

Introduced by Senator Leno

February 23, 2015

An act to amend Sections 47605, 47610, and 48925 of, and to add Section 49068.7 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 322, as amended, Leno. Charter schools: pupils: suspension and expulsion: admissions: departures.

(1) The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law exempts charter schools from the laws governing school districts except those of the Charter Schools ~~Act~~, *Act of 1992*, those establishing minimum age for public school attendance, specified building code regulations, and other specified laws.

Existing law enumerates the acts for which a pupil may be suspended or expelled from school and sets forth procedures a school district is required to follow in suspending or expelling a pupil.

This bill would require a charter school to comply with laws governing school districts relating to the suspension and expulsion of pupils, thereby imposing a state-mandated local program. The bill would also make conforming changes.

(2) Existing law *requires, if the number of pupils who wish to attend a charter school exceeds its capacity, preference to be extended to pupils currently attending the charter school and to pupils who reside in the school district, and authorizes other preferences as permitted by*

the chartering authority on an individual school basis and only if consistent with the law. Existing law prohibits the governing board of a school district from denying a petition for the establishment of a charter school unless the governing board of the school district finds that the petition does not contain specified information, including a reasonably comprehensive descriptions of certain things, including admission requirements, if applicable.

This bill would delete admission requirements from the list of things that a petition is required to have additionally require preference for siblings of pupils attending the charter school and children of employees at the charter school, but would delete the authorization for a chartering authority to permit other preferences. The bill also would eliminate as a basis for denying a petition that the petition does not include a reasonably comprehensive description of admission requirements.

(3) Existing law requires, if a pupil is expelled or leaves a charter school without graduating or completing the school year, the charter school to notify the superintendent of the school district of the ~~pupils's~~ *pupil's* last known address within 30 days, and is required to, upon request, provide the school with certain information, including a transcript.

This bill would require the charter school to notify the superintendent of the school district within 10 days of the pupil's departure and would require the charter school to provide the reason for the pupil's departure. By imposing additional duties on charter school officials, the bill would impose a state-mandated local program.

(4) This bill also would require each school district to draft and implement a policy to annually collect data about teacher turnover at each of its schools, and at each charter school it authorizes. By imposing additional duties on school districts, and to the extent this would impose additional duties on charter school officials, the bill would impose a state-mandated local program. The bill would specify that the data collected shall be subject to the California Public Records Act.

(5) This bill would state the intent of the Legislature in enacting its provisions, and would update references and make other nonsubstantive changes.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open

meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to do all of the following:

3 (a) Ensure equal access to interested pupils at charter schools
4 and prohibit practices that discourage enrollment or
5 disproportionately push out segments of already enrolled pupils.

6 (b) Ensure that charter school discipline policies are fair and
7 transparent.

8 (c) Ensure that a pupil’s constitutional right to due process is
9 protected at charter schools.

10 (d) Consistent with Section 5 of Article IX of the California
11 Constitution, ensure that charter schools operate within the system
12 of common schools by remaining “... free, nonsectarian and open
13 to all students...” as stated in *Wilson v. State Board of Education*
14 (1999) 75 Cal.App.4th 1125, 1137–38.

15 (e) Gather data on pupil and teacher turnover in the charter
16 school environment.

17 SEC. 2. Section 47605 of the Education Code is amended to
18 read:

19 47605. (a) (1) Except as set forth in paragraph (2), a petition
20 for the establishment of a charter school within a school district
21 may be circulated by one or more persons seeking to establish the
22 charter school. A petition for the establishment of a charter school
23 shall identify a single charter school that will operate within the
24 geographic boundaries of that school district. A charter school
25 may propose to operate at multiple sites within the school district,

1 as long as each location is identified in the charter school petition.
2 The petition may be submitted to the governing board of the school
3 district for review after either of the following conditions is met:

4 (A) The petition is signed by a number of parents or legal
5 guardians of pupils that is equivalent to at least one-half of the
6 number of pupils that the charter school estimates will enroll in
7 the charter school for its first year of operation.

8 (B) The petition is signed by a number of teachers that is
9 equivalent to at least one-half of the number of teachers that the
10 charter school estimates will be employed at the charter school
11 during its first year of operation.

12 (2) A petition that proposes to convert an existing public school
13 to a charter school that would not be eligible for a loan pursuant
14 to subdivision (c) of Section 41365 may be circulated by one or
15 more persons seeking to establish the charter school. The petition
16 may be submitted to the governing board of the school district for
17 review after the petition is signed by not less than 50 percent of
18 the permanent status teachers currently employed at the public
19 school to be converted.

