An act to amend Sections 47605 and 47605.1 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL’S DIGEST


Existing law authorizes a charter school that is unable to locate within the jurisdiction or geographic boundaries of the chartering school district to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent of Public Instruction are notified of the location of the charter school before it commences operations, and either the charter school has attempted to locate a single site or facility to house the entire program, but such a site or facility is unavailable in the area in which the charter school chooses to locate or the site is needed for temporary use during a construction or expansion project.

This bill would prohibit the governing board of a school district from authorizing new charter schools to locate outside the boundaries of the school district if the school district is assigned a negative certification,
as specified. The bill would also make conforming changes, correct references, and make various nonsubstantive changes.

(2) This bill would incorporate changes to Section 47605 of the Education Code proposed by both this bill and SB 322, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last. The bill would also incorporate changes to Section 47605.1 of the Education Code proposed by this bill and AB 2659, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.


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

SECTION 1. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions is met:

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

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

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

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

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

(5) (A) A charter school that is unable to locate within the
jurisdiction of the chartering school district may establish one site
outside the boundaries of the school district, but within the county
in which that school district is located, if the school district within
the jurisdiction of which the charter school proposes to operate is
notified in advance of the charter petition approval, the county
superintendent of schools and the Superintendent are notified of
the location of the charter school before it commences operations,
and either of the following circumstances exists:

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

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

(B) Notwithstanding subparagraph (A), the governing board of
a school district shall not authorize new charter schools to locate
outside the boundaries of the school district if the school district
is assigned a negative certification pursuant to paragraph (1) of
subdivision (a) of Section 42131.

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

(b) No later than 30 days after receiving a petition, in accordance
with subdivision (a), the governing board of the school district
shall hold a public hearing on the provisions of the charter, at
which time the governing board of the school district shall consider
the level of support for the petition by teachers employed by the
school district, other employees of the school district, and parents.

Following review of the petition and the public hearing, the
governing board of the school district shall either grant or deny
the charter within 60 days of receipt of the petition, provided,
however, that the date may be extended by an additional 30 days
if both parties agree to the extension. In reviewing petitions for
the establishment of charter schools pursuant to this section, the
chartering authority 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 the establishment of charter
schools should be encouraged. The governing board of the school
district shall grant a charter for the operation of a charter school
under this part if it is satisfied that granting the charter is consistent
with sound educational practice. The governing board of the school
district shall not deny a petition for the establishment of a charter
school unless it makes written factual findings, specific to the
particular petition, setting forth specific facts to support one or
more of the following findings:

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

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

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

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

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

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

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

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

(B) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the charter school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the charter school’s educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.
(D) The governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement.

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

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

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

(H) Admission requirements, if applicable.

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

(J) The procedures by which pupils can be suspended or expelled.

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

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

(M) A description of the rights of an 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.

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

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

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

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

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

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

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

(B) If the number of pupils who wish to attend the charter school exceeds the charter school’s capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the school district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

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

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the...
pupil’s last known address within 30 days, and shall, upon request, 
provide that school district with a copy of the cumulative record 
of the pupil, including a transcript of grades or report card, and 
health information. This paragraph applies only to pupils subject 
to compulsory full-time education pursuant to Section 48200. 

(e) The governing board of a school district shall not require an 
employee of the school district to be employed in a charter school. 
(f) The governing board of a school district shall not require a 
pupil enrolled in the school district to attend a charter school. 
(g) The governing board of a school district shall require that 
the petitioner or petitioners provide information regarding the 
proposed operation and potential effects of the charter school, 
including, but not limited to, the facilities to be used by the charter 
school, the manner in which administrative services of the charter 
school are to be provided, and potential civil liability effects, if 
any, upon the charter school and upon the school district. The 
description of the facilities to be used by the charter school shall 
specify where the charter school intends to locate. The petitioner 
or petitioners also shall be required to provide financial statements 
that include a proposed first-year operational budget, including 
startup costs, and cashflow and financial projections for the first 
three years of operation. 

(h) In reviewing petitions for the establishment of charter 
schools within the school district, the governing board of the school 
district shall give preference to petitions that demonstrate the 
capability to provide comprehensive learning experiences to pupils 
identified by the petitioner or petitioners as academically low 
achieving pursuant to the standards established by the department 
under Section 54032, as it read before July 19, 2006. 

