



YOUNG, MINNEY & CORR, LLP

SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO

Parent Empowerment Act

(Cal. Ed. Code Sections 53300-53303; Cal.
Code Reg., tit. 5, Sections 4800-4808)

May 31, 2013

[Please note the information contained here is current as to the date listed above. In addition, because the law is constantly changing, we do not recommend that you act on this information without consulting legal counsel.]

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FIRM OVERVIEW

Young, Minney & Corr, LLP (YM&C) has been the leader in charter school law for more than a decade, representing over 500 charter schools throughout the state. The Firm principals have been working with charter schools since the inception of the Charter Schools Act in 1993.

We offer superior legal expertise, as well as the technical know-how, to allow you to effectively resolve your problems and meet all of your charter school needs and goals.

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- Non-profit incorporation and operation
- Business service agreements
- Memorandums of Understanding
- Legal opinions
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We emphasize a preventative approach to the law, helping our clients anticipate legal difficulties, minimize exposure to legal claims and fees, and prevent operational challenges.

With its main office located in Sacramento, YM&C is uniquely positioned to influence the public policy debate in California – helping shape the future of charter schools.

For more information on our team of expert attorneys and the services that we offer please visit our website at www.mycharterlaw.com or call us at 916-646-1400.

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TABLE OF CONTENTS

Parent Empowerment

California Education Code

Section 53300.	Petition requesting implementation of intervention; required signatures; action by local educational agency.....	1
Section 53301.	Notification of superintendent and state board	1
Section 53302.	Number of schools subject to petition; counting	1
Section 53303.	Requests for reasons other than improving academic achievement or pupil safety.....	1

California Code of Regulations, Title 5

Section 4800.	Intent	2
Section 4800.1.	Definitions	2
Section 4800.3.	Requirements to serve all pupils.....	3
Section 4800.5.	Parental notice	3
Section 4801.	Petition signatures	4
Section 4802.	Content of the petition.....	4
Section 4802.05.	Submission of petition.....	5
Section 4802.1.	Verification of petition signatures and obligations of the LEA	6
Section 4802.2.	Restart requirements for parent empowerment petitions	8
Section 4803.	Description of intervention – turnaround model.....	9
Section 4804.	Description of intervention – restart model.....	10
Section 4805.	Description of intervention – school closure	10
Section 4806.	Description of intervention – transformation model	10
Section 4807.	Description of intervention – alternative governance arrangement.....	13
Section 4808.	Prospective effect of regulations.....	13



**PARENT EMPOWERMENT ACT
(CALIFORNIA EDUCATION CODE)**

§ 53300. Petition requesting implementation of intervention; required signatures; action by local educational agency

For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

§ 53301. Notification of superintendent and state board

(a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.

(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

§ 53302. Limit on number of schools subject to petition

(a) No more than 75 schools shall be subject to a petition authorized by this article.

(b) A petition shall be counted toward this limit upon the Superintendent and state board receiving notice from the local educational agency of its final disposition of the petition.

§ 53303. Request must be to improve academic achievement or pupil safety

A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

(CALIFORNIA CODE OF REGULATIONS, TITLE 5)

§ 4800. Intent

The Parent Empowerment regulations shall remain valid in the event of changes to federal law referenced within the legislative language of Chapters 2 and 3 of the 5th Extraordinary Session Statutes of 2010, to the extent allowable under the law.

§ 4800.1. Definitions

- (a)** "Elementary school" means a school, regardless of the number of grade levels, whose graduates matriculate into either a subject elementary, middle or high school.
- (b)** "Eligible signature" means a signature of a parent or legal guardian of a pupil that can be counted toward meeting the requirement that at least one-half of the parents or legal guardians of pupils have signed the petition as set forth in Education Code section 53300.
- (c)** "Final disposition" means the action taken by the local educational agency (LEA) to implement the requested intervention option presented by a petition or implement one of the other intervention options as set forth in Education Code section 53300.
- (d)** "High school" means four-year high schools, senior high schools, continuation high schools, and evening schools.
- (e)** "Intervention" or "requested intervention" means:
- (1)** one of the four interventions (turnaround model, restart model, school closure, and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Education Code section 53202 and as further described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009; or
 - (2)** the alternative governance arrangement pursuant to Title 20 U.S.C. Section 6316(b)(8)(B)(v).
- (f)** "Middle school" means a school, regardless of the number of grade levels, whose graduates matriculate into a subject high school. Middle school also means a junior high school whose graduates matriculate into a subject senior high school.
- (g)** "Normally matriculate" means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high school or from a middle school to a subject high school, as determined by the Local Educational Agency (LEA) pursuant to established attendance boundaries, published policies, or practices in place on the date the petition is submitted.
- (h)** "Parents or legal guardians of pupils" means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code sections 56028 or 56055, including foster parents who hold rights to make educational decisions, on the date the petition is submitted.
- (i)** "Petition" means a petition requesting an LEA to implement one of the interventions defined in subdivision (e).
- (j)** "Pupils attending the subject school or elementary or middle schools that normally matriculate into a subject middle or high school" means a pupil enrolled in the school on the date the petition is submitted to the LEA.