20 (3) A petition shall include a prominent statement that a
21 signature on the petition means that the parent or legal guardian
22 is meaningfully interested in having his or her child or ward attend
23 the charter school, or in the case of a teacher's signature, means
24 that the teacher is meaningfully interested in teaching at the charter
25 school. The proposed charter shall be attached to the petition.

26 (4) After receiving approval of its petition, a charter school that
27 proposes to establish operations at one or more additional sites
28 shall request a material revision to its charter and shall notify the
29 authority that granted its charter of those additional locations. The
30 authority that granted its charter shall consider whether to approve
31 those additional locations at an open, public meeting. If the
32 additional locations are approved, there shall be a material revision
33 to the charter school's charter.

34 (5) A charter school that is unable to locate within the
35 jurisdiction of the chartering school district may establish one site
36 outside the boundaries of the school district, but within the county
37 in which that school district is located, if the school district within
38 the jurisdiction of which the charter school proposes to operate is
39 notified in advance of the charter petition approval, the county
40 superintendent of schools and the Superintendent are notified of

1 the location of the charter school before it commences operations,
2 and either of the following circumstances exists:

3 (A) The school has attempted to locate a single site or facility
4 to house the entire program, but a site or facility is unavailable in
5 the area in which the school chooses to locate.

6 (B) The site is needed for temporary use during a construction
7 or expansion project.

8 (6) Commencing January 1, 2003, a petition to establish a charter
9 school shall not be approved to serve pupils in a grade level that
10 is not served by the school district of the governing board
11 considering the petition, unless the petition proposes to serve pupils
12 in all of the grade levels served by that school district.

13 (b) No later than 30 days after receiving a petition, in accordance
14 with subdivision (a), the governing board of the school district
15 shall hold a public hearing on the provisions of the charter, at
16 which time the governing board of the school district shall consider
17 the level of support for the petition by teachers employed by the
18 school district, other employees of the school district, and parents.
19 Following review of the petition and the public hearing, the
20 governing board of the school district shall either grant or deny
21 the charter within 60 days of receipt of the petition, provided,
22 however, that the date may be extended by an additional 30 days
23 if both parties agree to the extension. In reviewing petitions for
24 the establishment of charter schools pursuant to this section, the
25 chartering authority shall be guided by the intent of the Legislature
26 that charter schools are and should become an integral part of the
27 California educational system and that the establishment of charter
28 schools should be encouraged. The governing board of the school
29 district shall grant a charter for the operation of a school under this
30 part if it is satisfied that granting the charter is consistent with
31 sound educational practice. The governing board of the school
32 district shall not deny a petition for the establishment of a charter
33 school unless it makes written factual findings, specific to the
34 particular petition, setting forth specific facts to support one or
35 more of the following findings:

36 (1) The charter school presents an unsound educational program
37 for the pupils to be enrolled in the charter school.

38 (2) The petitioners are demonstrably unlikely to successfully
39 implement the program set forth in the petition.

1 (3) The petition does not contain the number of signatures
2 required by subdivision (a).

3 (4) The petition does not contain an affirmation of each of the
4 conditions described in subdivision (d).

5 (5) The petition does not contain reasonably comprehensive
6 descriptions of all of the following:

7 (A) (i) A description of the educational program of the charter
8 school, designed, among other things, to identify those whom the
9 charter school is attempting to educate, what it means to be an
10 “educated person” in the 21st century, and how learning best
11 occurs. The goals identified in that program shall include the
12 objective of enabling pupils to become self-motivated, competent,
13 and lifelong learners.

14 (ii) A description, for the charter school, of annual goals, for
15 all pupils and for each subgroup of pupils identified pursuant to
16 Section 52052, to be achieved in the state priorities, as described
17 in subdivision (d) of Section 52060, that apply for the grade levels
18 served, or the nature of the program operated, by the charter school,
19 and specific annual actions to achieve those goals. A charter
20 petition may identify additional school priorities, the goals for the
21 school priorities, and the specific annual actions to achieve those
22 goals.

23 (iii) If the proposed charter school will serve high school pupils,
24 a description of the manner in which the charter school will inform
25 parents about the transferability of courses to other public high
26 schools and the eligibility of courses to meet college entrance
27 requirements. Courses offered by the charter school that are
28 accredited by the Western Association of Schools and Colleges
29 may be considered transferable and courses approved by the
30 University of California or the California State University as
31 creditable under the “A” to “G” admissions criteria may be
32 considered to meet college entrance requirements.

