy the violation. If the school fails to rectify the violation, the authorizer must notify the school of the charter revocation and hold a public hearing within 30 days after the written notification. If a district or county authorizer revokes a charter, the school can appeal to either the county or the State Board.⁵⁴

The State Board of Education, based upon the recommendation of the Superintendent of Public Instruction, also has the authority to revoke the charter of any school, although it has never used this authority, in part because the regulations to revoke a charter did not exist and in part because the Superintendent of Public Instruction had never made a recommendation. Additionally, the State Board has the authority to revoke charters when it finds gross financial mismanagement, illegal or substantially improper use of funds, or “substantial and sustained departure from measurably successful practices that would jeopardize the educational development of the school’s students.”⁵⁵

The State Board invested considerable energy in 2010 in developing regulations that would allow the charter revocation of academically low-performing charter schools. At its November 2010 meeting, it adopted regulations that would require the California Department of Education to identify all charter schools that have been in operation for five years or more and fail to meet certain performance criteria to have their charters reviewed by the State Board. Based on the recommendation of the Department of Education, the State Board would conduct a public hearing to determine whether the school’s charter should be revoked.

Funding California’s Charter Schools

Intrinsic to the relationship between charter schools and local school districts, is a tension over school financing. As part of the public school system, charter schools have claims to some of the same funding streams as do traditional public schools, pitting the two against each other in a competition over limited money. The Commission heard some debate over whether charter schools actually receive a greater or smaller portion of the state’s education budget than their traditional counterparts, but found no conclusive evidence to suggest that charter schools actually receive more or less money.

Still, these perceptions of inequality play into an “us vs. them” mentality that is enhanced by the current budget climate. Many perceive charter schools as siphons, drawing away students – and with them, money –

from traditional district schools. These perceptions only serve to exacerbate the division between charter schools, their counterparts in the traditional public schools and the districts that are supposed to oversee all schools within a local school system, and to drive all involved further away from the goal of the charter school experiment: to create within the public school system incubators of innovation and excellence to benefit all of the education system.

Unlike traditional public schools, charter schools have greater flexibility over financial decisions, in return for greater accountability for school outcomes. Like their counterparts, charter schools receive the majority of their funding from block grants from the state. The main sources of money for California charter schools include:

Charter School General Purpose Block Grant: The General Purpose Block Grant provides funding to charter schools based on their average daily attendance (ADA). By design, this block grant was set up to ensure that a charter school could be established anywhere in the state and get the same funding rate. The amount each charter school receives varies by grade level and is adjusted annually to reflect the statewide average district revenue limit. This block grant provides the largest source of funding for most charter schools.

2009-10 Estimated Base Charter School Funding

	K-3	4-6	7-8	9-12
General purpose block grant	\$5,044	\$5,118	\$5,268	\$6,130
Categorical block grant	453	453	453	453
In-lieu of Economic Impact Aid (EIA)	319	319	319	319

Note: The figures in this table are per-pupil amounts, which are multiplied by average daily attendance (ADA).

Source: California Department of Education. "Charter School Block Grant Funding Rates, FY 09-10."

The Legislature in 2008-09 granted additional flexibility to all K-12 schools by temporarily combining approximately 40 categorical programs, essentially enhancing the general purpose block grant. Charter schools and school districts can, until 2012-13, access a set amount of money for these programs based on the average amount they received in 2007-08. Because new charter schools that opened after 2007 were essentially "locked-out", the state allocated about \$127 per-pupil in one-time money in 2010-11 to supplement new charter schools. The Legislative Analyst's Office has proposed several recommendations to clarify whether and how new charter schools will receive additional money in future years.⁵⁶

Charter School Categorical Block Grant: Categorical block grants are given to charter schools in lieu of money granted through a range of categorical programs available to traditional public schools. For charter schools, the funding source has the benefit of being available without many of the restrictions on how the money can be spent. Charter schools can receive two types of categorical funding. The first consolidates funding from about 25 categorical programs and covers a range of programs designed for the general student population. The second type of block grant is given to charter schools in place of Economic Impact Aid (EIA) – money given to traditional schools for economically disadvantaged students, students who are eligible to receive free or reduced price meals and English language learners. Charter schools may use money from this block grant as general purpose funds.

Restricted State and Federal Categorical and Special-Purpose Programs: Charter schools may apply for money from restricted state categorical programs that fall outside the categorical block grant. Criteria for qualifying for the money usually depend on the school's population and instructional programming. Examples include money to support programs that range from career technical education instruction to anti-tobacco programs. A 2005 RAND report found that charter schools are less likely than traditional public schools to apply for categorical funding because many lack the resources to complete the applications or because they deem the amount of money granted as not worth the effort.⁵⁷

Only school districts, not individual schools, are allowed to apply for federal categorical programs. Money for these programs goes directly to school districts to distribute, but there are no rules requiring them to distribute to charter schools. The Legislative Analyst's Office reported that charter schools may or may not receive a portion of the district's federal categorical funding, depending on the relationship between the district and its charter schools.⁵⁸

Other Federal Programs: Some charter schools receive federal funding through the federal Charter Schools Program. The program is administered by the California Department of Education, Charter Schools Division.

Private Funding: Both charter and traditional public schools can raise private money to augment their budgets. There is a wide range of what this looks like on the ground, from big donations from foundations to bake sales. Some organizations have found that charter schools, compared to traditional public schools tend to be more inclined to seek private funding sources.⁵⁹

Issues with School Facilities

Financial issues have been, and will continue to be, a barrier to eliminating the hostility between charter schools and their districts. The distribution of per pupil average daily attendance (ADA) money most likely will continue to be viewed as a zero-sum game, where many perceive charter schools as taking away from money entitled to its district. An even greater source of friction, however, may be the distribution and use of school facilities.

Charter schools contend that the cost for renting space creates a funding disparity between charter schools and traditional public schools.

All schools must make financial decisions based on their overall budget – but the elements of those budgets can differ. Traditional public schools use local school district school facilities. Finding money to pay for the school’s facilities does not have to come out of the operating budget; traditional public schools can raise separate and secure funds for facilities through bond sales. In contrast, paying for facilities can consume a large portion of a charter school’s overall budget. Charter schools often must rent or lease facilities out of their operating budget, taking away from money that might otherwise be spent on academic programs.

School districts are required by law to make adequate facilities available to charter schools that operate in the district. In 2000, voters enacted Proposition 39, which lowered the threshold for voter approval of local school bonds as well as instituted guarantees for charter school facilities. The measure requires districts to share facilities with charter schools and provides some flexibility for districts by allowing them to offer a charter school space in multiple locations rather than on a single campus.

From the district perspective, current law limits a district’s ability to manage its budget. If a charter school demands use of a district’s facilities, the district is legally obliged to provide them. District officials have said that as a result of Proposition 39, charter schools often demand and receive space, even when space is not available, disrupting traditional public schools by co-locating charter schools on campuses resulting in overcrowded facilities.

In written testimony to the Commission, Charles Weis, Superintendent of Schools, Santa Clara County Office of Education, indicated facilities issues become particularly difficult when a charter school grows, adding more grades over time. According to Mr. Weis, “one of the most difficult questions to resolve is which students take priority for the facilities –

those in the charter school that attempt to move students out of their school to accommodate the charter, or the students of the traditional school district. This is never an easy question to answer.”

Cash-strapped districts argue that they should be able to sell vacant school sites or rent out these facilities rather than provide them rent-free to charter schools that may be serving students from beyond the district boundaries.

Many charter schools still have trouble finding suitable school sites. Siting facilities, like many other charter school issues, seems to be most problematic when the charter schools have contentious relationships with the school district. In practice, acquiring adequate and appropriate space tends to be easier for those charter schools that have a good relationship with their district or are in districts that have adequate facilities space. In other districts the facilities process can be litigious. Some charter schools have successfully sued their school district in order to get facilities, but this route is awkward at best because often a school district also is the charter school’s authorizing agent. The California Charter School Association successfully sued LAUSD over facilities; an association official said that the district has ignored the lawsuit ruling.⁶⁰

The state has attempted to address the facilities issue through a number of programs:

Statewide School Bonds. A portion of statewide school bonds are typically set aside for new construction of charter school facilities. To qualify for this money, a charter school must prove that it is financially sound. California voters have approved three such bond measures, Proposition 47 in 2002, and Proposition 55 in 2004, which together set aside \$400 million for charter school facilities needs; and, Proposition 1D in 2006 which set aside an additional \$500 million for charter schools. To date, 64 schools have been awarded grants from these propositions, however, the number of charter schools is growing at nearly 90 per year.⁶¹ Though the bond money was a welcome infusion for the charter school community, it is not a

Over 25 Percent of Charter School Facilities Bonds Still To Be Authorized

	Amount Authorized	Amount Funded	Balance
Proposition 1D (November 2006)	\$500,000,000	\$411,534,034	\$88,465,966
Proposition 55 (March 2004)	\$300,000,000	\$204,385,779	\$95,614,221
Proposition 47 (November 2002)	\$100,000,000	\$35,709,046	\$64,290,954
<i>Totals</i>	<i>\$900,000,000</i>	<i>\$651,628,859</i>	<i>\$248,371,141</i>

Source: Strategic Growth Plan. Bond Accountability. Education Bonds. www.bondaccountability.opsc.dgs.ca.gov. Accessed October 28, 2010.

sustainable funding stream or an adequate solution to the problem of finding adequate facilities for charter schools.

Charter School Facilities Grant Program. This is a state-funded program that provides funding to offset charter school rent or lease expenses. To qualify, 70 percent of a charter school's pupils must be eligible for free or reduced-price meals or be located in an attendance area with the same kind of student population. Schools can receive \$750 per pupil or 75 percent of their actual rent, whichever amount is lower. Only a certain amount of money is available for this program each year, but every school that qualifies gets a portion of the funding. Legislation enacted in October 2010 restructured the funding mechanism for this grant program so that charter schools will begin to receive money for current school year rent and lease costs, instead of reimbursement for the prior year's costs.⁶² The Legislative Analyst's Office reported that in practice, schools usually receive less than the 75 percent of their rent because the program is maxed out annually. Since FY 2005-06, schools have received about 50-65 percent of their rent reimbursement.

Charter School Revolving Loan Fund. This state fund provides a \$250,000 maximum loan amount over the lifetime of a charter school, with repayment periods of up to five years. California loaned \$7.3 million to charter schools through this fund in FY 2009-10.⁶³

Schools also may qualify for the federal Credit Enhancement for Charter Schools Facilities, which provides competitive grants to organizations that will guarantee loans and leases that charter schools pursue.⁶⁴

Improving Accessibility

Two films that premiered in 2010 poignantly capture the intensity of parents and their students as they anxiously wait for the chance of a lifetime – the chance to get picked through a lottery for a coveted spot in a high-quality public charter school. What once was a given in America, that all children have access to a good education and through education, an opportunity for a better life, too often is simply the luck of the draw.

Both films, *Waiting for Superman* and *The Lottery*, follow the saga of families as they attempt to randomly earn a spot in high-quality charter schools that have proven that all students can learn if given the chance. Students who lose the educational lottery are left on waiting lists and, unless their luck changes, must settle for less – their fate and future potentially sealed before the first bell rings.

Charter schools are public schools – open to all students. In some of the toughest neighborhoods in the country, charter school students significantly outperform similar students in nearby traditional public schools. As a result, high-quality charter schools have more students who want to attend than available desks, resulting in waiting lists and entrance lotteries.

Why the Wait?

Nationally, approximately 420,000 students are on waiting lists for charter schools.⁶⁵ An estimated 65 percent of all charter schools have waiting lists averaging 238 students per school.⁶⁶ Although the national data on waiting lists is not broken down by state, top-performing charter schools in California have waiting lists and conduct lotteries for enrollment. High Tech High, for example, a high performing charter school organization based in San Diego, receives five applications for every available spot.⁶⁷ Lighthouse Community Charter School, a small K-12 school in Oakland, in 2010 received 700 applications for 60 available slots.⁶⁸

Shining in Oakland: Lighthouse Community Charter School

Lighthouse Community Charter School is a small K-12 school serving 675 students primarily from economically disadvantaged neighborhoods in Oakland. Though the school is open to all students, 85 percent are low income and 66 percent are Latino. Many students speak English as a second language.

The school began operating in 2003 after its founders spent two years planning, helped by a small charter school planning grant from the California Department of Education. In February 2010, the school's charter was renewed unanimously by the Oakland Unified School District Board of Education for an additional five years. Since opening its doors with just a few grade levels and gradually growing into a full K-12, the school's K-8 Academic Performance Index has risen every year; the high school, which began operation in 2006, has seen its API increase in all but one year. In 2009, the K-8 programs received the highest possible ranking, a 10, and its high school program received an 8 compared to other California schools serving similar students. The high school is one of Oakland's top three high schools. Like many of the best charter schools, Lighthouse classes are full and the schools' waiting lists are long; in 2010, 700 applied for 60 openings.

The Lighthouse mission and priorities are similar to other successful schools across the nation. Its five priorities are: high expectations; a rigorous curriculum; serving the whole child; family involvement; and, teachers as learners. The school holds a weekly Coffee Tuesday, where parents are invited to coffee and a discussion session on topics ranging from literacy and school counseling to nutrition.

Lighthouse initially was challenged by school facility issues; it relocated twice in its early years. The school found a permanent home in a dramatically remodeled and redesigned industrial facility aided by a \$15 million grant from a private donor from whom the school now leases the building. "Providing a permanent home for the Lighthouse Community School frees us up to focus on what really matters," said Lighthouse school founder and director of strategic development Jenna Stauffer.

