



SBE Issues New Regulations on Charter Closure (Effective May 9, 2007)

The State Board of Education recently approved and adopted new closure regulations for charter schools (these regulations are effective on May 9, 2007). Charter petitioners and operators should be aware of these new closure regulations because they create specific requirements that must be included the closure section of any new charter petition. In addition, Education Code Section 47607(a)(2) requires that all charter renewal petitions or material revisions must include any new requirements enacted into law. Therefore, all new charter petitions, renewal petitions, and material revisions must contain updated closure procedures consistent with these new regulations.

Education Code Section 47605(b)(5)(P) requires a charter petition to contain a reasonably comprehensive description of the procedures to be used if a charter school closes. The new closure regulations, codified at 5 California Code of Regulations Sections 11962 and 11962.1, now define, at a minimum, what “procedures” means in the statute (click here for a copy of these regulations). A charter petition must now contain a description of the procedures to be followed if the school closes, and the description must include:

1. The designation of an entity responsible for closure-related activities;
2. Notification to parents, the authorizing entity, the county office of education, the charter school’s SELPA, the retirement system(s) in which the charter school participates, and the California Department of Education of the following information:
 - a. The date of the closure;
 - b. Contact information for inquiries;
 - c. The districts of residence for pupils; and
 - d. How parents may obtain copies of pupil records;
3. Creation of a list of all charter school pupils that includes their grade level, district of residence, and courses they have completed, to be provided to the entity designated in [#1] above;
4. Provisions for the transfer and maintenance of all pupil records, assessment results, and special education records, as well as all personnel records, to the entity designated in [#1] above in accordance with applicable law;
5. Procedures for an independent financial audit to take place no more than six (6) months after the closure, which must include an accounting of all financial assets and all liabilities of the charter school, and an assessment of the disposition of any restricted funds received by or due to the charter school;
6. Procedures for disposal of any net assets remaining after liabilities have been settled, including the return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, and the return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.
7. Completion and filing of any required annual reports; and
8. Identification of funding to pay for the closure activities.

The regulations also require the authorizing entity to provide notification of the closure to the CDE, which must include a description of the circumstances of the closure, the effective date of the closure, and the location of pupil and personnel records.

Two especially noteworthy provisions are 5 CCR § 11962(i), which requires that the petition must provide “identification of funding to pay for the [closure] activities,” and 5 CCR § 11962(f), which sets forth the new requirements for completion of an independent final audit within six months after the closure of the school. The audit must now include an accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value, an accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation, and an assessment of the disposition of any restricted funds received by or due to the charter school. Interested persons should also review the Final Statement of Reasons, which provides additional information about these two provisions as well as each of the other requirements ([click here](#) for a copy of the SBE Final Statement of Reasons).

Any new charter petition, renewal, or material revision must now address each of these new requirements; if any of these requirements are not included, the potential authorizer would have grounds to reject the petition, renewal, or material revision. As a result, when you are submitting a charter petition, renewal, or material revision, please confirm that each requirement has been included and adequately addressed.

If you should have any questions regarding this update or would like help drafting or reviewing the closure section of your charter petition, renewal, or material revision, please contact Paul Minney (pminney@smymlaw.com) or Sarah Kollman (skollman@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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