

## **CHARTER SCHOOL OVERSIGHT**

### **Compliance Requirements for Charter Schools**

Charter schools are exempt from provisions of the Education Code unless they are expressly included in the law. However, charter schools are subject to the terms of their charters, any Memorandum of Understanding with their chartering authority, and other legal requirements. [Education Code (EC) 47610]

This Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools and may be used by the Monterey County Board of Education (County Board) and the Monterey County Superintendent of Schools (County Superintendent) to monitor a charter school's compliance with law. Violation of any law may subject the charter school to revocation. [EC 47607]

Each charter school shall:

1. Charter schools shall comply with the state and federal constitutions, applicable federal laws, and state laws that apply to governmental agencies in general, such as the Brown Act requirements in Government Code 54950-54963 and the conflict of interest laws in Government Code 1090-1099 and 87100-91014.
2. Be nonsectarian in its programs, admission policies, employment practices, and all other operations. [EC 47605]
3. Not discriminate against any student on the basis of the characteristics listed in Education Code 220. [EC 47605]
4. Not charge tuition. [EC 47605]
5. Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools.
6. Adhere to all laws establishing the minimum age for public school attendance. [EC 47610]
7. Serve students who are California residents and who, if over 19 years of age, are continuously enrolled in a public school and making "satisfactory progress" toward a high school diploma as defined in 5 CCR 11965. [EC 47612]
8. Serve students with disabilities in the same manner as such students are served in other public schools. [EC 47646, 56145]

The Monterey Office of Education (MCOE) must ensure that each charter school that is deemed to be a public school of MCOE and is not its own local educational agency (LEA) for special education purposes receives an equitable share of education funding and students with disabilities who are enrolled in the charter school.

If a charter school is operating as a public school of MCOE for purposes of special education, MCOE retains responsibility and must determine how best to ensure that all special education students receive a free appropriate public education (FAPE). However, the California Office of Administrative Hearings has ruled (*Student v. Horizon Instructional Systems Charter School*) that a charter school operating as its own local educational agency for purposes of special education, including a charter school offering an independent study program is solely responsible for providing special education students with FAPE.

9. Admit all students who wish to attend the school, according to the following criteria and procedures:
  - a. Admission to the charter school shall not be determined according to the student's place of residence, or that of his/her parents/guardians, within the state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within the school's former attendance area. [EC 47605]  
  
If a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admissions preference for students who are currently enrolled in the public elementary school and for students who reside in the public school attendance area. [EC 47605.3]
  - b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, with preference extended to students currently attending the charter school and students who reside in the district in which the charter is located, except as provided for in Education Code 47614.5. [EC 47605]
  - c. Other admissions preferences may be permitted by the chartering district on an individual school basis consistent with law. [EC 47605]
10. Immediately enroll a homeless student, except where such enrollment would conflict with Education Code 47605(d). [EC 48850; 42 USC 11431-11435]

11. Comply with the requirements of Education Code sections 48850-4859 regarding the enrollment and placement of foster youth. [EC 48853.5, 48859]
12. If the school participates as a member of a special education local plan area (SELPA), comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth. [EC 48853.5, 48859]
13. If the school offers a kindergarten program: [EC 48000]
  - a. Offer a transitional kindergarten (TK) program to students whose fifth birthday is from September 2 through December 2
  - b. Ensure that any credentialed teacher first assigned to teach a TK class after July 1, 2015 meets the qualifications specified in Education Code 48000 by August 1, 2020. These requirements include at least 24 units in early childhood education and/or child development, comparable experience in a preschool setting, and/or a child development teacher permit issued by the Commission on Teacher Credentialing (CTC).
14. Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) equivalent to that which a teacher in other public schools would be required to hold. [EC 47605]
15. Provide annual training on child abuse and neglect reporting requirements to employees and persons working on their behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment. [EC 44691]
16. Not hire any person, in either a certificated or classified position, who has been convicted of a violent or serious felony except as otherwise provided by law, and if the school contracts with an entity for specified services, verify that any employee of that entity who have contact with students has a criminal background check. [EC 44830.1, 45122.1, 45125.1]
17. Report to the CTC any change in a certificated employee's employment status (dismissal, non-reelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending. [EC 44030.5]
18. Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System. [EC 47610]
19. Meet the requirements of Government Code 3540-3549.3 related to collective

bargaining in public education employment. [EC 47611.5]