33 (B) The measurable pupil outcomes identified for use by the
34 charter school. “Pupil outcomes,” for purposes of this part, means
35 the extent to which all pupils of the charter school demonstrate
36 that they have attained the skills, knowledge, and attitudes specified
37 as goals in the charter school’s educational program. Pupil
38 outcomes shall include outcomes that address increases in pupil
39 academic achievement both schoolwide and for all groups of pupils
40 served by the charter school, as that term is defined in subparagraph

1 (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil
2 outcomes shall align with the state priorities, as described in
3 subdivision (d) of Section 52060, that apply for the grade levels
4 served, or the nature of the program operated, by the charter school.

5 (C) The method by which pupil progress in meeting those pupil
6 outcomes is to be measured. To the extent practicable, the method
7 for measuring pupil outcomes for state priorities shall be consistent
8 with the way information is reported on a school accountability
9 report card.

10 (D) The governance structure of the charter school, including,
11 but not limited to, the process to be followed by the charter school
12 to ensure parental involvement.

13 (E) The qualifications to be met by individuals to be employed
14 by the charter school.

15 (F) The procedures that the charter school will follow to ensure
16 the health and safety of pupils and staff. These procedures shall
17 include the requirement that each employee of the charter school
18 furnish it with a criminal record summary as described in Section
19 44237.

20 (G) The means by which the charter school will achieve a racial
21 and ethnic balance among its pupils that is reflective of the general
22 population residing within the territorial jurisdiction of the school
23 district to which the charter petition is submitted.

24 (H) The manner in which annual, independent financial audits
25 shall be conducted, which shall employ generally accepted
26 accounting principles, and the manner in which audit exceptions
27 and deficiencies shall be resolved to the satisfaction of the
28 chartering authority.

29 (I) The procedures by which pupils can be suspended or
30 expelled.

31 (J) The manner by which staff members of the charter schools
32 will be covered by the State Teachers' Retirement System, the
33 Public Employees' Retirement System, or federal social security.

34 (K) The public school attendance alternatives for pupils residing
35 within the school district who choose not to attend charter schools.

36 (L) A description of the rights of an employee of the school
37 district upon leaving the employment of the school district to work
38 in a charter school, and of any rights of return to the school district
39 after employment at a charter school.

1 (M) The procedures to be followed by the charter school and
2 the entity granting the charter to resolve disputes relating to
3 provisions of the charter.

4 (N) A declaration of whether or not the charter school shall be
5 deemed the exclusive public school employer of the employees of
6 the charter school for purposes of Chapter 10.7 (commencing with
7 Section 3540) of Division 4 of Title 1 of the Government Code.

8 (O) A description of the procedures to be used if the charter
9 school closes. The procedures shall ensure a final audit of the
10 charter school to determine the disposition of all assets and
11 liabilities of the charter school, including plans for disposing of
12 any net assets and for the maintenance and transfer of pupil records.

13 (c) (1) Charter schools shall meet all statewide standards and
14 conduct the pupil assessments required pursuant to Sections 60605
15 and 60851 and any other statewide standards authorized in statute
16 or pupil assessments applicable to pupils in noncharter public
17 schools.

18 (2) Charter schools shall, on a regular basis, consult with their
19 parents, legal guardians, and teachers regarding the charter school's
20 educational programs.

21 (d) (1) In addition to any other requirement imposed under this
22 part, a charter school shall be nonsectarian in its programs,
23 admission policies, employment practices, and all other operations,
24 shall not charge tuition, and shall not discriminate against a pupil
25 on the basis of the characteristics listed in Section 220. Except as
26 provided in paragraph (2), admission to a charter school shall not
27 be determined according to the place of residence of the pupil, or
28 of his or her parent or legal guardian, within this state, except that
29 an existing public school converting partially or entirely to a charter
30 school under this part shall adopt and maintain a policy giving
31 admission preference to pupils who reside within the former
32 attendance area of that public school.

33 (2) (A) A charter school shall admit all pupils who wish to
34 attend the charter school.

35 (B) If the number of pupils who wish to attend the charter school
36 exceeds the charter school's capacity, attendance, except for
37 existing pupils of the charter school, shall be determined by a
38 public random drawing. Preference shall be extended to pupils
39 currently attending the charter-school ~~school~~, *siblings of pupils*
40 *currently attending the charter school*, *children of employees at*

1 *the charter school*, and pupils who reside in the school district
2 except as provided for in Section 47614.5. ~~Other preferences may~~
3 ~~be permitted by the chartering authority on an individual school~~
4 ~~basis and only if consistent with the law.~~

5 (C) In the event of a drawing, the chartering authority shall
6 make reasonable efforts to accommodate the growth of the charter
7 school and in no event shall take any action to impede the charter
8 school from expanding enrollment to meet pupil demand.