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

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

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

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

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

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

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

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

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

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

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

(m) A charter school shall transmit a copy of its annual,
independent financial audit report for the preceding fiscal year, as
described in subparagraph (I) of paragraph (5) of subdivision (b),
to its chartering entity, the Controller, the county superintendent
of schools of the county in which the charter school is sited, unless
the county board of education of the county in which the charter
school is sited is the chartering entity, and the department by
December 15 of each year. This subdivision does not apply if the
audit of the charter school is encompassed in the audit of the
chartering entity pursuant to Section 41020.

SEC. 1.5. Section 47605 of the Education Code is amended to
read:

47605. (a) (1) Except as set forth in paragraph (2), a petition
for the establishment of a charter school within a school district
may be circulated by one or more persons seeking to establish the
charter school. A petition for the establishment of a charter school
shall identify a single charter school that will operate within the
geographic boundaries of that school district. A charter school
may propose to operate at multiple sites within the school district
if each location is identified in the charter school petition. The
petition may be submitted to the governing board of the school
district for review after either of the following conditions is met:

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

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

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

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

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

(5) (A) A charter school that is unable to locate within the
jurisdiction of the chartering school district may establish one site
outside the boundaries of the school district, but within the county
in which that school district is located, if the school district within
the jurisdiction of which the charter school proposes to operate is
notified in advance of the charter petition approval, the county
superintendent of schools and the Superintendent are notified of
the location of the charter school before it commences operations,
and either of the following circumstances exists:

(A)

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

(B)

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

(B) Notwithstanding subparagraph (A), the governing board of
a school district shall not authorize new charter schools to locate
outside the boundaries of the school district if the school district
is assigned a negative certification pursuant to paragraph (1) of
subdivision (a) of Section 42131.

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

(b) No later than 30 days after receiving a petition, in accordance
with subdivision (a), the governing board of the school district
shall hold a public hearing on the provisions of the charter, at
which time the governing board of the school district shall consider
the level of support for the petition by teachers employed by the
school district, other employees of the school district, and parents.

Following review of the petition and the public hearing, the
governing board of the school district shall either grant or deny
the charter within 60 days of receipt of the petition, provided,
however, that the date may be extended by an additional 30 days
if both parties agree to the extension. In reviewing petitions for
the establishment of charter schools pursuant to this section, the
chartering authority 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 the establishment of charter
schools should be encouraged. The governing board of the school
district shall grant a charter for the operation of a charter school
under this part if it is satisfied that granting the charter is consistent
with sound educational practice. The governing board of the school
district shall not deny a petition for the establishment of a charter
school unless it makes written factual findings, specific to the
particular petition, setting forth specific facts to support one or
more of the following findings:
   (1) The charter school presents an unsound educational program
for the pupils to be enrolled in the charter school.
   (2) The petitioners are demonstrably unlikely to successfully
implement the program set forth in the petition.
   (3) The petition does not contain the number of signatures
required by subdivision (a).
   (4) The petition does not contain an affirmation of each of the
conditions described in subdivision (d).
   (5) The petition does not contain reasonably comprehensive
descriptions of all of the following:
      (A) (i) The educational program of the charter school, designed,
among other things, to identify those whom the charter school is
attempting to educate, what it means to be an “educated person”
in the 21st century, and how learning best occurs. The goals
identified in that program shall include the objective of enabling
pupils to become self-motivated, competent, and lifelong learners.
      (ii) The annual goals for the charter school for all pupils and
for each subgroup of pupils identified pursuant to Section 52052,
to be achieved in the state priorities, as described in subdivision
(d) of Section 52060, that apply for the grade levels served, or the
nature of the program operated, by the charter school, and specific
annual actions to achieve those goals. A charter petition may
identify additional school priorities, the goals for the school
priorities, and the specific annual actions to achieve those goals.
      (iii) If the proposed charter school will serve high school pupils,
the manner in which the charter school will inform parents about
the transferability of courses to other public high schools and the
eligibility of courses to meet college entrance requirements.
Courses offered by the charter school that are accredited by the
Western Association of Schools and Colleges may be considered
transferable and courses approved by the University of California
or the California State University as creditable under the “A to G”
“A to G” admissions criteria may be considered to meet
college entrance requirements.
   (B) The measurable pupil outcomes identified for use by the
charter school. “Pupil outcomes,” for purposes of this part, means
the extent to which all pupils of the charter school demonstrate
that they have attained the skills, knowledge, and attitudes specified
as goals in the charter school’s educational program. Pupil
outcomes shall include outcomes that address increases in pupil
academic achievement both schoolwide and for all groups of pupils
served by the charter school, as that term is defined in subparagraph
(B) of paragraph (3) of subdivision (a) of Section 47607. The pupil
outcomes shall align with the state priorities, as described in
subdivision (d) of Section 52060, that apply for the grade levels
served, or the nature of the program operated, by the charter school.
(C) The method by which pupil progress in meeting those pupil
outcomes is to be measured. To the extent practicable, the method
for measuring pupil outcomes for state priorities shall be consistent
with the way information is reported on a school accountability
report card.
(D) The governance structure of the charter school, including,
but not limited to, the process to be followed by the charter school
to ensure parental involvement.
(E) The qualifications to be met by individuals to be employed
by the charter school.
(F) The procedures that the charter school will follow to ensure
the health and safety of pupils and staff. These procedures shall
include the requirement that each employee of the charter school
furnish it with a criminal record summary as described in Section
44237.
(G) The means by which the charter school will achieve a racial
and ethnic balance among its pupils that is reflective of the general
population residing within the territorial jurisdiction of the school
district to which the charter petition is submitted.
(H) Admission—requirements, if applicable. policies and
procedures, consistent with subdivision (d).
(I) The manner in which annual, independent financial audits
shall be conducted, which shall employ generally accepted
accounting principles, and the manner in which audit exceptions
and deficiencies shall be resolved to the satisfaction of the
chartering authority.
(J) The procedures by which pupils can be suspended or
expelled, consistent with subdivision (d), which, at a
minimum, shall also do the following:
(i) Identify a list of acts for which a pupil enrolled in the charter school may be suspended or expelled.

