

AMENDED IN ASSEMBLY APRIL 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2032

Introduced by Assembly Member Mendoza

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2032, as amended, Mendoza. Charter schools: suspension and expulsion of pupils.

(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, those establishing minimum age for public school attendance, specified building code regulations, and other specified laws. Existing law requires a charter school to comply with its charter. *Existing law requires a charter school petition to include a description of the procedures by which pupils can be suspended or expelled.*

Existing law enumerates the acts for which a pupil may be suspended or expelled from *a noncharter public* 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~~ *petition to include in the description of the suspension and expulsion procedures specified*

information regarding those procedures, a list of acts which, if committed by a charter school pupil, would require or allow the school to suspend the pupil, and a list of acts which, if committed by a charter school pupil, would require or allow the school to expel the pupil.

Existing law requires a charter school to notify the superintendent of the school district of a pupil's last known address within 30 days of a of a pupil's expulsion or within 30 days of when a pupil leaves the charter school without graduating or completing the school year for any reason and, upon request, to provide the school district with a copy of the pupil's cumulative record.

This bill would impose a state-mandated local program by requiring the charter school to provide the notification described above within 10 days, to provide the cumulative record without request, and to include the reason for the pupil's departure.

(2) 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. Section 47605 of the Education Code is amended
2 to read:

3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.
11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions are met:
13 (A) The petition ~~has been~~ is signed by a number of parents or
14 legal guardians of pupils that is equivalent to at least one-half of

1 the number of pupils that the charter school estimates will enroll
2 in the school for its first year of operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (B) The measurable pupil outcomes identified for use by the
20 charter school. “Pupil outcomes,” for purposes of this part, means
21 the extent to which all pupils of the school demonstrate that they
22 have attained the skills, knowledge, and attitudes specified as goals
23 in the school’s educational program.

24 (C) The method by which pupil progress in meeting those pupil
25 outcomes is to be measured.

26 (D) The governance structure of the school, including, but not
27 limited to, the process to be followed by the school to ensure
28 parental involvement.

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

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

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

39 (H) Admission requirements, if applicable.

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

6 (J) The procedures by which pupils can be suspended or
7 ~~expelled~~ expelled, which, at a minimum, shall do all of the
8 following:

9 (i) Identify a list of acts for which a pupil enrolled in the charter
10 school must be suspended or expelled because suspension or
11 expulsion is not discretionary and a list of acts for which a pupil
12 may be suspended or expelled because suspension or expulsion is
13 discretionary, and provide evidence that acts for which a pupil
14 must or may be suspended or expelled in noncharter public schools
15 has been reviewed.

16 (ii) Identify suspension and expulsion procedures, including the
17 maximum length of time for which a pupil may be suspended.

18 (iii) Identify the procedures, including timeframes, by which
19 parents, legal guardians, and pupils will be informed about the
20 reasons for the suspension or expulsion and will be informed of
21 their due process rights, which shall include the right to a hearing
22 and the right of parents and legal guardians to view evidence and
23 interview witnesses. The procedures also shall accommodate the
24 right of pupils with disabilities, consistent with federal laws.

25 (iv) Identify the process by which the procedures will be
26 periodically reviewed.

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

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

32 (M) A description of the rights of any employee of the school
33 district upon leaving the employment of the school district to work
34 in a charter school, and of any rights of return to the school district
35 after employment at a charter school.

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

39 (O) A declaration whether or not the charter school shall be
40 deemed the exclusive public school employer of the employees of

1 the charter school for the purposes of Chapter 10.7 (commencing
2 with Section 3540) of Division 4 of Title 1 of the Government
3 Code.

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

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

14 (2) Charter schools ~~shall~~, on a regular basis, *shall* consult with
15 their parents, legal guardians, and teachers regarding the school's
16 educational programs.

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

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

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

39 (C) In the event of a drawing, the chartering authority shall
40 make reasonable efforts to accommodate the growth of the charter

1 school and in no event shall take any action to impede the charter
2 school from expanding enrollment to meet pupil demand.

3 (3) If a pupil is expelled or leaves the charter school without
4 graduating or completing the school year for any reason, the charter
5 school shall notify the superintendent of the school district of the
6 pupil's last known address within ~~30~~ 10 days, and shall, ~~upon~~
7 ~~request~~, provide that school district with a copy of the cumulative
8 record of the pupil, including a transcript of grades or report card,
9 and health information, *and the reason for the pupil's departure*.

10 This paragraph applies only to pupils subject to compulsory
11 full-time education pursuant to Section 48200.

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

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

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

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

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

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

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

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

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

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

39 (6) Upon the approval of the petition by the county board of
40 education, the petitioner or petitioners shall provide written notice

1 of that approval, including a copy of the petition, to the department
2 and the state board.

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

9 (2) The designated local educational agency shall have all
10 monitoring and supervising authority of a chartering agency,
11 including, but not limited to, powers and duties set forth in Section
12 47607, except the power of revocation, which shall remain with
13 the state board.

14 (3) A charter school that has been granted its charter through
15 an appeal to the state board and elects to seek renewal of its charter
16 shall, ~~prior to~~ *before* expiration of the charter, submit its petition
17 for renewal to the governing board of the school district that
18 initially denied the charter. If the governing board of the school
19 district denies the school's petition for renewal, the school may
20 petition the state board for renewal of its charter.

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

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

39 *SEC. 2. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*
2 *pursuant to Part 7 (commencing with Section 17500) of Division*
3 *4 of Title 2 of the Government Code.*

4 SECTION 1. ~~Section 47610 of the Education Code is amended~~
5 ~~to read:~~

6 ~~47610. A charter school shall comply with this part and all of~~
7 ~~the provisions set forth in its charter, but is otherwise exempt from~~
8 ~~the laws governing school districts, except all of the following:~~

9 ~~(a) All laws establishing minimum age for public school~~
10 ~~attendance.~~

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

17 ~~(c) Sections 41365 and 47611 and Article 1 (commencing with~~
18 ~~Section 48900) of Chapter 6 of Part 27.~~

19 SEC. 2. ~~Section 48925 of the Education Code is amended to~~
20 ~~read:~~

21 ~~48925. As used in this article:~~

22 ~~(a) "Day" means a calendar day unless otherwise specifically~~
23 ~~provided.~~

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

27 ~~(c) "Governing board" means the governing board of a school~~
28 ~~district or the governing body of a charter school.~~

29 ~~(d) "Principal" means the principal of the school or the site~~
30 ~~administrator of a charter school.~~

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

32 ~~(f) "School" includes a charter school.~~

33 ~~(g) "School day" means a day upon which the schools of the~~
34 ~~district are in session or weekdays during the summer recess.~~

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

38 ~~(1) Reassignment to another education program or class at the~~
39 ~~same school where the pupil will receive continuing instruction~~

1 for the length of day prescribed by the governing board for pupils
2 of the same grade level.

3 ~~(2) Referral to a certificated employee designated by the~~
4 ~~principal to advise pupils.~~

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

10 SEC. 3. ~~If the Commission on State Mandates determines that~~
11 ~~this act contains costs mandated by the state, reimbursement to~~
12 ~~local agencies and school districts for those costs shall be made~~
13 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
14 ~~4 of Title 2 of the Government Code.~~