(k) "Subject school" means a school identified by the Superintendent of Public Instruction, following the release of the annual adequate yearly progress report, as a school that:

- (1)** Is not one of the persistently lowest-achieving schools identified by State Superintendent of Public Instruction (SSPI) and the State Board of Education (SBE);
- (2)** Has been in corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act for at least one full academic year;
- (3)** Has failed to make adequate yearly progress (AYP); and
- (4)** Has an Academic Performance Index (API) score of less than 800.
- (5)** Has not exited Program Improvement.

(l) "Cannot implement the specific recommended option" means that an LEA is unable to implement the intervention requested in the petition and has provided in writing, during a regularly scheduled public meeting, the considerations and reasons for reaching such a finding.

(m) "Matriculating School" means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school.

§ 4800.3. Requirement to serve all pupils

Every pupil that attended a subject school prior to the implementation of an intervention shall continue to be enrolled in the school during and after an intervention is implemented pursuant to Education Code section 53300, unless the parent or legal guardian of the pupil chooses to enroll the pupil in another school or the school is closed. In addition, any pupil who resides in the attendance area of the subject school during or after the implementation of an intervention has a right to attend the school, subject to any laws or rules pertaining to enrollment.

§ 4800.5. Parental notice

- (a)** The CDE shall create a website for parents and guardians to obtain further information on circulating a parent empowerment petition.
- (b)** An LEA may create a website that lists the schools in the LEA subject to the provisions of the Parent Empowerment regulations, including enrollment data and attendance boundaries for each school. The web site may also inform parents and legal guardians of pupils how they may:
 - (1)** Sign a petition requesting the school district to implement one or more interventions to improve the school, and
 - (2)** Contact community-based organizations or work with individual school administrators and parent and community leaders to understand the school intervention options and provide input about the best options for the school.
- (c)** Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Section 6301 et seq.), on the date the notice of restructuring planning or restructuring status, Program Improvement Year 4 or later, is given pursuant to federal law, the LEA shall provide the parents and guardians of all pupils enrolled in a school in restructuring planning or restructuring status with notice that the school may be eligible for a parent empowerment petition to request a specific intervention pursuant to Education Code section 53300 and shall list the CDE website address created pursuant to section 4800.5(a). This notice, and any other written

communication from the school or the LEA to parents or legal guardians of pupils, must meet the language requirements of Education Code section 48985.

§ 4801. Petition signatures

(a) A petition shall contain signatures of parents or legal guardians of pupils attending the subject school, or may contain a combination of signatures of parents and legal guardians of pupils attending the subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools.

(b) Only one parent or legal guardian per pupil may sign a petition.

(c) The petition must have boxes that are consecutively numbered commencing with number 1, with sufficient space for the signature of each petition signer as well as his or her printed name, date, pupil's name, the pupil's date of birth, the name of the school the pupil is currently attending, and the pupil's current grade.

(d) The boxes described in subdivision (c) may also have space for the signer's address, city or unincorporated community name, and zip code, or request other information, and, if so, the petition shall make clear that providing such information is voluntary and cannot be made a condition of signing the petition.

(e) A petition may be signed by a parent or a legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, once for each of his or her pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject middle or high school. Separate petition boxes must be completed by the parent or legal guardian for each of his or her pupils.

(f) A petition may be circulated and presented in sections, so long as each section complies with the requirements set forth in this section and section 4802 regarding the content of the petition.

(g) Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community, and parents and legal guardians of eligible pupils shall be free from harassment, threats, and intimidation related to circulation of or signing a petition, and from being discouraged to sign or being encouraged to revoke their signature on a petition. Signature gatherers shall disclose if they are being paid and shall not be paid per signature.

(h) All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in procedures.

(i) School or district resources shall not be used to impede the signature gathering process pursuant to this section.

§ 4802. Content of the petition

(a) The petition and each section of the petition shall contain the following elements:

(1) A heading which states that it is a Petition of Parents, Legal Guardians, and

Persons Holding the Right to Make Educational Decisions for Pupils, including Foster Parents who hold rights to make educational decisions, to request an Intervention be implemented at the specified subject school and to be submitted to a specified LEA;

(2) A statement that the petition seeks the signatures of the parents or legal guardians of the pupils attending the subject school or, in the alternative, the signatures of the parents or legal guardians of the pupils attending the subject school and the signatures of the parents or legal guardians of the pupils attending elementary or middle schools who would normally matriculate into the subject school;

(3) The name and public contact information of the person to be contacted by either persons interested in the petition or by the LEA;

(4) Identification of the requested intervention;

(5) A description of the requested intervention using the language set forth in either sections 4803, 4804, 4805, 4806, or 4807, without omission to ensure full disclosure of the impact of the intervention;

(6) The name of the subject school;

(7) Boxes as designated in section 4801(c) and (d);

(8) An affirmation that the signing parent or legal guardian is requesting the LEA to implement the identified intervention at the subject school; and

(9) If requesting that an LEA implement the restart model intervention identified pursuant to Education Code section 53202(a)(2), and that the subject school be reopened under a specific charter school operator, charter management organization, or education management organization, a clear statement containing that information on the front of the petition, including contact information of the charter school operator, charter management organization or education management organization.