20. If the school serves students in grades 7-12, adopt a policy on suicide prevention, intervention, and postvention with specified components [EC 215]
21. If the school serves students in grade 9, adopt a fair, objective and transparent mathematics placement policy with specified components. [EC 51224.7]
22. Meet all statewide standards and conduct the student assessments applicable to non-charter public schools. [EC 47605,47612.5, 60605]
23. Grant a high school diploma to any student who completed grade 12 in the 2003-2004 through 2014-2015 school year and who has met all applicable graduation requirements other than the passage of the high school exit examination. [EC 51413]
24. If the school receives Title I funds, meet State requirements for qualifications of paraprofessionals working in programs supported by Title I funds. [20 USC 6311]
25. Offer at least the minimum number of instructional minutes required by law each fiscal year for the grade levels provided by the charter school. Any charter school that fails to meet the requirement will have its state apportionment reduced in proportion to the percentage of instructional minutes that the school fails to offer. [EC 47612.5]

Neither the State Board of Education (SBE) nor the Superintendent of Public Instruction (SPI) may waive the required number of instructional minutes but may waive the fiscal penalties under specified conditions. [EC 47612.5 and 47612.6]

26. If the school provides independent study, meet the requirements of Education Code 51745-51749.3, except that the school may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e). [EC 47612.5, 51747.3; 5 CCR 11705]

Education Code 47612.5 provides that charter schools offering independent study are subject to Education Code 51745-51749.3. Education Code 51745 requires that no course included among the courses required for graduation may be offered solely through independent study. However, pursuant to 5 CCR 11705, a charter school offering grades 9-12 shall be deemed to be an "alternative school" for purposes of independent study and thus, according to the CDE, would comply with this provision because students in such alternative schools are enrolled voluntarily and, if they wished, could attend any other district high school in which the courses were offered via classroom instruction.

27. Identify and report to the Superintendent of Public Instruction (SPI) any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education. [EC 47612.5, 47634.2; 5 CCR 11963.2]
28. If the school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level. [EC 221.9]
29. If the school offers an athletic program, annually provide an information sheet about concussions/head injuries and sudden cardiac arrest to athletes and their parents/guardians, which must be signed and returned to the school before the athlete initiates practice or competition. In the event that an athlete is suspected of sustaining a concussion or head injury, passes out, or faints during or immediately after participation in an athletic activity, he/she shall be immediately removed from the activity for the remainder of the day and shall not be permitted to return to the activity until he/she is evaluated by a licensed health care provider and receives written clearance to do so. [EC 33479-33479.5, 49475]
30. On a regular basis, consult with parents/guardians and teachers regarding the school's educational programs. [EC 47605]
31. Notify parents/guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school. [EC 47605]
32. Provide students the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications. [EC 48907, 48950]

Charter schools are required to establish a written "publications code" related to students' rights to freedom of speech and of the press. These written rules and regulations must include reasonable provisions for the time, place, and manner in which free expression may take place within the charter school's jurisdiction. [EC 48907]

33. Adopt a policy that is consistent with the model policy developed by the California Attorney General addressing the school's response to immigration enforcement, notify parents/guardians of their children's right to a free public

education regardless of immigration status or religious beliefs, prohibit the collection of information or documents regarding the immigration status of students or their family members, and fulfill other requirements of Education Code 234.7.