Sources: Little Hoover Commission Lighthouse Community Charter School site visit June 14, 2010. Discussion. Also, Lighthouse Community Charter School Web site. <http://www.lighthousecharter.org>. Accessed October 21, 2010. Also, Danine Alati. June 2010. "Lighting the Way." <http://www.contractdesign.com/contract/design/features/Lighting-the-Way-St-2318.shtml>. Web site accessed October 21, 2010.

California is fortunate to have a more flexible charter school system than some states. Some states have prohibitive caps that limit the number of charter schools that can operate. California has a cap, but each year the cap grows by 100 schools and currently, most agree that the cap does not pose a barrier. For the 2010-2011 school year, the charter school cap is 1,450 schools and 912 charter schools are operating in California. In recent years, California has been adding approximately 80 schools per year, although 115 charter schools opened in the fall of 2010.⁶⁹

Despite the fairly steady growth, a variety of barriers have impeded more rapid expansion of charter schools in California, and some districts have made the process more burdensome than necessary to both open and renew charter schools. Throughout this study, charter school operators have pointed to the state's dysfunctional charter school authorization process as the most significant roadblock preventing the expansion of charter schools in California.

Empowering Parents

The majority of charter schools in California, 85 percent, are new schools started either by parents of students who will attend the school or teachers who will work at the school. Approximately 15 percent of charter schools are conversion schools where a traditional public school is converted to charter school. The petition for a conversion charter school must be signed by not less than 50 percent of the teachers who work at the school. Until recently, parents of students in poor-performing schools could not petition to convert the school to a charter school, but legislation enacted in January 2010 now allows parents to petition to convert a school, although under very limited circumstance.

This new opportunity for parents to petition to convert a school to a charter school was included within the parent empowerment provision in education reforms enacted as part of California's effort to qualify for federal Race to the Top grants. The charter conversion option, part of the restart remedy within the legislation, is one of five potential remedies for poor-performing schools. The remedies have various limitations, as described in the background section of this report, including a limit of a total 75 schools statewide that parents can petition to change.⁷⁰

The Commission believes that parents should have the opportunity to petition to convert poor-performing schools into charter schools. It is encouraged by the recent parent empowerment legislation, but will monitor the progress. If the criteria for parents to petition to improve failing schools in the 2010 legislation proves to be a barrier, lawmakers should consider broadening the law so that parents can have a greater role in charter school conversions.

A Shotgun Wedding

In all but a few select cases, charter school petitions are initially submitted for approval to school district school boards. California law mandates that districts approve charters that meet statutory requirements and are consistent with sound educational practices. Districts, in reviewing charter petitions, "shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged."⁷¹

California has more than 1,000 school districts, and potentially each of these districts could become a charter school authorizer. Currently a little more than a quarter of California's school districts, approximately 289 districts, have authorized at least one charter school.⁷² If a charter

is denied at the school board level, charter petitioners can appeal to the county office of education. There are 58 county offices of education in California and 31 of these have authorized at least one charter school.⁷³ If denied at the county level, petitioners can appeal to the State Board of Education.

The success of the best charter schools stems from the freedom of choice – parents and teachers choosing an alternative method of instruction and parents and students self-selecting to attend a charter school instead of a traditional public school. Participants in the charter school partnership have chosen to be a part of the school. Charter school founders and board members have actively chosen to establish a charter school and are committed to the school’s success. Teachers have chosen to work in the charter school and parents and students have chosen to attend the school.

One entity in the charter school partnership, however, does not necessarily choose to be a part of the process. That partner is the local school district and school board that must authorize the charter petition and provide oversight of the charter school’s progress. At one of the Commission’s advisory committee meetings, a participant likened the relationship between a charter school and the authorizing school board to a shotgun wedding.

When potential charter school founders submit a petition to the local district school board, they effectively are telling the district that they believe they can do a better job, implying to their potential authorizer that it is not adequately educating all students in the district.

Charter school operators repeatedly described the charter authorization and renewal challenges at the local school board level and what they saw as an inescapable conflict of interest. To quote their comments, having local districts authorize charter schools is like McDonald’s authorizing new locations for Burger King, Ford authorizing Toyota or Walmart authorizing Kmart.

Additionally, districts do not see charter approval and charter school oversight as part of their core mission and may not want to fulfill the role, although the charter school law requires that they must. Despite the reluctance of many districts to participate actively as an authorizer, they are equally reluctant to relinquish their authority in the charter approval and oversight process.

At the core of this strained relationship between charter schools and local districts, is money. Districts often view charter schools as threats to their bottom line, with charter schools siphoning students and average

daily attendance (ADA) money from traditional public schools. School districts struggling with budget shortfalls and declining enrollment often have the most contentious relationships with the charter schools they authorize and oversee. Some districts assert that charter schools draw the most talented students away from the traditional public school system, leaving behind a more challenging and expensive population for the districts to serve.

Potential and current charter school operators in some districts have indicated they have had to accept certain restrictions or costs from the district in order to get their charter approved or renewed, diminishing the freedom and autonomy that the charter process is supposed to provide.

Holding Authorizers Accountable

Numerous studies have focused on student outcomes at charter schools. Much less attention has been given to the authorizers that approve and oversee charter schools.

For charter schools to succeed, both the charter school operator and the authorizer have important roles. The charter school operator must run a successful school that fulfills the goals identified by the founders in the charter petition. The authorizer must ensure that this happens, by providing oversight, renewing the charter if the school achieves its goals and shutting down the school if it does not live up to its promise.

Providing a high-quality and rigorous assessment as part of the authorization process is a difficult and complex task. Effective authorizing and charter school oversight requires specialized expertise with dedicated staff. At the same time, it is hard to streamline charter review and oversight; the whole point of charter schools is that they propose and implement different and innovative approaches to serving difficult student populations. Effective authorizers must be able to distinguish a viable charter from an unviable charter while balancing opportunities for creativity and innovation.

Local districts accustomed to compliance-based accountability with traditional public schools can have difficulty successfully shifting to performance-based accountability required to effectively oversee charter schools, which do not have to comply with bureaucratic rules. Districts also must carefully balance effective oversight with charter school autonomy.

Even the Most Successful Schools Need Better Oversight

Inner City Education Foundation (ICEF) Public Schools has become a leader in California by closing the achievement gap and improving test scores, graduation rates and college acceptance rates for African American students in South Los Angeles. ICEF opened its first school, View Park Preparatory Accelerated Charter Elementary School, in 1999 and now operates 15 schools serving more than 4,600 elementary, middle and high school students in South Los Angeles. Although the organization is succeeding in its educational mission, it is struggling financially.

ICEF is focused on improving education within a 45-square mile area of academic blight in South Los Angeles, a group of neighborhoods formerly referred to as South Central and plagued by crime and poverty. Of the more than 5,000 students who enter a public school in ninth grade in this area, fewer than 1,900 graduate; fewer than 1,000 go on to college. Of those, only about 450 earn a college diploma. ICEF's vision is to transform South Los Angeles into a stable, economically vibrant community by providing students with first-rate educational opportunities and by annually producing 2,000 college graduates. ICEF hopes many of these college graduates will return to South Los Angeles to work, open businesses, to serve and to teach. ICEF hopes to inspire other schools, districts and the state to buck the trend by replicating its proven educational models.

The school is on track to fulfill its mission "to prepare all students to attend and compete at the top 100 colleges and universities in the nation." The first ICEF students graduated in 2007. Between 2007 and 2009, 100 percent of the ICEF graduates have been accepted to college, with 89 percent accepted to four-year universities. Even more impressive, 85 percent of those students are still enrolled in college.

Touring the View Park Preparatory Charter Middle School and High School campuses, the mission is obvious. The hallways and classrooms are decorated with banners from the nation's flagship universities. According to ICEF chief academic officer Melissa Kaplan, "every single decision goes back to how will it or will it not help our students succeed in college." The key to success at ICEF is similar to all high performing schools: setting high expectations and teaching a rigorous curriculum.

College preparedness and student acceptance to college are key measurable goals, but the ICEF schools also outperform traditional public schools on academic test scores. Test scores released in September 2010 revealed ICEF's African-American students are outperforming students in affluent districts including Beverly Hills and Santa Monica.

Although ICEF schools have served a predominately African-American population, similar to other public schools in South Los Angeles, the number of Latino students is growing. Approximately 85 percent of ICEF students are African-American and 13 percent are Latino. The majority of students come from local neighborhoods within South Los Angeles. Due to the schools' success, demand is high. When demand exceeds space, the schools conduct random lotteries for entrance as required by law.

Despite its exceptional educational track record, ICEF could have benefited from additional oversight. ICEF had an aggressive plan to open an additional 20 schools within South Los Angeles, for a total of 35 charter schools. Its rapid growth set it up for difficulties when the late 2010 state budget disrupted cash flow in an already tight budget. In October 2010, the organization faced insolvency that could have led to closure of the schools or, at a minimum, disbanding the schools from ICEF. Budgetary and administrative challenges like this are common for some charter schools, especially where operators may be talented and experienced educators, but not experienced administrators or fiscal experts. In ICEF's case, the schools were able to stay afloat through contributions from philanthropists who reacted quickly to donate millions while a longer term financing and school operational plan was developed. New leadership was brought in and austerity measures devised. Community leaders have rallied to keep the doors open for these exceptional schools, but much of the crisis may have been preventable. Better oversight is needed to prevent successful schools from approaching the brink of fiscal insolvency and to ensure that students are not forced to leave successful programs because of financial mismanagement.

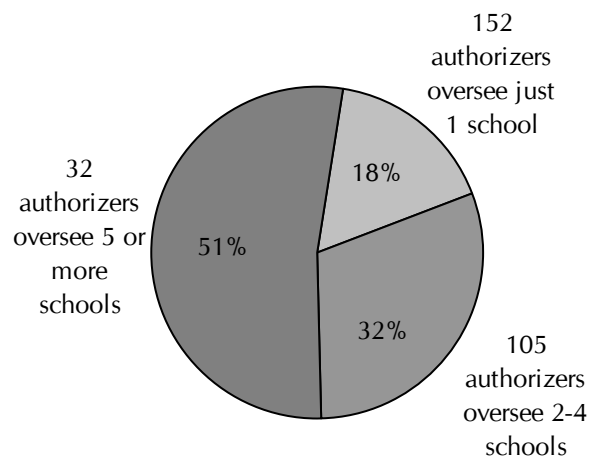
Sources: Little Hoover Commission site visit to View Park Preparatory Charter Middle Schools and View Park Preparatory Charter High School. March 15, 2010. Discussion and written materials. Also ICEF Web site. http://www.icefla.org/about_us/about.jsp. Accessed October 20, 2010.

The Commission was told that authorizing also is challenging because of the diversity in types of charter schools and school environments. There is a need for specialized talent in California and the state is not keeping up with demand for quality authorizers. School district staff members have said that authorizing charter schools is their toughest job and is different from what they do on a day-to-day basis. They said that staff turnover at the district level is high and charter school authorizing and oversight requires specialized training. At many districts, authorizers lack the tools and the resources to do an effective job.⁷⁴ Some districts simply lack the capacity to adequately assess charter petitions or provide effective oversight, in part because so many districts have just a few charter schools, making it difficult to develop and maintain staff trained in charter school petition review and oversight.

Currently, 32 authorizers (including the State Board of Education) provide oversight for approximately half of the state’s nearly 912 charter schools. The largest, the Los Angeles Unified School District, has 183 authorized charter schools. Other school districts with a significant number of charter schools include San Diego with 41 schools and Oakland with 31 schools.⁷⁵ Districts receive a portion of charter school ADA money to pay for oversight, ranging from 1 percent to 3 percent, so districts with many charter school students have a greater ability to dedicate staff to charter school oversight and authorization.

Small, rural districts or districts with few charter schools cannot benefit from these economies of scale and often lack the resources to be effective authorizers, or later, to provide adequate oversight of the schools they authorize. Approximately 150 school districts or county offices of education have authorized just one charter school; and another 105 have authorized, and provide oversight for four schools or fewer. These authorizers have less experience in charter school oversight and local costs likely are high because all of these authorizers essentially must construct an oversight system from scratch.⁷⁶

A Few Authorizers Oversee the Majority of California's Charter Schools



Source: California Department of Education. October 27, 2010. Public Schools Database.

Note: Numbers may vary slightly as the database files are uploaded daily and schools may have since opened or closed.

Public School Choice in LAUSD

The Los Angeles Unified School District (LAUSD) in 2009 took bold steps in acknowledging that its schools needed improvement and implemented reform efforts. Second in size only to the New York City Department of Education, the LAUSD serves nearly 679,000 students in grades K-12. Its 183 charter schools serve nearly 67,000 students, giving the district more charter schools and charter school students than any other district in California and more than in all but seven other states. The success of many of the district's charter schools has shown what can be done to improve test scores and high school graduation rates, particularly among minority students and economically disadvantaged students who have struggled academically.

Yet lessons learned from successful charter schools have not been widely replicated and many district schools are still failing. Frustrated by the persistent lack of progress, LAUSD School Board Vice President Yolie Flores proposed the Public School Choice Resolution. After two years on the board, Ms. Flores had a "growing frustration at the seemingly casual approach to what should be a 911 emergency response to our educational crisis in Los Angeles." With a 50 percent drop-out rate and just 30 percent of the district's third graders reading at grade level, Ms. Flores decided Los Angeles was overdue for something different.