9 (3) If a pupil is expelled or leaves the charter school without
10 graduating or completing the school year for any reason, the charter
11 school shall notify the superintendent of the school district of the
12 pupil's last known address within 10 days and shall provide that
13 school district with a copy of the cumulative record of the pupil,
14 including a transcript of grades or report card, health information,
15 and the reason for the pupil's departure. This paragraph applies
16 only to pupils subject to compulsory full-time education pursuant
17 to Section 48200.

18 (e) The governing board of a school district shall not require an
19 employee of the school district to be employed in a charter school.

20 (f) The governing board of a school district shall not require a
21 pupil enrolled in the school district to attend a charter school.

22 (g) The governing board of a school district shall require that
23 the petitioner or petitioners provide information regarding the
24 proposed operation and potential effects of the charter school,
25 including, but not limited to, the facilities to be used by the charter
26 school, the manner in which administrative services of the charter
27 school are to be provided, and potential civil liability effects, if
28 any, upon the charter school and upon the school district. The
29 description of the facilities to be used by the charter school shall
30 specify where the charter school intends to locate. The petitioner
31 or petitioners also shall be required to provide financial statements
32 that include a proposed first-year operational budget, including
33 startup costs, and cashflow and financial projections for the first
34 three years of operation.

35 (h) In reviewing petitions for the establishment of charter
36 schools within the school district, the governing board of the school
37 district shall give preference to petitions that demonstrate the
38 capability to provide comprehensive learning experiences to pupils
39 identified by the petitioner or petitioners as academically low

1 achieving pursuant to the standards established by the department
2 under Section 54032, as it read before July 19, 2006.

3 (i) Upon the approval of the petition by the governing board of
4 the school district, the petitioner or petitioners shall provide written
5 notice of that approval, including a copy of the petition, to the
6 applicable county superintendent of schools, the department, and
7 the state board.

8 (j) (1) If the governing board of a school district denies a
9 petition, the petitioner may elect to submit the petition for the
10 establishment of a charter school to the county board of education.
11 The county board of education shall review the petition pursuant
12 to subdivision (b). If the petitioner elects to submit a petition for
13 establishment of a charter school to the county board of education
14 and the county board of education denies the petition, the petitioner
15 may file a petition for establishment of a charter school with the
16 state board, and the state board may approve the petition, in
17 accordance with subdivision (b). A charter school that receives
18 approval of its petition from a county board of education or from
19 the state board on appeal shall be subject to the same requirements
20 concerning geographic location to which it would otherwise be
21 subject if it received approval from the entity to which it originally
22 submitted its petition. A charter petition that is submitted to either
23 a county board of education or to the state board shall meet all
24 otherwise applicable petition requirements, including the
25 identification of the proposed site or sites where the charter school
26 will operate.

27 (2) In assuming its role as a chartering agency, the state board
28 shall develop criteria to be used for the review and approval of
29 charter school petitions presented to the state board. The criteria
30 shall address all elements required for charter approval, as
31 identified in subdivision (b) and shall define “reasonably
32 comprehensive,” as used in paragraph (5) of subdivision (b), in a
33 way that is consistent with the intent of this part. Upon satisfactory
34 completion of the criteria, the state board shall adopt the criteria
35 on or before June 30, 2001.

36 (3) A charter school for which a charter is granted by either the
37 county board of education or the state board based on an appeal
38 pursuant to this subdivision shall qualify fully as a charter school
39 for all funding and other purposes of this part.

1 (4) If either the county board of education or the state board
2 fails to act on a petition within 120 days of receipt, the decision
3 of the governing board of the school district to deny the petition
4 shall be subject to judicial review.

5 (5) The state board shall adopt regulations implementing this
6 subdivision.

7 (6) Upon the approval of the petition by the county board of
8 education, the petitioner or petitioners shall provide written notice
9 of that approval, including a copy of the petition to the department
10 and the state board.

11 (k) (1) The state board may, by mutual agreement, designate
12 its supervisory and oversight responsibilities for a charter school
13 approved by the state board to any local educational agency in the
14 county in which the charter school is located or to the governing
15 board of the school district that first denied the petition.

16 (2) The designated local educational agency shall have all
17 monitoring and supervising authority of a chartering agency,
18 including, but not limited to, powers and duties set forth in Section
19 47607, except the power of revocation, which shall remain with
20 the state board.