34. Not collect or solicit social security numbers or the last four digits of social security numbers from students or their parents/guardians unless otherwise required to do so by state or federal law. [EC 49076.7]
35. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection. [EC 47612.5]
36. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information. [EC 47605]
37. If the school serves high school students, submit to the Student Aid Commission, for use in the Cal Grant program, the grade point average (GPA) of all students in grade 12 and verification of high school graduation or its equivalent for students who graduated in the prior academic year. However, such information shall not be submitted when students opt out or are permitted by the rules of the Student Aid Commission to provide test scores in lieu of the GPA. [EC 69432.9, 69432.92]
38. Develop a transportation safety plan that includes procedures to ensure that a student is not left unattended on a school bus, student activity bus, or child care motor vehicle and procedures and standards for designating an adult chaperone, other than the driver, to accompany students on a school activity bus. [EC 39831.3]
39. Comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: [EC 47610, 47610.5]
  - a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
  - b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

40. Ensure the availability and proper use of emergency epinephrine auto-injectors by: [EC 49414]
  - a. Providing school nurses or other voluntary, trained personnel with at least one regular and one junior device for elementary schools and, for secondary schools, one regular device if there are no students who require a junior device
  - b. Distributing a notice at least once per school year to all staff requesting volunteers and describing the training that volunteers will receive
  - c. Providing defense and indemnification to volunteers for any and all civil liability from such administration
41. If the school chooses to make an opioid antagonist available to persons suffering, or reasonably believed to be suffering, from an opioid overdose, comply with the requirements of Education Code 49414.3, including, but not limited to, providing training to personnel who volunteer to administer the opioid antagonist.
42. If the school participates in the National School Lunch and/or Breakfast program, not promote any food or beverage during the school day that does not comply with state nutritional standards pursuant to Education Code 49430-49434, and not participate in a corporate incentive program that offers free or discounted non-nutritious foods or beverages as rewards for students who reach certain academic goals. [EC 49431.9]
43. If the school participates in the National School Lunch and/or Breakfast program, notify parents/guardians within 10 days of their child's meal account reaching a negative balance; ensure that a student with unpaid school meal fees is not shamed, treated differently, or served a meal that differs from other students; and prohibit student discipline from resulting in the denial or delay of a nutritionally adequate meal. [EC 49557.5]
44. If the school participates in the National School Lunch and/or Breakfast program and is a very high poverty school, as defined, apply to the California Department of Education (CDE) to provide lunch and/or breakfast free of charge to all students under a federal universal service provision [EC 49564]
45. Provide reasonable accommodations on campus to a lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. [EC 222]
46. Promptly respond to all reasonable inquiries from the district, the county office of

education, or the SPI, including, but not limited to, inquiries regarding the school's financial records. [EC 47604.3]

47. Annually prepare and submit financial reports to the County Superintendent in accordance with the following reporting cycle:

- a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. [EC 47604.33]
- b. By July 1 each year, an update of the school's goals and the actions to achieve those goals as identified in the charter developed using the local control accountability plan (LCAP) template adopted by the State Board of Education. This report shall include a review of the progress toward the goals, an assessment of the effectiveness of the specific actions toward achieving the goals, a description of changes the school will make to the specific actions as a result of the review and assessment, and a listing and description of expenditures for the fiscal year implementing the specific actions. [EC 47604.33, 47606.5, 52064]

When conducting this review, the governing body of the school may consider qualitative information including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. To the extent practicable, data shall be reported in a manner consistent with how information is reported on a school accountability report card. The update shall be developed in consultation with teachers, principals, administrators, other school personnel, parents/guardians and students. [EC 47606.5]

- c. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. [EC 47604.33]
- d. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. [EC 47604.33]
- e. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. [EC 42100, 47604.33]
- f. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall



also be submitted to the state Controller and the California Department of Education. [EC 47605]

48. Post specified information related to the prohibition against discrimination under Title IX of the Education Amendments of 1972 in a prominent and conspicuous location on the school web site or on the web site of the charter operator [EC 221.61]
49. If a direct-funded charter school, adopt and implement uniform complaint procedures to resolve complaints of unlawful discrimination or alleged violation of a state or federal law or regulation governing education programs in accordance with 5 CCR 4600-4670. [5 CCR 4600]
50. Annually adopt a school accountability report card (SARC) that shall be included in the charter school's website by February 1<sup>st</sup>. [EC 47612; Cal. Const. Art. XVI, section 8.5]
51. Charter schools shall review the Memorandum of Understanding and the Compliance requirements of BP 0420.41 at a regularly scheduled board meeting within the first two board meetings of the school year and will acknowledge compliance of this board policy.

Adopted: 04/05/17

Revised: 06/20/18