In August 2009, the LAUSD Board of Education adopted Flores' Public School Choice Resolution, an initiative to allow independent entities, including charters schools, partnerships, non-profits and others to compete to operate new and poor-performing schools. The goal was for the district to provide a portfolio of schools to meet different student needs and interests. Initially, 250 schools were eligible for reform under the Public School Choice process – 50 new schools scheduled to open between 2010 and 2012 together with approximately 200 "focus" schools, existing schools that were targeted for program improvement.

Many had high hopes that the resolution would promote a sense of urgency and accelerate change, while at the same time engage parents and the community to hold schools accountable. Yet some groups, including United Teachers Los Angeles (UTLA), the largest local teacher union, opposed the resolution and took legal action to challenge the effort.

Implementation began in the fall of 2009. In the initial 30-campus round of the choice process, LAUSD received 84 proposals from independent groups, including teams of teachers working with the teachers union, charter school operators and other non-profit organizations, to operate 12 existing focus schools and 18 new schools.

The superintendent made a significant effort to gather input from the public. Application review teams assessed the proposals and made recommendations. Then, the superintendent made recommendations to the LAUSD Board of Education. The board ultimately approved proposals to operate 36 schools on the 30 campuses.

In February 2010, the board awarded 29 schools to local teacher-led groups supported by UTLA. Three schools were awarded to the Partnership for Los Angeles Schools, a collaborative effort between Los Angeles Mayor Antonio Villaraigosa and the district, and four to charter operators. Three of the largest charter school operators in Los Angeles – Green Dot Public Schools, Alliance for College-Ready Public Schools and Inner City Education Foundation – all with proven track records, were not awarded schools. Ms. Flores said she was disappointed, but not surprised by the outcome.

Successful applicants began school operations in the 2010-11 school year and will be monitored for progress. For the second round of the Public School Choice process, LAUSD Board of Education refined the criteria for focus schools, reducing the number of schools falling into that category. LAUSD received nearly 200 letters of intent to operate the district's nine new schools and eight existing focus schools. The Board of Education will vote on the applications in February 2011.

As the process continues, other districts will have the opportunity to assess progress and learn from Los Angeles. Asked whether this process could be replicated in other places, Ms. Flores responded, "Absolutely. Leadership and courage are the essential ingredients."

Sources: Fingertip Facts 2010-2011 and Charter Schools Directory 2010-2011. Los Angeles Unified School District. http://notebook.lausd.net/portal/page?_pageid=33,205130&_dad=ptl&_schema=PTL_EP. Also, Yolie Flores Aguilar. Written Testimony. February 25, 2010. Little Hoover Commission. Also, Howard Blume. February 24, 2010. "L.A. Teachers Gain Control of 22 Campuses in Reform Effort." *Los Angeles Times*.

The Association of California School Administrators (ACSA) has begun to take a more active role in providing technical assistance to districts on best practices in authorizing. A representative from the organization told the Commission that ACSA has identified charter leaders in its regions and has encouraged participation at regional events to continue and expand communication between traditional public school and charter school administrators.⁷⁷ Other non-profit organizations, including the Charter Schools Development Center and the California Charter Schools Association, also provide training, assistance and opportunities for charter operators and authorizers to share best practices.

Even when districts employ experienced and knowledgeable oversight staff, charter petitions and renewals still must go before the local school board, and board members do not necessarily follow staff recommendations when they deny, authorize or renew charters.

As a result, petitions replicating some of the best charter school models are denied at the local level. Simultaneously, poor performing schools do not get shut down because of the political pressure that parents and students put on school board members to keep the schools open, a case more easily made when all other district school choices provide similarly poor academic performance in less-safe environments.

Despite these shortcomings of the role of local districts as authorizers, several witnesses and advisory committee participants stressed the importance of local knowledge and accountability in charter school authorization. School boards are locally elected officials – not only are they held accountable by the people in the community as local officials, but they potentially have a better understanding of local community dynamics than members of the State Board. Yet, school boards frequently are influenced by local politics and often powerful local unions and this plays out both when valid charters are denied and high-performing charter schools are denied renewals and when consistently poor-performing schools are not shut down.

During the course of this study, charter school petitioners and operators told the Commission about incidences when valid new charters were rejected and existing high-performing charter schools were denied renewal. At one of the Commission’s advisory committee meetings, a participant described a situation where a charter school with high API scores was denied renewal by its local school board because of political issues. According to the meeting participant, this school had to fight for its existence without recourse at the local level, which he said illustrated that the current system is broken. “There is no pain or suffering to a district that doesn’t follow the law. Part of the solution might be to hold authorizers responsible.”⁷⁸

Minnesota, the first state in the nation to embrace charter schools, recently enacted legislation that requires a state evaluation and approval of authorizers every five years. The new law also called for three new single purpose authorizers, a new category of charter school authorizer whose sole mission is charter schools. The new law also provides increased funding for the authorizers.⁷⁹

The National Alliance for Public Charter Schools in 2009 published a model for state charter school laws and specifically addressed the need for improving authorizer accountability. The model states that “all authorizers must affirm interest to become an authorizer ... and participate in an authorizer reporting program based on objective data, as overseen by some state-level entity with the power to remedy.”⁸⁰

State Board as the Default Authorizer

The number of appeals reaching the State Board of Education – for initially establishing charter schools and for schools that have been denied renewal at the local level – has increased steadily. As of November 2010, 83 charter petition appeals had been submitted to the California Department of Education for State Board review since the appellate process was established in 1998.

The former executive director of the State Board said that about one-third of the board’s time is spent on activities related to charter schools, a disproportionate amount given that charter school students represent only about 5 percent of public school enrollment. This division of time is significant given the State Board’s overall charge to set K-12 education

policy in the areas of standards, instructional materials, assessment and accountability; adopt regulations to implement legislation; and, grant waivers of the Education Code, among other duties. On one day of the board’s multi-day July 2010 meeting, the board was reviewing charter appeals as late as 9 p.m. after a daylong agenda on broader education policy issues.

As default authorizer, the State Board is second only to the Los Angeles Unified School District school board in the number of charter schools it has under its authority. As of November 2010, the State Board had approved 29 charter school petitions denied at the local level.

Charter Schools Currently Operating Under Authorization by the State Board of Education

Approved on appeal of local denial	15
Under one of 3 statewide benefit charters	11
Renewed on appeal of local denial	5
Eight all-charter districts under joint authorization of the SBE and the State Superintendent of Public Instruction	18
<i>Total Number of Charter Schools</i>	49

Source: State Board of Education. September 14-16, 2010. Meeting Agenda. Item 7. <http://www.cde.ca.gov/be/ag/ag/yr10/documents/sep10item07.doc>. Also, at the September 2010 meeting, the State Board of Education authorized one more charter school.

Of these, 20 schools are still overseen by the State Board. Another 18 schools run by all-charter districts operate under the joint authorization of the State Board and the Superintendent of Public Instruction. Additionally, the State Board authorized and oversees three statewide benefit charter schools which have 11 schools statewide.⁸¹

Statewide Benefit Charter Controversy

In 2002, lawmakers added the option for the statewide benefit charter, which allows a charter school operator to submit a charter petition directly to the State Board for the operation of a state charter school that may operate at multiple sites throughout the state. As of 2006, the State Board has granted statewide benefit charters to three organizations: High Tech High in 2006, Aspire Public Schools in 2007 and Pacific Technology School in 2009.

The board's implementation of statewide benefit charters has been controversial from the start. At the heart of the controversy is the board's interpretation of the law governing statewide benefit charters. According to the law, the State Board cannot approve a statewide charter unless it first makes a finding that "the proposed state charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county."⁸²

After granting a statewide benefit charter to Aspire Public Schools, a charter management organization that at the time operated 17 California charter schools authorized by seven districts, the California School Boards Association, the Association of California School Administrators, the California Teachers Association and the Stockton Unified School District sued the State Board, alleging, among other things, that the board had improperly interpreted the law as the educational program offered by Aspire was not so unique that it could not be provided by a charter school operating in only one district. The trial court upheld the State Board and Aspire's position. In July 2010, an appeals court reversed the trial court ruling. The plaintiffs in the case also alleged that the State Board did not enforce requirements of a memorandum of understanding that laid out certain conditions for expansion of Aspire charter schools under the statewide benefit charter. The appellate court also agreed with the plaintiffs on this point.⁸³ The State Board has filed a petition for a California Supreme Court review of this ruling and expects to have an answer on whether the Supreme Court will accept the petition in December 2010.⁸⁴

The case exposes some of the challenges inherent with having the State Board so heavily involved in charter school authorization, both in the

weakness of its interpretation of charter school education code relating to statewide benefit charters and its lax oversight in enforcing a memorandum of understanding with a charter school organization.

Role in Revocations

In addition to its role in authorizing charter schools, in certain circumstances, the State Board also has the authority, upon the recommendation of the Superintendent of Public Instruction, to revoke any charter for poor academic performance, but so far has not used this authority, except in revoking a charter it had authorized through the appellate process. The Superintendent of Public Instruction has never recommended the board revoke a charter school for poor academic performance and until 2010, regulations for this type of revocation had not been developed.⁸⁵

The State Board spent considerable time in 2010 developing regulations for revocations of academically low-performing charter schools. At its November 2010 meeting, it adopted regulations that would require the California Department of Education to identify all charter schools that have been in operation for five years or more and fail to meet certain performance rates to have their charters reviewed by the State Board. The new regulations do not preclude the State Board or the superintendent to take action on other low-performing schools. These charter schools, identified annually by the Department of Education, would have the opportunity to discuss their performance at a public hearing before the State Board and the board would have the option of imposing corrective actions that each school must take to remain open or revoke the charter.⁸⁶ An estimated 20 or fewer charter schools would be affected by this process. Though it seems like a small and logical step for the board to review these low-performing schools, it has taken the board nearly a year to develop these regulations and many agree the regulations set a low bar for requiring a review, which may or may not lead to revocation.

Strained Capacity

Although the charter school workload continues to grow for the State Board, resources to support the board's work have not increased. As the second-largest charter school authorizer in the state, the State Board lacks the capacity to provide effective oversight for its growing stable of charter schools while simultaneously setting statewide education policy, its broader and more significant role.

The board's 11 members serve as volunteers and are supported by a staff of nine authorized positions. Despite the growing workload from charter school petitioners, the State Board's budget and authorized staff positions have remained relatively flat over the past decade after its professional staff grew from one to eight in the early 1990s as a result of litigation that clarified the State Board's education policy-making authority. Turnover of staff has been high, with 13 executive directors leading the board since 1999.⁸⁷

Some stakeholders at the Commission's advisory committee meeting said that, given only 83 charter petition appeals have been submitted to the California Department of Education since lawmakers enacted the appellate process in 1998, the current charter authorizing structure is working. Yet, more than half of the 20 schools authorized after appeal to the board and overseen by the board were authorized in 2009 and 2010, and all 11 of the schools authorized as statewide benefit charters have been authorized since 2007, indicating the number of charter petitions coming before the board has grown significantly in the past few years.⁸⁸

Many charter school petitioners or school operators whose charters are rejected or not renewed at the local level do not appeal to the State Board, as it can be a complicated and expensive process. Until local districts follow the intent of the charter school law by authorizing viable charter petitions, the need for the appellate process remains and may continue to grow as local districts grapple with shrinking enrollment and budgets. A recent example was the appeal of the charter petition for the Mission Preparatory School to the State Board in September 2010. The petition, denied by the Board of Education of the City and County of San Francisco, met the charter petition requirements of state law and was, in the words of one State Board member, an exemplary charter petition.⁸⁹

Advisory Commission on Charter Schools

The State Board of Education established an Advisory Commission on Charter Schools, in part to assist the board with the growing number of charter petition appeals. Petitioners that choose to appeal to the board, first appear before the advisory commission, which holds hearings on the petitions and makes recommendations to the board.

Legislation enacted in 2001 required that the State Board, among other things, appoint an advisory committee to recommend specific criteria for funding non-classroom-based charter schools. The law stated the advisory committee shall include, but is not limited to, representatives from school districts superintendents, charter schools, teachers, parents, members of the governing boards of school districts, county

superintendents of schools and the Superintendent of Public Instruction.⁹⁰

The advisory commission includes eight members appointed by the State Board and one member appointed by and representing the Superintendent of Public Instruction. Advisory commission members receive no salary, though are reimbursed for travel expenses incurred on commission business. The advisory commission typically meets bi-monthly for a daylong meeting, but can hold as many meetings as it deems necessary.

In addition to fulfilling the statutory requirement to advise the board on establishing appropriate funding levels for non-classroom-based charter schools, the State Board charged the commission with advising it on other aspects of the board duties related to charter schools. Specifically, the State Board charged the commission with advising it in its duties to grant charters and take appropriate action, including, but not limited to, revocation of charters.

During its bi-monthly meeting, the advisory commission may hold hearings on charter school petitions either denied or not renewed. After reviewing materials provided by the charter school petitioners or operators and summaries provided by the Department of Education staff, the commission hears from various witnesses, typically representatives from local school districts and county offices of education and charter school officials. Teachers, parents and students also have an opportunity to voice their support or opposition.

After hearing testimony, the advisory commission votes on whether to recommend the board approve, renew or deny a charter. The commission's vote is advisory only and the hearing process is repeated at a later date before the State Board. Unlike the advisory commission's vote, the State Board's vote is binding.