(ii) Identify suspension and expulsion procedures, including the maximum length of time for which a pupil may be suspended. The procedures shall also accommodate the rights of pupils with disabilities, consistent with federal law.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security.

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

(M) The rights of an 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.

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

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

(6) The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

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

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

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

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

(B) If the number of pupils who wish to attend the charter school
exceeds the charter school’s capacity, attendance, except for
existing pupils of the charter school, shall be determined by a
public random drawing. Preference shall be extended to pupils
currently attending the charter school and pupils who reside in the
school district except as provided for in Section 47614.5. Other
Additionally, other preferences may be permitted by the chartering
authority on an individual school basis and only if consistent with
the law: charter school basis, in accordance with all of the
following:

(i) Each type of preference shall be approved by the charter
school at a public hearing.

(ii) Preferences shall be consistent with federal law, the
California Constitution, and Section 200.

(iii) Preferences shall not result in limiting enrollment access
for pupils with disabilities, academically low-achieving pupils,
English learners, neglected or delinquent pupils, homeless pupils,
or pupils who are economically disadvantaged, as determined by
eligibility for any free or reduced-price meal program.

(iv) In accordance with Section 49011, preferences shall not
require mandatory parental volunteer hours as a criterion for
admission or continued enrollment.

(C) In the event of a drawing, the chartering authority shall
make reasonable efforts to accommodate the growth of the charter
school and shall not take any action to impede the charter school
from expanding enrollment to meet pupil demand.

(3) Charter school suspension and expulsion procedures shall
meet the following minimum requirements:
The procedures shall comply with federal and state constitutional due process requirements, which include providing notice and an opportunity to be heard.

For expulsions, the procedures shall ensure all of the following:

(i) The pupil is entitled to a formal hearing to determine if the pupil shall be expelled.

(ii) The pupil shall be provided written notice of the hearing, which, at a minimum, shall identify the date and place of the hearing, a statement of the specific facts and charges upon which the proposed expulsion is based, a copy of the disciplinary rules that relate to the alleged violation, and notice of the procedures that will govern the hearing, including those specified in clause (iii).

(iii) At the hearing, the pupil or the pupil’s parent or guardian, or the pupil’s educational rights holder if the pupil is a foster child or youth or a homeless child or youth, has a right to appear in person or to be represented by an attorney licensed to practice law in California or by a nonattorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil’s behalf, including through witnesses. A record of the hearing shall be made so that a reasonably accurate and complete written transcription of the proceedings can be made.

