

YOUNG, MINNEY & CORR, LLP

THE CHARTER LAW FIRM



Local Control Funding Formula Legal Issues

Presented by:

Paul C. Minney, Esq. pminney@mycharterlaw.com

Lisa A. Corr, Esq. lcorr@mycharterlaw.com

Overview



- I. New LCFF Laws Affecting Charter Schools
- II. Meeting the LCFF Requirements in Your Charter Petition
- III. Other LCFF Legal Issues:
 - A. Local Control Accountability Plan
 - B. Authorizer Oversight
 - C. Charter Revocation
 - D. California Collaborative for Educational Excellence
 - E. Collective Bargaining

I. New LCFF Laws Affecting Charter Schools



- Effective July 1, 2013
- Applies to all charter schools, districts and counties
- Existing charter schools: LCFF reporting requirements begin July 1, 2015
- All charter petitions: new LCFF laws must be addressed in all new charter petitions, material revisions, and renewals

The 16 Charter Elements



1: Educational Program

2: Student Outcomes

3: Methods of Measurement

4: Governance

5: Employee Qualifications

6: Health and Safety

7: Racial and Ethnic Balance

8: Admissions Requirements

9: Annual Independent Audits

10: Suspension and Expulsion Procedures

11: Retirement Systems

12: Attendance Alternatives

13: Employee Return Rights

14: Dispute Resolution

15: Public School Employer

16: Closure

Charter Element 1: Educational Program



NEW Education Code Section 47605(b)(5)(A)(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.” (EC 47605(b)(5)(A)(ii))

LCFF: The 8 State Priorities



NEW Education Code Section 52060(d)

1. **Basic Services.** The degree to which teachers are appropriately assigned and fully credentialed, and every pupil has sufficient access to standards-aligned instructional materials, and school facilities are maintained in good repair
2. **Implementation of CCSS.** Implementation of Common Core State Standards, including how EL students will be enabled to gain academic content knowledge and English language proficiency
3. **Parental Involvement.** Parental involvement, including efforts to seek parent input for making decisions for schools, and how the school will promote parent participation

LCFF: The 8 State Priorities – Cont.



NEW Education Code Section 52060(d) – Cont.

4. **Student Achievement.** Pupil achievement, as measured by all of the following, as applicable:
 - A. Statewide assessments
 - B. The Academic Performance Index (API)
 - C. Percentage of pupils who have successfully completed courses that satisfy UC/CSU entrance requirements
 - D. Percentage of ELs who make progress toward English language proficiency as measured by the CELDT
 - E. EL reclassification rate
 - F. Percentage of pupils who have passed AP exams with 3+
 - G. Percentage of pupils who demonstrate college preparedness pursuant to the Early Assessment Program

LCFF: The 8 State Priorities – Cont.



NEW Education Code Section 52060(d) – Cont.

5. **Student Engagement.** As measured by all of the following, as applicable:
 - A. School attendance rates
 - B. Chronic absenteeism rates
 - C. Middle school dropout rates
 - D. High school dropout rates
 - E. High school graduation rates
6. **School Climate.** As measured by all of the following, as applicable:
 - A. Pupil suspension rates
 - B. Pupil expulsion rates
 - C. Other local measures, including surveys of pupils, parents, and teachers on the sense of safety and school connectedness

LCFF: The 8 State Priorities – Cont.



NEW Education Code Section 52060(d) – Cont.

7. **Course Access.** The extent to which pupils have access to, and are enrolled in, a broad course of study including programs and services developed and provided to unduplicated students (classified as EL, FRPM-eligible, or foster youth) and students with exceptional needs.

“Broad course of study” includes the following, as applicable:

Grades 1-6: English, mathematics, social sciences, science, visual and performing arts, health, physical education, and other as prescribed by the governing board.

Grades 7-12: English, social sciences, foreign language(s), physical education, science, mathematics, visual and performing arts, applied arts, and career technical education.

8. **Other Student Outcomes.** Pupil outcomes, if available, in the subject areas described above in #7, as applicable.

Charter Element 2: Measurable Pupil Outcomes



Addition to Education Code Section 47605(b)(5)(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 school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the 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.**”

Charter Element 3: Methods to Assess Pupil Progress



Addition to Education Code Section 47605(b)(5)(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.**”

II. Meeting the New LCFF Requirements in Your Charter



- Please see handouts:
 - ❑ Element 1: Sample Template
 - ❑ Element 2: Sample Template
- Element 3:
 - ❑ Sample affirmation: “The Charter School affirms that its methods for measuring pupil outcomes for State Priorities, as described in Element 2 of this charter, shall be consistent with the way information is reported on a School Accountability Report Card as required by Education Code Section 47605(b)(5)(C).”

III. Other LCFF Legal Issues



- A. Local Control Accountability Plan (LCAP)**
- B. Authorizer Oversight**
- C. Charter Revocation**
- D. California Collaborative for Educational Excellence (CCEE)**
- E. Collective Bargaining**

A. Local Control Accountability Plan



NEW Education Code Section 47606.5

- On or before July 1, 2015, and each year thereafter, a charter school **shall update the goals and annual actions to achieve the goals** identified in the charter [Element 1], using an SBE template.
- The LCAP shall include all of the following:
 1. A **review** of the progress toward the goals included in the charter;
 2. An **assessment** of the effectiveness of the specific actions described in the charter toward achieving the goals, and
 3. A description of **changes** to the specific actions the charter school will make as a result of the review and assessment.
 4. A listing and description of the **expenditures** for the fiscal year implementing the specific actions included in the charter as a result of the reviews and assessment, as required above.