California Department of Education Charter Schools Division

The California Department of Education's Charter Schools Division provides staff support for the advisory commission. Staff in this division review locally denied charter petitions and renewals and make recommendations to both the Charter School Advisory Commission and directly to the State Board. According to a former director of the Charter Schools Division, more petitions are vetted by CDE staff than are sent on to the board for review, and without this screening, even more board time would be spent on charter schools. In addition to reviewing charter

petitions, the Charter Schools Division staff oversee state charter school facilities grant and loan programs and manage federal charter school grant programs.

Like the State Board staff, the CDE Charter Schools Division also has experienced significant staff turnover, with three directors serving in the past five years. Appointed by the Superintendent of Public Instruction, the director represents the superintendent on the Charter School Advisory Commission.

California's charter school authorizing model is structurally more functional than other states that only allow local entities the authority to approve charters. Its capacity is becoming strained as a result of the appellate process, and the challenges at the local level, and as a result the State Board has become one of the largest charter school authorizers in the country. In this, however, California can learn from other states that allow multiple charter school authorizer alternatives.

Models from Other States

Individual state laws determine which types of entities may serve as charter school authorizers. As of January 2010 the National Association of Charter School Authorizers (NACSA) identified 872 charter school authorizers. Of these, 776 are local education agencies, including school districts, county and regional agencies; 47 are institutions of higher education; 20 are state education agencies; 20 are not-for-profit organizations; seven are independent chartering boards and two are mayors or municipal offices.⁹¹ A summary chart of authorizers in other states is included in Appendix D.

Experts suggest that there is no one perfect charter school authorizer model given the disparate requirements of various state charter school laws. There is agreement, however, that the best authorizers are those that actually have a clear desire to be an authorizer.⁹²

Independent Authorizing Boards

Although local school boards are the predominant group of authorizers nationwide, many states have various combinations of authorizers. Independent authorizing boards have become increasingly popular in recent years. Seven states and the District of Columbia have special-purpose public charter school boards. Although these boards vary in size and composition, the National Alliance for Public Charter Schools has suggested states considering establishing a state-level independent charter school authorizer adhere to the following general principles:⁹³

- The commission should have an odd number of members, typically seven or nine.
- Members should be appointed for staggered terms by multiple state government leaders either responsible for or having an interest in the success of K-12 education, including the governor, legislative leadership, the state board of education and the state superintendent of public instruction.
- Membership should be bi-partisan.
- Membership should include breadth of experience and expertise well-suited to the commission's work.
- Membership should reflect the geographic concentrations of populations and likely concentrations of chartering activity throughout the state.

Colorado established the Colorado Charter School Institute, a semi-independent agency within the Colorado Department of Education that can authorize charters only in school districts that have not been granted exclusive chartering authority by the state. In Georgia, charter petitions can be authorized by either local school boards or a state-level charter schools commission. South Carolina created a statewide South Carolina Public Charter School District, managed by an 11-member board of trustees. Charter school petitioners can submit a charter petition to either the local school district or the statewide school district.⁹⁴

In establishing an independent board, legislation needs to address various education provisions of the state constitution. In Colorado, lawmakers were able to craft a statewide authorizer law that met provisions of the state's constitution requiring local control of public schools. By contrast, in Florida, which had established the Florida Schools of Excellence Commission to approve schools in districts not granted exclusive chartering authority, the Florida Supreme Court ruled the board was inconsistent with local control established in Florida's constitution.⁹⁵

State Education Agency or Board of Education

Like California, 21 other states allow state-level education agencies or boards of education to authorize and oversee charter schools. As with all charter authorization models, the role of these organizations varies from state to state. In some cases, the board or education agency has an appellate role, similar to California's. In five states, Arkansas, Hawaii, Massachusetts, New Jersey and Rhode Island, the state education agency or board is the only entity allowed to authorize charter schools. The advantages to having a state education agency or board of education

as a charter school authorizer include educational knowledge and statewide authority. Potential disadvantages include a lack of local knowledge and local accountability, difficulty focusing dedicated expertise on charter schools and a history of measuring compliance as opposed to performance.⁹⁶

Higher Education Institutions

Ten states allow higher education institutions to authorize charter schools.⁹⁷ In 1996, the Commission recommended that California allow higher education institutions to authorize charter schools. At the time of the Commission's study, the current appellate process was not as an option for charter petitioners. Legislation enacted in 1998 eliminated what previously was a cumbersome and rarely successful appeals process and also granted the State Board the authority to authorize charter schools.⁹⁸

Charter school advocates suggest that many higher education institutions already partner with charter schools and thus might be suited to the role of authorizer. Additionally, they say that the California State University system is engaged in K-12 education as the state's primary educator of teachers. Likewise, some suggest that community colleges should serve as authorizers because they have a vested interest in ensuring that K-12 students receive adequate preparation. Many community colleges already partner with high schools, including charter high schools, to offer community college coursework to high school students.

In New York, the State University of New York (SUNY) has the authority to authorize charter schools along with the New York equivalent of California's State Board of Education. SUNY has established a national reputation as a tough but fair authorizer, because it holds its charter schools to a high level of accountability and is willing to close down poor-performing charter schools. As a result, many of the charter schools in New York are highly successful. The New York model for authorization, however, may not work in California. Until expanding its cap to 460 schools in 2010, New York had a cap of 200 charter schools. The comparably small number of schools in New York makes it difficult to assess this model's suitability for California, which adds some 80 new charter schools every year.

Most important, representatives from California's college systems have told the Commission that they are not equipped to effectively authorize or oversee K-12 charter schools. Charter school authorizing goes beyond the mission of the colleges and with recent budget cuts, each system already is struggling to fulfill its core mission of educating college

students. SUNY established a separate Charter Schools Institute to administer its authorizing functions and make recommendations on charter petition approval and renewals to the SUNY Board of Trustees.⁹⁹

Representatives from California's public colleges also told the Commission that authorizing charter schools could result in a conflict of interest and they envisioned issues arising if a college rejected a charter from petitioners in an area from which it was trying to recruit students. This could present a political disincentive to close schools. Finally, if California's college system leaders are opposed to authorizing charter schools, they would not meet the most critical condition for being a high-quality authorizer – that the organization both desires and chooses to be a charter school authorizer.

Not-For-Profit Authorizers

Two states, Minnesota and Ohio, allow not-for-profit organizations to authorize charter schools. Minnesota, with the longest experience with non-profit chartering organizations, requires non-profit organizations interested in authorizing charter schools to have a minimum of \$2 million in assets, a bar that prevents smaller, less-established non-profits from becoming charter authorizers. Non-profit organizations that sponsor charter schools in Minnesota often provide related services including after-school care, mentoring, tutoring and parent education programs. In 2009, the Minnesota Legislature enacted measures to improve accountability of its authorizers, requiring the state to authorize the authorizers every five years. The recent law also allows the creation of up to three statewide entities solely dedicated to authorizing and overseeing charter schools. One downside of having non-profits authorize charter schools is the lack of public accountability. Unlike a locally elected school board, non-profits do not have direct accountability to the taxpayers that support their mission.¹⁰⁰

Mayors and Municipalities

Two states, Indiana and Wisconsin, allow the office of the mayor or a city council to authorize charter schools. Although this concept is fairly limited nationally, the work of the Indianapolis mayor in promoting successful charter schools has been recognized as a successful model. Challenges with this model include the lack of educational experience and sustainability of best practices given the uncertainty of political turnover and potentially shifting priorities. Both Indiana and Wisconsin also allow local districts and higher education institutions to authorize charter schools.¹⁰¹

Expanding Authorizer Options in California

Clearly, there are opportunities for improving California's charter school authorization process. Although local charter school authorization is working effectively in some locations, the current structure is not working statewide. Local districts and school boards that are either not capable or not interested in authorizing charter schools should not be forced into becoming authorizers.

In the best-case scenarios, school boards and districts value the contribution of charter school operators, work in concert with the charter schools in the district, provide adequate and effective oversight and encourage knowledge of best practices from charter innovations transfers throughout the public school system.

The Oakland Unified School District Office of Charter Schools has included in its mission statement that it will "act as a vehicle by which charter school lessons have a positive impact on the entire public school system."¹⁰² It established a work group to exchange information on early college education and has served as a conduit connecting individual charter schools and traditional public schools in sharing information.

In large urban districts, the quantity of charter schools has provided an impetus for the district to develop experienced and dedicated staff to review charters and provide oversight. Districts that have both the desire and the capacity to authorize charter schools and provide effective oversight, should continue to do so.

Some, however, believe the state should eliminate the appellate process. Unfortunately, regardless of size, there are still many districts with attitudes that range from reluctant to openly hostile toward charter school authorization. The state's existing appellate process provides an important check for local districts that deny valid charters or deny charter renewals without warrant, although the demand threatens to outstrip the capacity.

Others say that eliminating the appellate process would severely constrain the expansion of charter schools. Recent legislation (AB 2320, Swanson) sponsored by the California Teachers Association would have eliminated the ability of a charter school to appeal to the State Board once it had been denied by local and county boards. AB 2320 was passed by the Assembly in June 2010, but failed to pass in the Senate Education Committee.

Knowledge Transfer in Oakland Unified School District

As laboratories for educational innovations, policy-makers originally intended a rich exchange of knowledge between charter schools and traditional public schools to elevate student achievement throughout the public school system. In practice, however, school districts that should be encouraging and fostering this type of information exchange often have acrimonious relationships with the charter schools they authorize.

The Oakland Unified School District, with help from a creative leader in its Office of Charter Schools, is an encouraging exception. Approximately 18 percent of Oakland's 45,000 students attend a charter school, one of the highest percentages in the nation, and higher than any other large urban school district in California. Currently, 31 charter schools are operating in Oakland, many of which were authorized during a period when the state, rather than the district's school board, had authority. The schools vary widely by type, size and focus.

The history of the state's takeover of control of Oakland's charter schools still looms. One district official told the Commission that "charter schools are still considered fighting words." In an advisory committee meeting, one school board member made it clear that the charter schools were viewed much differently, as outsiders, compared to traditional district schools. Oakland is making efforts, however, to change this environment by using charter schools as vehicles to improve all schools – a key tenet of California's Charter Schools Act of 1992.

The Office of Charter Schools has made knowledge transfer a part of its mission to serve as a quality authorizer and "to act as a vehicle by which charter schools lessons can have a positive impact on the entire public school system." The district uses the charter school renewal process as an opportunity to examine a school's efforts and identify opportunities to find best practices. With the support of foundation funding, Oakland has supported knowledge transfer within its district by:

- 1) ***Building an inquiry-based coalition*** to improve early college programs in Oakland high schools. The Office of Charter Schools created a forum to foster a dialogue between traditional and charter high schools, which resulted in a field guide and improved relations among Oakland high schools.
- 2) ***Fostering "matchmaking" partnerships*** within the district by identifying needs and strengths of schools and matching traditional public schools and charter schools to provide learning opportunities. In one example, the district partnered the East Oakland School of the Arts, a traditional public school attempting to focus on the arts, with the Oakland School of Arts Charter School, which has an eight-year history as an arts school.
- 3) ***Establishing a multi-year professional learning collaborative*** between a charter school known for its strong literacy programs and a traditional public school to develop a literacy practice program. Staff from the Aspire elementary charter school trained and mentored teachers from the traditional school on their successful literacy program.

Some of Oakland's successes are attributed to the personal leadership strategies and relationships of individuals within the Office of Charter Schools, a difficult model to replicate. The Commission heard a number of reasons why more districts are not transferring knowledge:

- Often, the conversation around knowledge transfer is framed as "public vs. charter" schools, but this perpetuates an "us vs. them" mentality that is a barrier to collaboration.
- Sometimes issues of oversight and authorization conflict with knowledge transfer –a charter school may be reluctant to discuss challenges with its authorizing district when airing these problems could eventually be used as a judgment during the charter's renewal period.
- Some districts are hesitant to highlight charter school success.
- The local school board is the best place to create relationships, but the ability to collaborate weakens when the agency responsible for charter authorization is not the local district.
- The state awards a limited amount of federal grant money to charter schools for knowledge transfer. Some individuals suggested a foundation might be better positioned to facilitate a neutral forum for exchanging best practices.

Sources: National Alliance for Public Charter Schools. 2009 "Public Charter School Dashboard." Also, David Montes de Oca, Coordinator, Office of Charter Schools, Oakland Unified School District. Little Hoover Commission advisory committee meeting. May 4, 2010. Oakland, California. Also, Office of Charter Schools, Oakland Unified School District. Web site accessed April 28, 2010. <http://www.ousdcharters.net-partnership-around-literacy-strategies.html>.

Summary

Ideally, local schools districts and county offices of education would authorize all valid charter petitions and provide effective local oversight of charter schools. The reality that the State Board of Education is one of the largest charter school authorizers in the state underscores the need for further refining the state's charter school laws. As a result, in this study, the Commission reiterates the conclusion that it came to in its 1996 report, that California needs alternative charter school authorizers. In 1996, the Commission recommended that the Governor and the Legislature enact legislation authorizing the State Board of Education, county offices of education and higher education institutions to sponsor charter schools. In 1998, lawmakers created the appellate process that allows the county offices of education and the State Board to authorize charter schools that have been denied by local school boards.¹⁰³

In 2002, lawmakers added the option for the statewide benefit charter, although a July 2010 court ruling found that the State Board had incorrectly interpreted the legislative intent of the education code that added the statewide benefit option. The State Board has filed a petition to appeal the 2010 ruling. The 2010 ruling creates uncertainty whether this option will be available going forward and to what extent it will be a viable option. At a minimum, it will limit the types of charter schools that qualify as statewide benefit charters. Until local school boards consistently follow the intent of the state charter school law, however, the appeals process will only continue to grow, demanding even more time from the State Board.