(10) The names of any agencies or organizations that are supporting the petition, either through direct financial assistance or in-kind contributions of staff and volunteer support, must be prominently displayed on the front page of the petition.

(b) The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website for interested petitioners to use. The CDE shall make the sample petition available in other languages pursuant to Education Code section 48985. Petitioners shall not be required to use the sample petition; however, alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

§ 4802.05. Submission of petition

(a) Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

(c) At the time of submission the petitioners shall submit a separate document

that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.

§ 4802.1. Verification of petition signatures and obligations of the LEA

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b) Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a parent or legal guardian of an eligible pupil on a minor technicality assuming the parent or legal guardian is entitled to sign it. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

(c) If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school, unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures

gathered must meet the one-half requirement.

(f) In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

(g) Upon receipt, the LEA may, within 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

(h) If the LEA finds that sufficient signatures cannot be verified by the LEA it shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians it cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used, including, but not limited to, an official notarization process or having the parent or guardian appear at the school or district office.

(i) If the LEA finds a discrepancy or problem with a submitted petition it shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition, or any need for further clarification regarding the petition.

(j) If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to section 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted pursuant to section 4802.1(h). The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be submitted to the LEA and it shall be deemed a new petition.

(k) If the LEA does not return the petition the LEA shall have 45 calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 25 calendar days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(l) The LEA shall notify the SSPI and the SBE in writing within fifteen calendar days of its receipt of a petition and within five calendar days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option and designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

§ 4802.2. Restart requirements for parent empowerment petitions

(m) If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.

(a) Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition shall be subject to all the provisions of law that apply to other charter schools.

(b) Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed. The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

(c) A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as the intervention and includes a proposed charter, the LEA must follow the provisions of section 4802.1 and implement the option requested by the parents, unless, in a regularly scheduled public hearing, the LEA makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in Education Code section 53300 it will implement. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g), then the rigorous review process required by Education Code section 53300 and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

(d) If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter management organizations and education management organizations and select a specific charter school operator or decline to do so.

(1) If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

(2) If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 20 calendar days, solicit charter proposals from charter school operators, charter management organizations and education management organizations. Thereafter, the LEA shall select a charter school operator, charter management organization or education management organization, through the rigorous review

process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days.

(e) If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.

§ 4803. Description of intervention -- turnaround model

(a) A turnaround model is one in which an LEA must:

(1) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(2) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students:

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(3) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(4) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(5) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new "turnaround office" in the LEA, hire a "turnaround leader" who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain added flexibility in exchange for greater accountability;

(6) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;

(7) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(8) Establish schedules and implement strategies that provide increased learning time (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59805 (Nov.18, 2009); and

(9) Provide appropriate social-emotional and community-oriented services and

supports for students.

(b) A turnaround model may also implement other strategies such as:

(1) Any of the required and permissible activities under the transformation model; or

(2) A new school model (e.g., themed, dual language academy).

§ 4804. Description of intervention -- restart model

A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides "whole-school operation" services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

§ 4805. Description of intervention -- school closure

School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

§ 4806. Description of intervention -- transformation model

A transformation model is one in which an LEA implements each of the following strategies:

(a) Developing and increasing teacher and school leader effectiveness.

(1) Required activities. The LEA must:

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

1. Take into account data on student growth (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59806 (Nov. 18, 2009)) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

2. Are designed and developed with teacher and principal involvement.

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(2) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(b) Comprehensive instructional reform strategies.

(1) Required activities. The LEA must:

(A) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school wide "response-to-intervention" model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited-English-proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools:

1. Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

2. Improving student transition from middle to high school through summer transition programs or freshman academies;

3. Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

4. Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(c) Increasing learning time and creating community-oriented schools.

(1) Required activities. The LEA must:

(A) Establish schedules and implement strategies that provide increased learning time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and

(B) Provide ongoing mechanisms for family and community engagement.

(2) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as:

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(d) Providing operational flexibility and sustained support.

(1) Required activities. The LEA must:

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the State Educational Agency (SEA), or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(2) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as:

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

§ 4807. Description of intervention -- alternative governance arrangement

Alternative governance is one in which an LEA institutes any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311(b)(2) of the federal Elementary and Secondary Education Act.

§ 4808. Prospective effect of regulations

The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations operative September 13, 2010 through June 13, 2011, are to be deemed in compliance with these regulations operative November 26, 2011.