



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

## **Governor signs AB 2030, which allows charter schools to appeal revocation decisions by their chartering agency.**

On October 2, 2006, Governor Schwarzenegger signed AB 2030 into law. This bill creates a powerful tool for charter schools whose charters are revoked by their chartering authority.

Under the previous Education Code Section 47607, a chartering authority was required to notify a charter school that it intended to revoke the charter. The charter school was then allowed a “reasonable opportunity to cure” the violation prior to revocation (except in those cases where the violation constituted a severe and imminent threat to the health and safety of the pupils). Any decision by the chartering authority to revoke the school’s charter was final – subject only to court challenge.

Under the new law, which takes effect January 1, 2007, Section 47607 now clarifies that after providing the initial notice of a possible revocation and providing a reasonable opportunity to cure, a chartering authority must then provide a secondary written notice of its intent to revoke a charter as well as *written notice* of facts the chartering authority is using in support of the revocation. The chartering authority must then hold a public hearing on the revocation within 30 days, and a final decision must be issued within 30 days of the public hearing. The chartering authority cannot decide to revoke the charter unless they make written factual findings supported by substantial evidence.

If the chartering authority decides to revoke, a district-sponsored charter school can now appeal the revocation to the county board of education within 30 days. The county board of education must issue its decision within 90 days and can overturn the revocation if they find that the district’s factual findings were not supported by substantial evidence. If the county board refuses to overturn the revocation, the charter school can appeal to the State Board of Education (SBE). The SBE can also overturn the revocation if they decide that the district’s findings were not supported by substantial evidence. The same process applies for county-authorized charters, except that the revocation must be appealed directly to the SBE. A chartering authority retains a similar right: if the county overturns their decision to revoke, the district or county chartering authority can appeal to the SBE.

A key provision of the new legislation also holds that if the revocation decision is overturned, the charter school keeps the *same chartering authority* -- unlike the situation in which the SBE or the county board of education becomes the charter school’s new chartering authority on appeal of an initially denied charter.

In addition, if a charter has been revoked for an alleged violation of the charter or for failing to meet pupil outcomes, a charter school will continue to receive federal, state, and local funding, qualify for grants, and retain any district-provided facilities during the appeals process. It is unclear what happens when a charter is revoked for other causes including a violation of law or for engaging in fiscal mismanagement.

Unfortunately, in its current form AB 2030 leaves some questions. Indeed, the Governor, in signing the bill, stated that:

7 PARK CENTER DRIVE ■ SACRAMENTO, CA 95825 ■ T 916 646 1400 ■ F 916 646 1300

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“I am signing Assembly Bill 2030, which would authorize a charter school to appeal a revocation decision by its chartering authority. As revocation is a serious matter that causes a disruption in instructional services for the school’s students, the need for a charter school to have its case heard before a more disinterested body is clear.

However, I am signing it with the understanding that subsequent legislation will provide further clarification on some key issues. Clarification is needed on the status of the charter school if the county board of education or the State Board of Education (SBE) does not issue a timely decision. The bill is silent on this matter. I believe cleanup legislation should specify which entity is responsible for oversight of the charter during the course of an appeal. Finally, I further request that subsequent legislation will make clear whether or not a charter school may continue operations during an appeal to the State Board of Education, if a revocation issued on the basis of fraudulent conduct is upheld by the county board of education.”

We will continue to monitor this legislation and provide further Legal Alerts to the field as more information becomes available. For questions about this new legislation or advice on how to navigate the appeals process, please contact Paul Minney ([pminney@smymlaw.com](mailto:pminney@smymlaw.com)) or Jim Young ([jyoung@smymlaw.com](mailto:jyoung@smymlaw.com)) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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