(iv) If the individual, panel, or board conducting the formal hearing determines that the pupil shall be expelled, the individual, panel, or board shall issue a written decision identifying the basis for the decision, including all facts in support of the decision, which shall be based upon substantial evidence relevant to the charges adduced at the formal hearing and shall not consist solely of hearsay evidence.

(v) Written notice of any decision to expel shall be sent by the charter school to the pupil or the pupil’s parent or guardian, or the pupil’s educational rights holder if the pupil is a foster child or youth or a homeless child or youth, and shall include notice of the right to appeal the expulsion to the county board of education, as provided for in clause (vi), and notice of the educational placement to be provided to the pupil during the time of expulsion, as provided for in clause (viii).
(vi) A pupil may appeal the expulsion to the county board of education with jurisdiction in the county in which the charter school is located.

(vii) The charter school shall ensure no loss of instructional days for the pupil pending final determination of the expulsion, including an appeal, if one is filed, by providing the pupil access to educational programming.

(viii) Upon final determination to expel a pupil, the charter school shall ensure the pupil is provided access to educational programming until the charter school has confirmed the pupil has been provided a suitable educational placement.

(4) A pupil shall not be removed, involuntarily dismissed, disenrolled, or terminated from a charter school unless the charter school has complied with all of the procedures specified in subparagraph (B) of paragraph (3).

(5) Nothing in this section is intended to restrict or otherwise limit the rights available to pupils in charter schools under other federal and state law. All such protections shall apply with full force and effect.

(3)

(6) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil’s last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

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

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

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

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as that section read before July 19, 2006.

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

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

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

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

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

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

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

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

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

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

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

(m) A charter school shall transmit a copy of its annual,
independent financial audit report for the preceding fiscal year, as
described in subparagraph (I) of paragraph (5) of subdivision (b),
to its chartering entity, the Controller, the county superintendent
of schools of the county in which the charter school is sited, unless
the county board of education of the county in which the charter
school is sited is the chartering entity, and the department by
December 15 of each year. This subdivision does not apply if the
audit of the charter school is encompassed in the audit of the
chartering entity pursuant to Section 41020.

(n) A charter school may encourage parental involvement, but
shall notify the parents and guardians of applicant pupils and
currently enrolled pupils that parental involvement is not a
requirement for acceptance to, or continued enrollment at, the
charter school.

SEC. 2. Section 47605.1 of the Education Code is amended to
read:

47605.1. (a) (1) Notwithstanding any other law, a charter
school that is granted a charter from the governing board of a
school district or county office of education after July 1, 2002, and
commences providing educational services to pupils on or after
July 1, 2002, shall locate in accordance with the geographic and
site limitations of this part.

(2) Notwithstanding any other law, a charter school that is
granted a charter by the state board after July 1, 2002, and
commences providing educational services to pupils on or after
July 1, 2002, based on the denial of a petition by the governing
board of a school district or county board of education, as described
in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
locate only within the geographic boundaries of the chartering
entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from
the governing board of a school district, a county office of
education, or the state board before July 1, 2002, but does not
commence operations until after January 1, 2003, shall be subject
to the geographic limitations of this part, in accordance with subdivision (e).

(b) Nothing in this section is intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other law, a charter school may establish a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized if the following conditions are met:

(1) The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.

(2) The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the charter school is authorized.

(d) (1) Notwithstanding subdivision (a) of this section or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

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

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

(2) Notwithstanding paragraph (1), the governing board of a school district shall not authorize new charter schools to locate outside the boundaries of the school district if the school district is assigned a negative certification pursuant to paragraph (1) of subdivision (a) of Section 42131.

(e) (1) For a charter school that was granted approval of its charter before July 1, 2002, and provided educational services to pupils before July 1, 2002, this section shall only apply to any new educational services or schoolsites established or acquired by the charter school on or after July 1, 2002.
(2) For a charter school that was granted approval of its charter before July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section shall only apply upon the expiration of a charter that is in existence on January 1, 2003.

(3) Notwithstanding other implementation timelines in this section, by June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools shall be required to comply with this section for schoolsites at which education services are provided to pupils before or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition before July 1, 2002.