During the past decade, legislative changes removed some of the artificial barriers that previously limited flexibility for charter schools and reduced opportunities for charter school replication and expansion. Despite these changes, in a 2004 study, the Legislative Analyst's Office also concluded that the state needed to expand its charter school authorizing options. The Legislative Analyst's Office recommended the Legislature modify existing charter school law to allow multiple types of organizations to authorize charter schools, including the State Board of Education, schools districts, county offices of education, accredited colleges and universities and non-profit organizations that meet certain qualifying criteria.¹⁰⁴

Given the ever-increasing role of the State Board in charter authorization and oversight that has evolved as a result of the appellate process, lawmakers should further refine the state's charter school laws to add more options for alternative authorization. A state-level charter

authorizing board could assume many or all of the duties of the Advisory Commission on Charter Schools, but unlike the advisory commission, should be granted the authority to authorize and renew charter school petitions. As the role of and the need for the advisory commission shrinks, policy-makers should amend the statute requiring the creation of the advisory commission to establish funding levels for non-classroom-based charter schools to a new state-level charter authorizing board.

An alternative authorizer at the state level would provide local districts that do not have the capacity or do not want the responsibility of authorizing or overseeing charter schools to opt out of the authorizing role, eliminating the forced relationship that currently exists. Charter school petitioners facing school boards hostile to charter schools would have another option for approval beyond the current appellate process. This could take some of the pressure off of the State Board by potentially reducing the number of charter petition appeals and allowing it to better focus on its broader education mission. An alternative authorization option would provide an impetus for local boards to follow the intent of the charter school law.

The State Board should continue to play an important role in the charter school system by ensuring the viability of districts and county offices of education as charter authorizers. The State Board should be given the authority to grant and revoke districts and county offices that meet clearly established criteria exclusive charter approval authority. Criteria would include a local entity's effectiveness in approving valid charters and willingness to renew existing charter schools that meet established performance criteria, as well as the willingness to shut down charter schools that fail to meet goals set in the charter petitions as well as established state benchmarks.

Recommendation 1: California should establish the California Board of Charter Schools as an independent entity within the California Department of Education, to directly authorize charter petitions and to oversee charter schools.

- The board should include an odd number of members with staggered appointments; members should be appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly; members should have knowledge and experience with effective charter school authorization and oversight and should include, but not be limited to, people with experience as school superintendents, charter school administrators, teachers, parents and school governing boards. The board shall be bipartisan with no more than half the appointed members plus one registered as members of the same political party. The Superintendent of Public Instruction or his or her designee

should serve on the board. A member of the State Board of Education should serve as an ex-officio member.

- ❑ Charter school-specific functions currently performed by the State Board of Education should shift to the new California Board of Charter Schools. Existing staff positions in the California Department of Education's Charter Schools Division and the funding that supports charter school oversight activities and the Advisory Commission on Charter Schools gradually should be shifted to support the new California Board of Charter Schools.
- ❑ As the number of appeals to the State Board of Education is reduced, so will be the workload of the Advisory Commission on Charter Schools, potentially eliminating the need for this commission. The Legislature and the Governor should enact legislation that would shift the role of recommending criteria to establish appropriate funding levels for non-classroom based charter schools from an advisory commission established by the State Board of Education to the new California Board of Charter Schools, further reducing the need for the advisory commission.
- ❑ As the primary goal of establishing an independent state-level board should be to encourage improvement in charter school authorization at the local level, the board should not automatically become a permanent state government entity. The California Board of Charter Schools should face a sunset review in 10 years.
- ❑ The California Board of Charter Schools should provide technical assistance on best practices on charter school authorization and oversight to districts and county offices of education.
- ❑ The State Board of Education should retain its current appellate authority for approving charter petitions and renewals denied at the district or county level and also have the authority to approve charter petitions and renewals that are denied by the California Board of Charter Schools. The State Board of Education should retain its current authority to revoke charters.

Recommendation 2: To improve accountability and oversight capacity of charter school authorizers, the State Board of Education should be given the authority to oversee charter school authorizers. Specifically, the State Board of Education should be given the authority to:

- ❑ Allow school districts to opt out of the role of charter school authorization and oversight and turn over that responsibility to the new California Board of Charter Schools.
- ❑ Grant exclusive chartering authority to certain qualified local school districts. To qualify, local school districts must approve charter petitions that meet state criteria, approve renewals for successful charter schools that have met the state’s renewal criteria and must not renew charter schools that have not met the state’s renewal criteria. The California Board of Charter Schools should establish other performance criteria to qualify as exclusive charter authorizers based on national best practices.
- ❑ Revoke local district charter authorizing and oversight powers, when local districts fail to authorize charters that meet state criteria as required by current state law, fail to renew charter schools that meet state renewal criteria or fail to close charter schools that do not meet state renewal criteria.
 - ✓ Potential charter school operators or existing charter school operators in districts that have opted out or in districts that have had charter authorizing powers revoked would be authorized and overseen by the California Board of Charter Schools.
 - ✓ Potential charter school operators should have the option of petitioning either the California Board of Charter Schools or the local school district in which the charter school will be located for charter authorization and oversight, unless the district has been granted exclusive chartering authority by the State Board of Education.

Improving Accountability

The underlying premise of California's 1992 Charter Schools Act was that teachers, parents and school administrators would be given the opportunity to establish charter schools, free from the bureaucratic red tape of the state's education code in exchange for increased accountability for student outcomes.

Independent assessments of charter school outcomes have shown mixed results. A June 2009 Stanford University Center for Research on Education Outcomes (CREDO) study on charter school outcomes assessed data from 15 states and the District of Columbia, and covered approximately 70 percent of all charter school students enrolled nationwide. This study analyzed academic achievement based on reading and math tests and included a nationwide analysis of charter schools, a state-by-state analysis of charter school test results and a comparison of the performance of charter schools against local traditional public school test results. The research found wide variations between states:

The study reveals that a decent fraction of charter schools, 17 percent, provide superior education opportunities for their students. Nearly half of the charter schools nationwide have results that are no different from the local public school options and over a third, 37 percent, deliver learning results that are significantly worse than their students would have realized had they remained in traditional public schools.¹⁰⁵

The CREDO study found that overall, California charter school students scored marginally better on reading tests and marginally worse on math tests than their counterparts in traditional public schools. The student test results were tracked for three years and, when further analyzed, revealed that new charter school students had an initial loss of learning in both reading and math. In subsequent years, charter school students had greater gains in reading skills than traditional public school students, but had comparable math test results.

The California Charter Schools Association also has done several assessments of charter schools in California. Within certain districts, including Los Angeles and Oakland, the association has found that charter school students outperform comparable traditional public school

students, particularly at the middle and high school levels.¹⁰⁶ Statewide, the association has found an unusually high number of charter schools, more than 20 percent, ranked 90 percent or higher on the predicted Academic Performance Index (API). The association also found an unusually high number of charter schools, more than 19 percent, ranked in the bottom 10 percent on the predicted API.¹⁰⁷

Most agree that more needs to be done with these low-performing schools, either through measures that help them improve or by closing them down.

From the Bottom to the Top: Oakland Charter Academy

Oakland Charter Academy opened its doors in 1993 as the city's first charter school. Originally, the school was designed to provide a safe haven for its students, many of whom were from tough neighborhoods; the school did little to improve the educational outcomes of its students. As recently as March 2004, only one in 10 students earned "proficient" scores on the state's standardized English and math tests. The school turned around when Jorge Lopez, a former self-described "straight-F" student, later a State Board of Education member, took over the school. Under Lopez, the school shifted from a bilingual and cultural curriculum to focus on fundamentals – English, math and science. The new expectation was, and is, for students not simply to be safe, but to work hard, be held accountable for their actions and succeed.

Oakland Charter Academy (OCA) serves 150 students in sixth through eighth grades. The student body is predominantly Latino. Nearly a quarter are English learners; most come from socio-economically disadvantaged families. During the 2008-09 school year, OCA scored 943 on the Academic Performance Index; 80 percent or more of students scored "proficient" and above on California standards tests in English, math, science and history/social science. School staff attributes the school's performance to committed teachers and strict rules. Teachers stay with their class cohort as they progress from sixth to eighth grade, which allows teachers to get to better know each student and their needs. Parents are encouraged to get involved in the school whether through participating in the OCA Governance Board as well as through parent informational meetings or volunteer opportunities. OCA is one of just three Oakland schools to receive a national Blue Ribbon Award from the U.S. Department of Education for excellence.

In 2007, Oakland Charter Academy expanded, opening the Oakland Charter High School to serve students from ninth grade through twelfth, with the goal of providing a strong academic foundation to help prepare traditionally underserved students for college. The new school is off to a strong start, with an API score of 961 and a rank of 10. The great majority of its students have performed well on state standardized tests: 96 percent scoring proficient and above in English; 89 percent in math and 97 percent in science in the 2008-09 school year. The school relies heavily on teachers who are committed to helping all students achieve, and uses non-traditional methods to recruit teachers and staff. The school focuses on hiring individuals for their skills and a "no excuses" attitude, rather than classroom experience. During the Commission's visit to the school in May 2010, one teacher, a graduate of the Massachusetts Institute of Technology, explained that the school was helping him to earn his teaching credential while he worked in the classroom. The school's primary teacher recruitment is through ads posted on Craigslist, an Internet-based classified advertising site, which asks potential recruits: "Are you intelligent, competitive, and a go-getter?"

Like many charter schools, Oakland Charter Academy had challenges finding suitable facilities. The Oakland Charter Academy turned a former furniture store into a functioning school. The school is in the process of negotiating its lease and is concerned that the school may need to relocate. The high school, after relocating in June 2009 to a facility that was formerly a different charter school, is more secure.

Sources: Little Hoover Commission. May 4, 2010. Oakland, CA. Site visit to Oakland Charter Academy. Also, Jonathan Kaminsky. December 13, 2006. "The Method of King Jorge." *East Bay Express*. Also, Oakland Charter Academy. School Accountability Report Card: Reported for School Year 2008-09. <http://www.oaklandcharter.net/SARC08-09.pdf>. Also, Oakland Charter High School. School Accountability Report Card for School Year 2008-09. <http://oaklandcharter.net/SARC0809.pdf>.

Charter school authorizers are supposed to play a key role in ensuring that charter schools meet performance expectations. As previously described, charter school authorizers have the authority to revoke a charter or to deny the renewal of a charter school that does not meet the expectations set out in the charter or that fails to meet minimum performance criteria established in state law.

Charter school accountability begins with an authorizer's appropriate assessment of the charter petition and continues with ongoing monitoring and oversight. Through the charter petition, potential school founders not only describe the educational program of the school, but also must provide a comprehensive description of student outcomes and the method that will be used to measure those outcomes as well as other elements required by statute. If a charter is approved, the elements identified in the petition become the performance criteria for measuring the progress of the charter school. California is fairly unique in that the charter petition written and submitted by a charter school becomes the performance agreement between the school and the authorizer.

Performance Contracts

In most other states, charter schools and their authorizers differentiate between charter petitions and performance contracts. A charter petition is the proposal written by a charter school operator, for review and approval by an authorizer, describing the educational outcomes a school hopes to achieve in return for being allowed to function using public money. After an authorizer approves a petition, the authorizer and the charter school negotiate and enter into a binding performance contract.

The contract can establish how the two will work together and describe the rights and responsibilities of each, such as when and how to evaluate academic progress, facility use, administrative services, costs and other issues that fall outside of the charter application. Performance contracts can be used to qualify the terms of the arrangement, establish processes for renewing a charter contract and describe the circumstances that would result in a review of a school's performance.¹⁰⁸

In testimony to the Commission, Greg Richmond, president and chief executive officer of the National Association of Charter School Authorizers, said that more than 90 percent of the nation's largest authorizers enter into contracts with their charter schools – and that this is the norm across the nation. The National Association of Charter School Authorizers 2009 report, *Principles and Standards for Quality Authorizers*, identified use of performance contracts as one of the core functions of a quality authorizer.

“A quality authorizer negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences and other material terms.”¹⁰⁹

The National Alliance for Public Charter Schools agrees: the Alliance’s model law for supporting the growth of high-quality charter schools argues that performance-based charter contracts are essential to driving better outcomes.¹¹⁰

In making the case for performance contracts, Mr. Richmond told the Commission, “[charter] applications are written by only one of the two parties to the arrangement and under no stretch of the imagination do they attempt to fully articulate each party’s rights and responsibilities. I am aware of no other agencies, organizations or individuals in the public or private sector that enter into multi-year, multi-million-dollar arrangements for services without a contract.”¹¹¹

A performance contract can serve as a tool to hold both the school operator and authorizer accountable and can be used to define and enforce each party’s rights. If a school’s performance is subpar, accountability advocates claim that a contract could lay out in a clear, rational process the corrective steps a school must take as well as the punitive measures an authorizer could use to help improve the school or to ultimately shut it down, barring improvement. Many charter schools outside of California view their contracts “as their best defense against unfair authorizer practices.”¹¹²

Still, some advocates warn that in California, larger problems exist that make entering into a performance contract nearly impossible. Namely, that many charter school authorizers do not want the role of authorizer, and the introduction of a contract would do nothing to improve their interest in oversight. These advocates claim that even the most detailed contract will fail if both parties have little incentive to participate in the oversight and review process.¹¹³ They also warn that if the state were to use contracts, the purpose should be made clear: Performance contracts should be focused on improving the authorizer’s oversight role, but not extending it so far that authorizers cross into the operation of charter schools or in any way diminish the autonomy of the school.¹¹⁴

The State Board of Education and some local charter school authorizers use a memorandum of understanding to lay out additional expectations beyond what petitioners have described in the charter petition. In written testimony to the Commission, Jo Lucey, Cupertino Union School

“California is one of the few states that do not require charter schools to enter into legal agreements that define the rights and responsibilities of the school and the authorizer.”