21 (3) A charter school that is granted its charter through an appeal
22 to the state board and elects to seek renewal of its charter shall,
23 before expiration of the charter, submit its petition for renewal to
24 the governing board of the school district that initially denied the
25 charter. If the governing board of the school district denies the
26 charter school's petition for renewal, the charter school may
27 petition the state board for renewal of its charter.

28 (l) Teachers in charter schools shall hold a Commission on
29 Teacher Credentialing certificate, permit, or other document
30 equivalent to that which a teacher in other public schools would
31 be required to hold. These documents shall be maintained on file
32 at the charter school and are subject to periodic inspection by the
33 chartering authority. It is the intent of the Legislature that charter
34 schools be given flexibility with regard to noncore, noncollege
35 preparatory courses.

36 (m) A charter school shall transmit a copy of its annual,
37 independent financial audit report for the preceding fiscal year, as
38 described in subparagraph (I) of paragraph (5) of subdivision (b),
39 to its chartering entity, the Controller, the county superintendent
40 of schools of the county in which the charter school is sited, unless

1 the county board of education of the county in which the charter
2 school is sited is the chartering entity, and the department by
3 December 15 of each year. This subdivision does not apply if the
4 audit of the charter school is encompassed in the audit of the
5 chartering entity pursuant to Section 41020.

6 SEC. 3. Section 47610 of the Education Code is amended to
7 read:

8 47610. A charter school shall comply with this part and all of
9 the provisions set forth in its charter, but is otherwise exempt from
10 the laws governing school districts, except all of the following:

11 (a) All laws establishing minimum age for public school
12 attendance.

13 (b) The California Building Standards Code (Part 2
14 (commencing with Section 101) of Title 24 of the California Code
15 of Regulations), as adopted and enforced by the local building
16 enforcement agency with jurisdiction over the area in which the
17 charter school is located. Charter school facilities shall comply
18 with this subdivision by January 1, 2007.

19 (c) Sections 41365 and 47611 and Article 1 (commencing with
20 Section 48900) of Chapter 6 of Part 27.

21 SEC. 4. Section 48925 of the Education Code is amended to
22 read:

23 48925. As used in this article:

24 (a) "Day" means a calendar day unless otherwise specifically
25 provided.

26 (b) "Expulsion" means removal of a pupil from (1) the
27 immediate supervision and control, or (2) the general supervision,
28 of school personnel, as those terms are used in Section 46300.

29 (c) "Governing board" means the governing board of a school
30 district or the governing body of a charter school.

31 (d) "Principal" means the principal of the school or the site
32 administrator of a charter school.

33 (e) "Pupil" includes a pupil's parent or guardian or legal counsel.

34 (f) "School" includes a charter school.

35 (g) "Schoolday" means a day upon which the schools of the
36 district are in session or weekdays during the summer recess.

37 (h) "Suspension" means removal of a pupil from ongoing
38 instruction for adjustment purposes. However, "suspension" does
39 not mean any of the following:

1 (1) Reassignment to another education program or class at the
2 same school where the pupil will receive continuing instruction
3 for the length of day prescribed by the governing board for pupils
4 of the same grade level.

5 (2) Referral to a certificated employee designated by the
6 principal to advise pupils.

7 (3) Removal from the class, but without reassignment to another
8 class or program, for the remainder of the class period without
9 sending the pupil to the principal or the principal's designee as
10 provided in Section 48910. Removal from a particular class shall
11 not occur more than once every five schooldays.

12 SEC. 5. Section 49068.7 is added to the Education Code, to
13 read:

14 49068.7. (a) Each school district shall draft and implement a
15 policy to annually collect data about teacher turnover at each of
16 its schools, and at each charter school it authorizes.

17 (b) Subject to existing state and federal law regarding privacy
18 and personal directory information, the data collected pursuant to
19 this section shall be classified as public records subject to the
20 California Public Records Act (Chapter 3.5 (commencing with
21 Section 6250) of Division 7 of Title 1 of the Government Code).

22 SEC. 6. The Legislature finds and declares that Section 5 of
23 this act, which adds Section 49068.7 to the Education Code,
24 furthers, within the meaning of paragraph (7) of subdivision (b)
25 of Section 3 of Article I of the California Constitution, the purposes
26 of that constitutional section as it relates to the right of public
27 access to the meetings of local public bodies or the writings of
28 local public officials and local agencies. Pursuant to paragraph (7)
29 of subdivision (b) of Section 3 of Article I of the California
30 Constitution, the Legislature makes the following findings:

31 By making public the reasons for teacher turnover at charter
32 schools, the public's interest in charter school operation and
33 transparency ~~is~~ is furthered.

34 SEC. 7. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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