Local Control Accountability Plan – Cont.



NEW Education Code Section 47606.5 – Cont.

- For purposes of the **review** required above, a charter school may consider **qualitative information**, including, but not limited to, findings that result from school quality reviews conducted pursuant to EC Section 52052(a)(4)(J), or any other reviews.
 - EC 52052(a)(4)(J): To complement the API, the Superintendent, with the approval of the state board, may develop and implement a program of school quality review that features locally convened panels to visit schools, observe teachers, interview pupils, and examine pupil work, if an appropriation for this purpose is made in the annual Budget Act.
- Data shall be reported consistent with SARC reporting.
- The charter school **shall consult** with teachers, principals, administrators, other school personnel, parents, and pupils **in developing the annual update**.

B. Authorizer Oversight



NEW Education Code Section 47604.32(c): Duties of Chartering Authority

Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the annual update [LCAP] required pursuant to Section 47606.5.**

Authorizer Oversight – Cont.



NEW Education Code Section 47604.33(a)(2): Annual Reports to Authorizer

- (a) Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering authority:
- (2) On or before July 1, an annual update [LCAP] required pursuant to Section 47606.5.

C. Charter Revocation



NEW Education Code Section 47604.5(d): Revocation by the State Board of Education

The state board, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent, take appropriate action, including, but not limited to, revocation of the school's charter, when the state board finds any of the following:

- (d) Failure to improve pupil outcomes across multiple state and school priorities identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (d) of Section 47605.6.**

Charter Revocation – Cont.



NEW Education Code Section 47607.3: Revocation for Failure to Improve Pupil Outcomes

- A charter school is “on notice” for revocation by its authorizer if **all** of the following apply:
 1. The charter school has failed to improve outcomes in one or more state OR school priorities identified in the school’s charter (Element 1; Education Code Section 47605(b)(5)(A); or for countywide charters, 47605.6(b)(5)(A)); and
 2. For 3 or more of the school’s numerically significant student subgroups (if have less than 3, then all subgroups at the school); and
 3. For 3 out of 4 consecutive school years.
- Then, the authorizer **must** provide the charter school technical assistance using a state-adopted evaluation rubric; and at the request of the authorizer, the State Superintendent may assign the CCEE.

Charter Revocation – Cont.



New Education Code Section 47607.3 – Cont.

- If the CCEE has provided advice and assistance and makes **either** of the following findings, an authorizer **shall** consider the charter school for revocation:
 1. The charter school has failed, or is unable, to implement the recommendations of the CCEE.
 2. The “inadequate performance” of the charter school, based upon the state-adopted evaluation rubric, “is either so persistent or so acute as to require revocation of the charter.”
- The authorizer shall consider increases in pupil academic achievement for all pupil subgroups served by the charter school as the most important factor in determining whether to revoke the charter.
- The authorizer shall comply with the revocation hearing process in EC Section 47607(e). No appeal rights for charter school if revoked.

D. California Collaborative for Educational Excellence



NEW Education Code Section 52074

- New law establishes the “California Collaborative for Educational Excellence”
- Purpose of the CCEE is to advise and assist school districts, county superintendents of schools, and charter schools “in achieving the goals set forth in a local control and accountability plan”
- The State Superintendent may direct the CCEE to advise and assist in any of the following circumstances:
 - A district or county board or charter school requests assistance of the CCEE
 - A county superintendent determines assistance is necessary to help a district or charter school
 - The State Superintendent determines assistance is necessary to help a district, county superintendent of schools, or charter school

E. Collective Bargaining



For charter schools that are union organized, LCFF poses the following issues for purposes of labor negotiations:

- The increase in state funds under LCFF will generally lead to demand for higher wages and increased benefits.
- AB 97 (LCFF clean-up bill) clarifies that class size reduction, and anything in the LCAP that affects matters within the scope of bargaining (calendar, hours, etc.) will need to be bargained before implementation.
- Comparative salary issues: LCFF does not create a level playing field for revenue across differing charter schools and school districts (as revenue will now be tied to student population). Therefore, traditional negotiation models of comparative salaries may not be appropriate.

**QUESTIONS AND
RESPONSES**

**THANKS FOR
ATTENDING TODAY!**



YOUNG, MINNEY & CORR, LLP

SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO



SACRAMENTO OFFICE:

701 UNIVERSITY AVENUE
SUITE 150
SACRAMENTO, CA 95825

LOS ANGELES OFFICE:

5250 LANKERSHIM BLVD.
SUITE 610
NO. HOLLYWOOD, CA 91601

SAN DIEGO OFFICE:

591 CAMINO DE LA REINA
SUITE 910
SAN DIEGO, CA 92108

CONTACT:

TEL 916.646.1400
INFO@MYCHARTERLAW.COM
WWW.MYCHARTERLAW.COM