Greg Richmond, president and chief executive officer of the National Association of Charter School Authorizers

District School Board Member recommended, “the state should require contracts or memorandums of understanding between authorizers and charter schools that will outline the process for oversight and also the steps to be taken if problems at the school arise.” Testimony from Charles Weis, Superintendent of Schools, Santa Clara County Office of Education echoed this recommendation. He said that “ensuring a memorandum of understanding on a number of issues including facilities is critical.”

In establishing an independent statewide charter board, as the Commission recommended in the previous chapter, an opportunity would be created to move the state toward a requirement that authorizers and charter schools enter into performance contracts. The statewide charter board could be charged with developing a model performance contract. Having an independent charter board develop the model contract would prevent local districts from developing contractual language that would thwart the autonomy of charter schools.

Difficulty Closing Poor-Performing Schools

A 2002 review of charter school oversight by the Bureau of State Audits found that fiscal monitoring of charter schools weak and that authorizers were not effectively monitoring charter schools to ensure that schools met the agreed-upon student outcomes described in the charter petitions.¹¹⁵

Charter School Memorandum of Understanding

One tool used by some local charter school authorizers and by the State Board of Education in California is a memorandum of understanding, somewhat similar to a performance contract, in that it lays out minimum expectations for both the authorizer and the charter school. All charter schools authorized by the State Board of Education are required to establish a memorandum of understanding with the board and the California Department of Education, which currently oversees the board-authorized charter schools.

The board has developed a standard memorandum of understanding that sets minimum requirements beyond the state renewal criteria and establishes a course of action if the charter school falls below the minimum requirements. The memorandum states, “if the school fails to meet its API growth targets in a given year, either school wide or by numerically significant subgroups, or if the school fails to make AYP, it will be required to prepare a Student Achievement Plan by October 1 of the year following the year in which the school failed to meet API targets or AYP.” The plan must be approved by the board at its next January meeting, and the board may require the school to submit additional reports at subsequent meetings.

Source: California State Board of Education. August 24, 2010. Agenda Item #5.

There is a general perception that charter school authorizers rarely, if ever, shut down charter schools solely for poor academic performance, though there is little data to support any sort of conclusion. Many charter schools have been shut down for poor fiscal management. Since the original charter school law was enacted in 1992, 64 charters have been revoked and 235 charter schools have closed for reasons other than revocation.¹¹⁶

Districts and county offices of education often are slow to act on poor-performing schools, yet they also fail to renew charters of highly successful schools. A small, but growing number of these schools have used the appellate process to retain their charters, creating uncertainty for students, parents and staff.

Charter school authorizers and the California Charter Schools Association agree that more could be done to bolster the ability of authorizers to close down consistently poor-performing schools. Some say the renewal criteria language in statutory code is unclear, which makes it difficult for authorizers to shut down a charter school.

Ideally, authorizers assess charter school student outcomes on an ongoing basis. Charter school authorizers have the ability to revoke charters and not renew charters, two separate processes as previously described. In reality, in many districts, charter schools are assessed most closely when their charters are up for renewal.

Charter School Renewal Criteria Lack Specifics

Most charter schools are approved for a period of five years, although on some occasions, schools are granted charters for shorter periods. These short time frames can pose challenges in adequately assessing progress, as it typically takes a few years for a school to get up and running and to have relevant data to assess performance.

Charter school renewal criteria are listed in statutory code, although many told the Commission the language is not clear. State law enacted in 2005 requires charter schools to meet at least one of four performance criteria prior to receiving a charter renewal. In addition to being vague, some told the Commission the criteria sets the bar too low – two of the four criteria require that a charter school rank only above the 30th percentile on the API. One criteria allows an authorizer to determine that the performance of a charter school is comparable to the district schools its students otherwise would attend, thus allowing a failing charter school to continue to operate simply because all the other neighborhood schools are failing.

Because a school is required to meet only one of the four criteria, a consistently low-performing school can meet the renewal criteria if it is able to meet its API growth target in the year prior to renewal. One Los Angeles County elementary school, for example, managed to make the California Department of Education’s 2010 list of persistently lowest-achieving schools and yet still meet the charter renewal criteria because it achieved its API growth target in 2009. The California Department of Education’s 2010 list was controversial for a variety of reasons. However, the fact that eight California charter schools made the list of persistently lowest-achieving schools, ranking in the bottom 5 percent of all California schools, raises concerns about student achievement at these schools and about charter school renewal criteria.¹¹⁷

Recent Legislation on Renewal Criteria

Some charter school operators told the Commission that, with the freedom from bureaucracy, charter schools should be held to a higher standard than traditional public schools. One charter school operator told the Commission that it is unacceptable for poor-performing charter schools to remain open simply because all schools in the district are performing poorly and the charter school provides a safe alternative to traditional district schools.

The Commission was told repeatedly that the statutory language for charter renewal should be bolstered and clarified. Advisory committee participants and other experts suggested that the renewal criteria contain enough flexibility, however, to account for charter schools that serve particularly difficult populations, such as dropouts who otherwise would not be attending school at all. Two bills were introduced in the 2009-10 legislative session that would have changed the statutory language for charter renewals, AB 1950 (Brownley) and AB 1991 (Arambula); neither was enacted.

In addition to increasing fiscal accountability and making other changes for charter schools, AB 1950 would have tightened renewal criteria. The bill would have required charter schools to meet API targets school-wide and for subgroups. Currently, charter schools need only meet school-wide targets. Opponents of the legislation argued that this change could place

Charter Renewal Criteria

State law enacted in 2005 requires charter schools to meet at least one of the following performance criteria prior to receiving charter renewal:

1. Meet growth targets on the Academic Performance Index (API) in the prior year or in two of the last three years, or in the aggregate for the prior three years.
2. Rank above the 30th percentile on the API in the prior year or in two of the last three years.
3. Rank above the 30th percentile on the API for a demographically comparable school in the prior year or in two of the last three years.
4. Receive a determination by the charter authorizer that performance is comparable to that of district schools its students otherwise would attend.

Source: California Education Code 47607 (b).

a charter school in a “potentially precarious position” if one subgroup did not achieve a growth target, but the other subgroups and the school overall met its targets. AB 1950 also would have eliminated the current criteria that allow a charter school to demonstrate performance that is at least equal to the schools the students would otherwise attend. The bill also would have prohibited a charter school authorizer from renewing a charter school if the school was in the fifth year of program improvement under the federal guidelines, if the school had not exited program improvement and did not meet Adequate Yearly Progress (AYP) in the year prior to renewal.¹¹⁸ AB 1950 was approved by the Assembly, but failed to pass in the Senate Committee on Education.

AB 1991 would have “authorized the Superintendent of Public Instruction and the State Board of Education to develop, in lieu of the academic performance criteria, alternative criteria that would align with metrics of pupil performance that recognize individual pupil progress or any other measures of academic performance developed and implemented as specified.”

Today’s Fresh Start

Today’s Fresh Start Charter School in Los Angeles provides an example of why some have said that the charter school renewal criteria are too vague. Today’s Fresh Start serves approximately 540 students in five locations in Los Angeles County. Approximately 90 percent of its students are from socio-economically disadvantaged families. Up for renewal in 2010, the school technically met the renewal performance criteria, despite making the California Department of Education’s 2010 list of persistently lowest-achieving schools.

Today’s Fresh Start was originally authorized as a county-wide charter by the Los Angeles County Board of Education in 2003. Two years later, in 2005, its charter renewal was approved by the board for an additional five years. In 2010, the Los Angeles County Board of Education denied the renewal of Today’s Fresh Start Charter School, despite the fact that the school had met its API performance target the prior year, a minimum requirement for renewal. In its denial, the county cited the school’s chronic low performance, which led to its listing on the California Department of Education (CDE) list of schools performing in the lowest 5 percent, despite the school’s recent one-year API gain. The county denied the renewal on the basis that the charter petition did not meet the statutory and regulatory requirements for the establishment of a charter school, specifically that the charter petition was not consistent with sound educational practice.

The school appealed the denial to the State Board of Education. The appeal was first heard by the Advisory Commission on Charter Schools which voted 3-3 on a motion to recommend the board renew the charter. As a result of the tie, no recommendation was made to the State Board. In its analysis prior to a July 2010 hearing on the charter renewal appeal, the California Department of Education found that although the school met one criterion for renewal, granting Today’s Fresh Start petition was not consistent with sound educational practice. CDE recommended the State Board approve the renewal only if the school committed to a fairly lengthy list of revisions to the renewal petition, specifically providing comprehensive details on its educational program. At its July 2010 hearing, the State Board took no action on the renewal appeal.

One month later, in August 2010, the school submitted its charter petition with significant amendments requested by the CDE. The CDE recommended that the board approve the charter renewal with the amendments. At the August 2010 State Board meeting, the six board members present unanimously voted to renew the charter.

Sources: State Board of Education. July 14-15, 2010, Agenda Item 16, and August 24, 2010, Agenda Item 5. Also, California Department of Education. March 2010. “Tier I Schools – Persistently Lowest-Achieving Schools.” <http://www.cde.ca.gov/ta/ac/pl/tier1.asp>. Web site accessed August 11, 2010.

AB 1991 would have required charter school renewal decisions to be based primarily on an assessment of the academic and operational performance of the charter school, including the school's progress toward achieving student outcomes identified in the charter. Opponents of this measure argued that the focus on achievement of outcomes identified in the charter would move away from the current renewal criteria based on API and AYP, which is required of all traditional public schools. Opponents also argued that the renewal criteria proposed in the bill were more, not less vague than existing renewal criteria.¹¹⁹ AB 1991 failed to pass its first committee hearing, the Assembly Committee on Education.

Like AB 1950, AB 1991 also would have eliminated the current renewal criteria which allow charter schools to demonstrate performance that is at least equal to the schools the students would otherwise attend. AB 1991 also would have allowed charter authorizers to expand charter renewals from five years to a period from five to 10 years.¹²⁰

Charter Time Frames

Most experts and charter school operators agree that it can take several years after a conversion of an existing school or the start-up of a new charter school for the school to establish a successful track record. Stakeholders tend to agree that all new charter schools, with certain very limited exceptions, should be granted five-year charter approvals. Otherwise, charter schools are perpetually focused on "renewal mode" instead of focusing on students. Some have suggested that charter schools with a successful track record after their first five years in operation should be renewed for a longer time period, reducing the administrative burden for these schools and for their authorizers.

Summary

California charter schools exchange flexibility for increased accountability. Yet, many poor-performing charter schools continue to flounder year after year and many successful charter schools have difficulty getting their charters renewed. Performance contracts, used widely by charter school authorizers and operator in other states, could improve transparency and improve both fiscal oversight and ensure that students are achieving the goals laid out in the charter petition.

Under the existing authorization structure, requiring performance contracts might result in local districts imposing undue burdens and restrictions on charter schools in order for the schools to gain approval or renewal of charter petitions. By adding an alternative authorizer, as recommended in the prior chapter, charter school petitioners have an

option for charter approval outside the district, county office of education and the current State Board appeals process. As envisioned by the Commission, the new California Board of Charter Schools not only will provide an alternative authorization option, but also will serve as a center of excellence to provide local authorizers assistance in implementing best practices. In this capacity, the new California Board of Charter Schools should be charged with developing a model performance agreement which could be adapted and used by all charter authorizers.

The Commission has heard repeatedly that the current renewal criteria for charter schools are too vague. The Brownley and Arambula bills took significantly different approaches to changing charter school renewal criteria and both bills failed to pass, in part due to other provisions contained in the bills and in part due to the lack of agreement on how to most effectively improve charter school renewal criteria. Both bills contained provisions to eliminate one of the four renewal criteria that allows a charter school to be renewed if its performance is comparable to that of the district schools its students otherwise would attend.

The new California Board of Charter Schools should build on the progress that has been made and work with stakeholders to improve the renewal criteria. The state must raise the bar for charter school renewal while still maintaining an option for continuing to allow an appellate process for certain charter schools that serve the most difficult student populations. The new California Board of Charter Schools should make recommendations to the Governor and the Legislature to improve and clarify charter school renewal criteria.

Most experts agree that what happens in the classroom is the most important determinant of student success and often, this is difficult to measure based solely on achievement test scores. Unfortunately, as identified in previous Little Hoover Commission studies, the state lacks data to measure outcomes beyond test scores. As the California Longitudinal Pupil Achievement Data System (CALPADs) matures and more data becomes available, the state should expand the renewal criteria to include other factors, such as graduation rates.

In raising the bar for charter school renewals, the state also should develop criteria that allow high-performing schools to have their charters renewed more easily and for longer terms. Specifically, the state should take steps to ensure that charter schools are allowed to have a minimum of five years to become established, prior to facing renewal, except in extreme circumstances, and the state should extend the charter renewal time periods for established charter schools that consistently meet high benchmarks.

Recommendation 3: The California Board of Charter Schools should develop a model performance contract for authorizers and charter schools by 2012.

- ❑ The California Board of Charter Schools should use input from state and national experts, and build on the memorandum of understanding currently used between the State Board of Education and the charter schools it has authorized.
- ❑ Once a model contract is developed, the state should require performance contracts between charter school authorizers and charter schools.
- ❑ The model contract should provide a basic framework, but allow enough flexibility for authorizers and charter schools to address special circumstances and unique characteristics of innovative school models.