To achieve compliance with this section, a charter school shall be required to receive approval of a charter petition in accordance with this section and Section 47605.

(4) Nothing in this section is intended to affect the authority of a governmental entity to revoke a charter that is granted on or before the effective date of this section.

(f) A charter school that submits its petition directly to a county board of education, as authorized by Section 47605.5 or 47605.6, may establish charter school operations only within the geographical boundaries of the county in which that county board of education has jurisdiction.

(g) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:


(2) Federally affiliated Youth Build programs.

(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Section 14507.5 or 14406 of the Public Resources Code.

(5) Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

SEC. 2.5. Section 47605.1 of the Education Code is amended to read:
47605.1. (a) (1) Notwithstanding any other law, a charter
school that is granted a charter from the governing board of a
school district or county office of education after July 1, 2002, and
commences providing educational services to pupils on or after
July 1, 2002, shall locate in accordance with the geographic and
site limitations of this part.

(2) Notwithstanding any other law, a charter school that is
granted a charter by the state board after July 1, 2002, and
commences providing educational services to pupils on or after
July 1, 2002, based on the denial of a petition by the governing
board of a school district or county board of education, as described
in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
locate only within the geographic boundaries of the chartering
entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from
a the governing board of a school district, a county office of
education, or the state board before July 1, 2002, but does not
commence operations until after January 1, 2003, shall be subject
to the geographic limitations of the this part, in accordance with
subdivision (e).

(b) This section is not intended to affect the admission
requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other law, a charter school may
establish a resource center, meeting space, or other satellite facility
located in a county adjacent to that in which the charter school is
authorized if the following conditions are met:

(1) The facility is used exclusively for the educational support
of pupils who are enrolled in nonclassroom-based independent
study of the charter school.

(2) The charter school provides its primary educational services
in, and a majority of the pupils it serves are residents of, the county
in which the charter school is authorized.

(d) (1) Notwithstanding subdivision (a) of this section or
subdivision (a) of Section 47605, a charter school that is unable
to locate within the geographic boundaries of the chartering school
district may establish one site outside the boundaries of the school
district, but within the county within which that school district is
located, if the school district in which the charter school proposes
to operate is notified in advance of the charter petition approval,
the county superintendent of schools is notified of the location of
the charter school before it commences operations, and either of
the following circumstances exist:

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

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

Notwithstanding paragraph (1), the governing board of a
school district shall not authorize new charter schools to locate
outside the boundaries of the school district if the school district
is assigned a negative certification pursuant to paragraph (1) of
subdivision (a) of Section 42131.

For a charter school that was granted approval of its
charter before July 1, 2002, and provided educational services to
pupils before July 1, 2002, this section only applies to new
educational services or schoolsites established or acquired by the
charter school on or after July 1, 2002.

For a charter school that was granted approval of its charter
before July 1, 2002, but did not provide educational services to
pupils before July 1, 2002, this section only applies upon the
expiration of a charter that is in existence on January 1, 2003.

Notwithstanding other implementation timelines in this
section, by June 30, 2005, or upon the expiration of a charter that
is in existence on January 1, 2003, whichever is later, all charter
schools shall be required to comply with this section for schoolsites
at which educational services are provided to pupils
before or after July 1, 2002, regardless of whether the charter
school initially received approval of its charter school petition
before July 1, 2002. To achieve compliance with this section, a
charter school shall be required to receive approval of a charter
petition in accordance with this section and Section 47605.

This section is not intended to affect the authority of a
governmental entity to revoke a charter that is granted on or before
the effective date of this section.

A charter school that submits its petition directly to a county
board of education, as authorized by Sections 47605.5 or
47605.6, may establish charter school operations only within the
geographical boundaries of the county in which that county board of education has jurisdiction.

(g) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

2. Federally affiliated YouthBuild programs.
3. Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.
4. The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code.
5. Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

SEC. 3. (a) Section 1.5 of this bill incorporates amendments to Section 47605 of the Education Code proposed by both this bill and Senate Bill 322. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 47605 of the Education Code, and (3) this bill is enacted after Senate Bill 322, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 47605.1 of the Education Code proposed by both this bill and Assembly Bill 2659. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 47605.1 of the Education Code, and (3) this bill is enacted after Assembly Bill 2659, in which case Section 2 of this bill shall not become operative.