Recommendation 4: To ensure that charter schools that have benefited from the flexibility from state education rules are best serving students, the state should improve its charter school renewal criteria. Specifically:

- ❑ The California Board of Charter Schools should develop recommendations to improve the effectiveness of the charter school renewal criteria by 2012. The Legislature and the Governor should enact legislation based on these recommendations.

Recommendation 5: To ensure new charter schools are granted enough time to incubate, and to reward high-performing charter schools for consistent achievement, the state should change the time limits granted for charter petitions. Specifically:

- ❑ The Legislature and the Governor should enact legislation that requires new charter petitions that meet state established criteria to be authorized for five years. Any authorizer that chooses to authorize a charter school for a period of less than five years must obtain approval from the State Board of Education.
- ❑ The Legislature and the Governor should enact legislation that allows high-performing charter schools that meet specified criteria to be renewed for up to 10 years.

Conclusion

The best performing charter schools in California and across the nation have shown that all students – even those from the most disadvantage backgrounds – can learn and succeed. All schools have the potential to become great schools if given the chance and held to high standards. The intent of California’s charter school law was never to have a state full of charter schools, but rather to provide educators the flexibility to innovate so that one day all California students can attend great schools.

Today, however, too many California schools are still failing their students. Until the state makes a bolder, broader commitment to fix its failing schools, charter schools must be allowed to continue to thrive not only for the opportunity they provide for innovation but to offer parents and students a choice. Artificial barriers that make it hard for charter schools to open or to remain open must be removed.

In this study, as in its 1996 study, the Commission found the biggest barrier to charter school expansion is the state’s dysfunctional authorization process. Charter petitioners in most cases submit a plan to the local school district. California law encourages districts to authorize viable charter schools. But too many districts view charter schools as adversaries.

Ideally, districts should embrace the freedom and flexibility that charter schools offer. When conceived, Senator Gary Hart, the author of the Charter Schools Act of 1992, envisioned districts using the charter school law to convert poor-performing schools into district-run charter schools. Yet rarely have districts taken advantage of the law and sought to free failing schools from red tape by converting the schools to charter schools. In most cases, it is teachers and parents banding together and demanding more for students in the face of failing traditional schools.

The Legislature established an appeals process so that viable charter petitioners that were unsuccessful locally could appeal to the county office of education or ultimately, the State Board. This was aimed at coaxing more districts into greater acceptance of charter schools rather than cede control. Unfortunately, the result has been a growing number of appeals to the higher levels, with charter schools now consuming

approximately a third of the State Board's time, despite accounting for only about 5 percent of the state's students.

In this report the Commission recommends the state establish a new independent California Board of Charter Schools to provide petitioners another alternative for charter approval. The Commission also recommends giving the existing State Board of Education more authority to ensure charter school authorizers provide adequate oversight and do not inappropriately deny charter petitions or charter petition renewals.

California's charter schools are considered some of the best public schools in the nation. But not all charter schools are fulfilling the promise and more must be done to hold these schools accountable. When the charter school movement began, many believed that if a charter school failed to live up to its goals, parents and students would vote with their feet. This has not proven true. Parents and students remain in and fight for low-performing charter schools where they feel safe if the only other options are low-performing district schools where they do not feel safe.

A safe charter school simply is not good enough. If a school has been granted the flexibility from rules, it must meet a higher level of results. Consistently poor-performing charter schools either need to improve or close their doors. Other states use performance contracts to ensure both the charter school and the authorizer are held accountable. Charter schools in California have been hesitant to embrace performance contracts, afraid that districts would layer in too many constraints and strangle their autonomy. Adding a new board would pave the way for implementing performance contracts.

Additionally, most stakeholders agree that current charter school renewal criteria are unclear and the bar is set too low for charter schools. The new California Board of Charter Schools would be able to help stakeholders sort through areas of agreement and make recommendations to policy-makers for improving the renewal criteria. Finally, charter school petitions should be granted for a minimum of five years so that new schools can focus on students and gain an appropriate amount of data for a fair assessment of progress. High-performing charter schools with solid track records should be given the opportunity to have petitions extended for as long as ten years.

California charter schools have come a long way over the past 18 years. These schools never were intended to be the single solution to fix the state's broken education system, but they can be the beacon that shines a path for all schools to follow in California so that someday all students have the opportunity to attend a great school.

The Commission's Study Process

The Commission has a long-standing interest in strengthening California's overall education system, and has voiced this interest through various reports on educational governance and accountability, school facilities and construction, budget and finance issues, teacher preparation and credentialing, community college programs and career technical education. This study marks the second time the Little Hoover Commission specifically has reviewed charter school policies since California enacted legislation to establish public charter schools in 1992. The Commission first reviewed the state's charter school system in 1996.

The Commission initiated this study in November 2009 to review the role of charter schools in California's public education system. In this study, the Commission sought to identify models of excellence to improve the accountability, oversight and transparency of California's charter school system. The Commission examined the governance structure of the state's charter school system as well as the authority and oversight functions of the charter authorizing agencies. The study included a review of the criteria for charter school renewal as well as the potential role of performance contracts. Through this study, the Commission sought to identify recommendations that could ensure that the state holds charter schools accountable for delivering high quality education and appropriately using public funds.

In pursuing its study, the Commission convened two public hearings, three advisory committee meetings and a number of site visits. At the first public hearing, held in November 2009, the Commission discussed ways to improve charter school accountability. The Commission heard from national and state experts about the role of authorizers in improving charter school oversight, accountability and outcomes. The Commission also discussed best practices for charter management organizations and individual charter schools in replicating success.

At the second hearing, in February 2010, the Commission heard from members of the Los Angeles Unified School District's Board of Education about one of the most significant public school reform efforts in the country, the Public School Choice Resolution, and the district's role in authorizing and overseeing Los Angeles' more than 180 charter schools. The Commission also discussed the impact of the state's charter school

growth on teachers and governance and policy issues related to the State Board of Education's role as charter school authorizer and the court of last resort in the charter school appellate process. Hearing witnesses are listed in Appendix A.

In addition to the hearings, the Commission also held a series of public meetings across the state to meet with and visit charter school operators, public school parents and other stakeholders.

The charter school subcommittee met in Los Angeles in March 2010 to tour the View Park Prep Middle and High School campus. The Commission also held an advisory committee meeting to hear from Los Angeles Unified School District parents, teachers, officials and charter school operators about implementation of the Public Choice Resolution and other lessons and observations from the district that might be leveraged to improve the broader state charter school system.

The Commission convened a second advisory committee meeting in Oakland in May 2010 to discuss opportunities for improving and expanding the role of authorizers, including refining current statutory language for charter school authorization and renewal, as well as opportunities and obstacles to sharing best practices and transferring knowledge between charter schools and traditional public schools. Commissioners and staff toured both the Oakland Charter Academy and the Oakland Charter High School in May 2010 and Commission staff toured the Lighthouse Community Charter School in Oakland in June 2010.

The final advisory committee meeting, held in Sacramento in June 2010, provided Commissioners the opportunity to discuss ways to improve the accountability, oversight and transparency of California's charter school system. The meeting focused on the charter school authorization process and the current role and authority of charter school authorizers. A list of experts who participated in the Little Hoover Commission public meetings is included in Appendix B.

Commission staff received valuable feedback from a number of experts representing various components of California's public education system, from both inside and outside of government. The Commission greatly benefited from the contributions of all who shared their expertise, however, the findings and recommendations in this report are the Commission's own.

All written testimony submitted electronically for each of the hearings, and this report is available online at the Commission Web site, www.lhc.ca.gov.

Appendices & Notes

- ✓ *Public Hearing Witnesses*
- ✓ *Little Hoover Commission Public Meetings*
 - ✓ *Significant Charter School Legislation*
 - ✓ *Who Can Authorize Charter Schools?*
- ✓ *Notes*

Appendix A

Public Hearing Witnesses

Public Hearing on Charter Schools November 19, 2009

Steve Barr, Founder & Chairman, Green Dot
Public Schools

Greg Richmond, President & Chief Executive
Officer, National Association of Charter School
Authorizers

Stephanie Medrano Farland, Senior Research
and Policy Consultant, California School
Boards Association

Jed Wallace, President & Chief Executive
Officer, California Charter Schools Association

Josephine Lucey, Vice President of the Board,
Cupertino Union School District

Charles Weis, Superintendent of Schools,
Santa Clara County Office of Education

Public Hearing on Charter Schools February 25, 2010

Jennifer Baker, Legislative Advocate, California
Teachers Association

Parker Hudnut, Executive Director, Innovation
and Charter Schools Division, Los Angeles
Unified School District

Yolie Flores, Vice President, Los Angeles
Unified School District, Board of Education

Johnathan Williams, Member, State Board of
Education

Appendix B

Little Hoover Commission Public Meetings

*Advisory Committee Meeting – March 15, 2010
Los Angeles, California*

Elizabeth Alvarado, Graduate Student,
University of California, Los Angeles

Gloria Lopez, SELPA Director, Special
Education Division, LAUSD

Monique Bacon, Lead Parent Liaison, View
Park Prep Middle School

Sonja Luchini, Chair, LAUSD Special
Education Community Advisory Committee

Allison Bajracharya, Managing Regional
Director, Policy & Advocacy, California Charter
Schools Association

Jody Molodow, Charter School Coordinator,
Special Education Division, LAUSD

Carol Barkley, Director, Charter Schools
Division, California Department of Education

Gary Orfield, Co-director, The Civil Rights
Project, University of California, Los Angeles

Steve Barr, Founder and Chairman, Green Dot
Public Schools

David Pollock, Senior Director, Governance &
Policy, California School Boards Association

Jacqueline Bennett, Graduate Student,
University of California, Los Angeles

t.r. Porter, Coordinator of Charter Schools,
Innovation and Charter Schools Division,
LAUSD

Jeff Daucher, CTA Liaison, California Teachers
Association

Corri Ravare, President, ICEF Public Schools

Joyce Dillard, Interested Citizen

Bill Ring, Executive Board Member, LAUSD
Parent Collaborative

Scott Folsom, Member, LAUSD Bond Oversight
Committee

Gregg Solkovits, Secondary Vice President &
Political Officer, United Teachers Los Angeles

Chelsea Kelley, Consultant, Assembly
Education Committee

Julie Washington, Elementary Vice President &
Charter Schools Taskforce Officer, United
Teachers Los Angeles

Zella Knight, Member, LAUSD Parent
Collaborative

**Advisory Committee Meeting – May 4, 2010
Oakland, California**

Lisa Blair, Principal, Reems Academy of Technology

Benitez Mara, Consultant, California Charter Schools Association

Seth Bramble, Lobbyist, California Teachers Association

Colin Miller, Vice President of Policy, California Charter Schools Association

Jeff Daucher, CTA Liaison, California Teachers Association

David Montes de Oca, Coordinator, Office of Charter Schools, Oakland Unified School District

Nick Driver, Vice President of School Development and Outreach – Northern California, California Charter Schools Association

Sandra Reyes, Site Coordinator, Oakland Charter Academy

Stephanie Medrano Farland, Senior Research and Policy Consultant, California School Boards Association

Pedro Rosado, Field Representative, Office of Senator Loni Hancock

Sarah Figueroa, Consultant, Office of Senator Gloria Romero

Teala Schaff, Press Secretary, Office of Senator Gloria Romero

John Glover, Director of AIM Schools, American Indian Public Charter School

Jenna Stauffer, Founder and Director of Strategic Development, Lighthouse Community Charter School

Peter Hanley, Director, Oakland Charter School Collaborative

Evelia Villa, Site Director, Oakland Charter High School

Peter Laub, Executive Vice President, EdTec, Inc.

Gary Yee, President, Board of Education, Oakland Unified School District

**Advisory Committee Meeting – June 8, 2010
Sacramento, California**

Nicole Bautista, Legislative and Policy Assistant, California Charter Schools Association

Chelsea Kelley, Consultant, Assembly Education Committee

Seth Bramble, Lobbyist, California Teachers Association

Harold Levine, Dean, UC Davis School of Education

Ken Burt, Liaison Program Coordinator, California Teachers Association

Colin Miller, Vice President of Policy, California Charter Schools Association

Leonor Ehling, Consultant, Senate Office of Research

David Patterson, Executive Director, Rocklin Academy

Theresa Garcia, Executive Director, State Board of Education

Eric Premack, Director, Charter Schools Development Center

Beth Graybill, Principal Consultant, Senate Committee on Education

Laura Preston, Legislative Advocate, Association of California School Administrators

Mike Hanson, Auditor Evaluator, California State Auditor

Lee Angela Reid, Consultant, Senate Office of Research

Stacy Harjer, Legislative Analyst, DiMare, Van Vleck and Brown, LLC

Brian Sala, Assistant Director, California Research Bureau

Tori Hatada, Deputy Secretary K-12 and Federal Policy

Claudia Sandberg-Larsen, CTA Liaison, California Teachers Association

Beth Hunkapiller, Director, Charter Schools Division, California Department of Education

Andy Sywak, Auditor Evaluator, California State Auditor

Appendix C

Significant Charter School Legislation

Bill Number (Author)	Year	Description
SB 1448 (Hart)	1992	Allowed 100 charter schools in California, with no more than 10 per school district. The California Department of Education must complete an evaluation of the charter school approach six years after the effective date of the law. Funding would “follow the student” as he or she left a traditional public school to attend a charter school. <i>Chapter 781, Statutes of 1992.</i>
AB 3384 (Knox)	1996	Implemented some of the Little Hoover Commission’s recommendations, through provisions for charter school start-up funds under the Charter School Revolving Loan Fund, dispute resolution, compliance with open meeting laws and meeting statewide performance standards and conduct pupil assessments. <i>Chapter 786, Statutes of 1996.</i>
AB 544 (Lempert)	1998	Strengthened the independence and accountability of charter schools. Increased the number of charter schools allowed in the state to 250 by the end of the 1998-99 school year and allowed the state to approve up to 100 additional petitions for charter schools annually. Authorized nonprofit organizations to operate charter schools and authorized the State Board of Education to grant and revoke charters. Established an appellate process, by allowing a school denied a petition by a school district to appeal to the county board of education or the State Board of Education. <i>Chapter 34, Statutes of 1998.</i>
AB 1115 (Strom-Martin)	1999	Set up a funding system so that charter schools can receive funding through their school district or directly from the state in the form of a general purpose entitlement and a categorical block grant. Provided that charter schools receive the statewide average in Economic Impact Aid for every disadvantaged pupil in the school through the categorical block grant. Allowed charter schools to negotiate with a local education agency for shares of local sources of funding. Allowed charter schools to be local education agencies for special education funding and made it possible for them to join or form their own special education local plan area. <i>Chapter 78, Statutes of 1999.</i>
SB 267 (Lewis)	1999	Allowed new “start-up” charter schools to apply directly to the California Department of Education for a loan of up to \$250,000. <i>Chapter 736, Statutes of 1999.</i>
SB 434 (Johnston)	1999	Required charter schools that offered independent study to comply with all laws and regulations governing independent study generally. Also required charter schools to offer a minimum number of instructional minutes equal to that of other public schools, maintain written records of pupil attendance and release these records for audit and inspection. Required charter schools to certify that their students participated in the state’s annual testing programs. <i>Chapter 162, Statutes of 1999.</i>
AB 631 (Migden)	1999	Specified that charter employees are allowed to join or form a union and engage in collective bargaining. Required charter schools to declare whether the school or the charter-granting entity would be the employer for collective bargaining. <i>Chapter 828, Statutes of 1999.</i>
Proposition 39	2000	Lowered the threshold needed to approve local general obligation bonds for school construction from a two-thirds to a 55 percent majority. Offered guarantees to charter schools, ensuring that students who attend a charter school in their district of residence have facilities that are “sufficient” and “reasonably equivalent” to the other buildings or classrooms in the district. The buildings also needed to be “furnished and equipped” and reasonably close to where the charter school wishes to locate. To get this support, the charter school must serve a minimum of 80 students who live within the district’s boundaries.

SB 326 (Lewis)	2000	Established an appeals process for denied applications for charter school renewals, identical to the appeal process for new charter school applications. <i>Chapter 160, Statutes of 2000.</i>
SB 675 (Poochigian)	2001	Requires charter schools to submit their annual financial and compliance reports to the California Department of Education in addition to their chartering agency (school district or county office of education). <i>Chapter 344, Statutes of 2001.</i>
SB 740 (O'Connell)	2001	Put tighter controls on charter schools offering nonclassroom-based instruction, such as distance learning and home schooling. Provided charter schools with up to \$750 per student based on average daily attendance to assist with rent or lease costs. Schools accepting this aid cannot offer nonclassroom-based instruction and cannot occupy an existing school district or county office of education facility. <i>Chapter 892, Statutes of 2001.</i>
AB 1994 (Reyes)	2002	Increased oversight of charter schools and tightened the charter-approval process. Curtailed the freedom of charter schools to serve any grade and locate anywhere in the state. <i>Chapter 1058, Statutes of 2002.</i>
AB 1137 (Reyes)	2003	Increased accountability of charter schools, created performance requirements and added four programs to the charter school categorical block grant. <i>Chapter 892, Statutes of 2003.</i>
AB 1610 (Wolk)	2005	Added required components to charter school petitions that are presented to a county office of education in order to establish a countywide charter school. Extended the sunset of charter school waiver authority. Allows the State Board of Education to waive fiscal penalties for charter school failure to offer instructional time. <i>Chapter 543, Statutes of 2005.</i>
SB 20 (Torlakson)	2007	Clarified and strengthened the process by which the State Board of Education authorizes statewide benefit charter schools. Appropriated \$18 million from Proposition 98 funds for the Charter School Facility Grant Program. <i>Chapter 215, Statutes of 2007.</i>
AB 2033 (Nunez)	2008	Modified the methodology used by the California School Finance Authority for determining the interest rate on a loan made to a charter school for financing the construction or rehabilitation of a school facility under the Charter School Facility Program. Prohibited the Charter School Facility Program from setting the interest rate at lower than 2 percent. <i>Chapter 2731, Statutes of 2008.</i>
AB 2246 (Villines)	2008	Authorized the Center for Advanced Research and Technology (CART) to receive general purpose funding through the charter school block grant for the 2005-06 and 2006-07 fiscal years and required the Superintendent of Public Instruction, commencing in the 2008-09 fiscal year, to calculate a new funding formula for pupils concurrently enrolled at CART and regular secondary school classes, pursuant to a joint powers agreement. Provisions sunset on July 1, 2012. <i>Chapter 762, Statutes of 2008.</i>
SB 658 (Romero)	2008	Exempts a school district that received Year-Round School Grant Program funds in fiscal year 2007-08 from losing eligibility for state school bond funds, sunset the Year-Round School Grant Program on July 1, 2013, and required the reallocation of those funds to the Charter School Facility Grant Program. Provided nearly \$100 million for charter schools over a five year period. <i>Chapter 271, Statutes of 2008.</i>
SB X5 1 (Steinberg)	2010	Modified state laws on education standards and assessments, data systems to support instruction, great teachers and leaders and turning around the lowest-achieving schools, to make California eligible to apply for federal Race to the Top grant money. <i>Chapter 2, Statutes of 2009-10 Fifth Extraordinary Session.</i>
SB X5 4 (Romero)	2010	Established an open enrollment program, which authorizes a student enrolled in a low achieving school to attend any higher achieving school in the state. Also established a parent empowerment program that allows parents to sign a petition requiring a local educational agency to implement a school intervention model. <i>Chapter 3, Statutes of 2009-10 Fifth Extraordinary Session.</i>

Appendix D

Who Can Authorize Charter Schools?

State	Year Law Passed	Authorizers							
		Local Education Agency	Regional/ Intermediate Agency	State Education Agency	Independent Chartering Board	Higher Education Institution	Municipal Office		Not-for Profit
Alaska	1995	x							
Arizona	1994	x		x	x				
Arkansas	1995			x					
California	1992	x	x	x					
Colorado	1993	x			x				
Connecticut	1996	x		x					
Delaware	1995	x		x					
D.C.	1996	x			x				
Florida	1996	x							
Georgia	1996	x		x	x				
Hawaii	1994			x					
Idaho	1998	x			x				
Illinois	1996	x							
Indiana	2001	x				x	x		
Iowa	2002	x							
Kansas	1994	x							
Louisiana	1995	x		x					
Maryland	2003	x		x					
Massachusetts	1993			x					
Michigan	1993	x	x			x			
Minnesota	1991	x	x	x		x		x	
Missouri	1998	x		x		x			
Nevada	1997	x		x					
New Hampshire	1995	x		x					
New Jersey	1996			x					
New Mexico	1993	x		x					
New York	1998	x		x		x			
North Carolina	1996	x		x		x			
Ohio	1997	x	x			x		x	
Oklahoma	1999	x				x			

Oregon	1997	x		x				
Pennsylvania	1995	x		x				
Rhode Island	1995			x				
South Carolina	1996	x			x			
Tennessee	2002	x						
Texas	1995	x		x		x		
Utah	1998	x			x			
Virginia	1998	x						
Wisconsin	1993	x				x	x	
Wyoming	1995	x						

Source: National Association of Charter School Authorizers. December 2009. "Principles & Standards for Quality Charter School Authorizing." Page 8.

Notes

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Note: The California Charter Schools Association cited 912 charter schools total and 15 new schools. Actual enrollment data for the 2009-2010 will not be available from the California Department of Education until the end of November 2010. The California Charter Schools Association relies on this data to extrapolate and estimate the number of students enrolled in charter schools for the 2010-2011 school year. As of the 2009-2010 school year, 809 charter schools had 341,000 California students enrolled according to the California Charter Schools Association, October 28, 2009. Press Release. "Number of California Charter Schools Surpasses 800, New Enrollment Sets Single-Year Record."
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Note: The California Department of Education reports that "since 1992, 83 charter petition appeals have been submitted to the CDE for consideration. Of these 83 petitions, 21 were withdrawn before consideration by the SBE and 2 are currently being reviewed by the CDE and are scheduled for consideration by the SBE at the March 2011 meeting. Of the remaining 60 petitions, the SBE approved 41 petitions, 7 petitions were withdrawn by the petitioners prior to formal consideration by the SBE, the SBE denied 11 petitions, and the SBE did not take formal action on 1 petition. The 41 petitions approved by the SBE resulted in the authorization of 29 charter schools, 3 statewide benefit charters that operate a total of 11 schools, and 9 all-charter districts. Of the 40 charter schools that have been authorized by the SBE since 1992, 31 charter schools are currently operating under SBE oversight, and 10 charter schools are no longer under SBE oversight due to charter renewal at the local level of 4 schools, the abandonment of 4 schools, a nonrenewal by the SBE of 1 school, and the revocation by the SBE

of 1 school. One all-charter district was non-renewed by the SBE, and 8 all-charter districts are currently operating under the joint authorization of the SBE and the State Superintendent of Public Instruction. The all-charter districts operate a total of 18 schools.”

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 14. Louann Bierlein Palmer, professor, Department of Educational Leadership, Research and Technology, Western Michigan University. Progressive Policy Institute. December 2006. “Alternative Charter School Authorizers.” Also, National Alliance for Public Charter Schools. See endnote 3. Also, Greg Richmond, President & Chief Executive Officer, National Association of Charter School Authorizers. November 19, 2009. Written testimony to the Commission.
 15. Stanford University Center for Research on Education Outcomes. June 2009. “Multiple Choice: Charter School Performance in 16 States.”
 16. Colin Miller, Vice President of Policy, California Charter Schools Association. October 12, 2010. Written communication.
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 18. National Association of Charter School Authorizers. December 2009. “Principles & Standards for Quality Charter School Authorizing. Revised Edition.” Page 5. http://www.qualitycharters.org/images/stories/Principles_and_Standards_2009.pdf. Accessed November 18, 2010.
 19. Greg Richmond, President & Chief Executive Officer, National Association of Charter School Authorizers. October 7, 2009. Personal communication. Also, Colin Miller, Vice President of Policy, California Charter Schools Association. June 8, 2010. Little Hoover Commission Advisory Meeting. Sacramento, California.
 20. Greg Richmond. See endnotes 14 and 19.
 21. Eric Premack, Director, Charter Schools Development Center. June 8, 2010. Little Hoover Commission Advisory Meeting. Sacramento, California.
 22. Nicolas Schweizer. See endnote 12.
 23. Assembly Bill 1991 (Arambula). 2010. Charter Schools: renewal: accountability standards.
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 25. California Education Code, Section 47601.
 26. National Alliance for Public Charter Schools. “About Charter Schools: Benefits and Successes” and “National Data on Public Charter School Movement.” www.publiccharters.org. Accessed November 2, 2010.
- Note: The National Alliance for Public Charter Schools reports that during the 2009-10 school year, 4,936 charter schools served 1,665,779 students across the nation.
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 28. California Education Code, Section 47600-47604.5.

29. National Alliance for Public Charter Schools. "Public Charter School Dashboard. Students Overview. 2009-2010 California."
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30. Joanna La Guardia, California Department of Education, Charter Schools Division. November 4, 2010. Personal communication on Charter Schools Database.

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42. California Education Code, Section 47605.
43. California Education Code, Section 47605.
44. Joanna La Guardia, California Department of Education, Charter Schools Division. October 29, 2010. Personal communication.

45. California State Board of Education. September 14-16, 2010. September 2010 Agenda, Item 7. "Eight all-charter districts are currently operating under the joint authorization of the SBE and the State Superintendent of Public Instruction. The all-charter districts operate a total of eighteen schools."
46. Assembly Bill 1994 (Reyes), Chapter 1058, Statutes of 2002.
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75. California Department of Education. See endnote 7. Also, Moises G. Aguirre. See endnote 10. Also, Oakland Unified School District. See endnote 10.
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81. Michelle Ruskofsky. See endnote 11.
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- Note: To qualify for a revocation review, a charter school must 2) be in operation for five years or more, 2) not qualify for the Alternative School Accountability Model and 3) meet a statewide rank of 1 on API base data and achieve a cumulative API growth of less than 50 points over the last three API cycles and have API growth of less than one point in each of the last three API cycles.
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89. State Board of Education. See endnote 45. Item 8. Members' discussion of the Mission Preparatory School charter petition.
90. Senate Bill 740 (O'Connell), Chapter 892, Statutes of 2001. Also, California Education Code, Section 47634.2 (b). "The State Board of Education shall appoint an advisory committee to recommend criteria to the board in accordance with this section if it has not done so by the effective date of the act adding this section. The advisory committee shall include, but is not limited to, representatives from school district superintendents, charter schools, teachers, parents, members of the governing boards of school districts, county superintendents of schools, and the Superintendent of Public Instruction."
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