FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

Charter School Oversight Review

August 27, 2020

San Diego County Office of Education

Michael H. Fine
Chief Executive Officer

FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

August 27, 2020

Paul Gothold, Ed.D., Superintendent
San Diego County Office of Education
6401 Linda Vista Road
San Diego, CA 92111-7319

Dear Superintendent Gothold:

In February 2020, the Fiscal Crisis and Management Assistance Team (FCMAT) and the San Diego County Office of Education entered into an agreement for management assistance. Specifically, the agreement states that FCMAT will perform the following:

1. Review the county office's charter oversight processes and practices for the nine charter schools it authorizes, and make recommendations for improvements, if any.

This report contains the study team's findings and recommendations.

FCMAT appreciates the opportunity to serve the San Diego County Office of Education and extends thanks to its staff for their cooperation and assistance during our review.

Sincerely,

Michael H Fine

Chief Executive Officer

Michael H. Fine • Chief Executive Officer
1300 17th Street – City Centre, Bakersfield, CA 93301-4533 • Tel. 661-636-4611 • Fax 661-636-4647
www.fcmat.org

Table of Contents

About FCMAT i

Introduction 1

- Background 2
- Study and Report Guidelines 2
- Study Team 2

Executive Summary 3

Findings and Recommendations 5

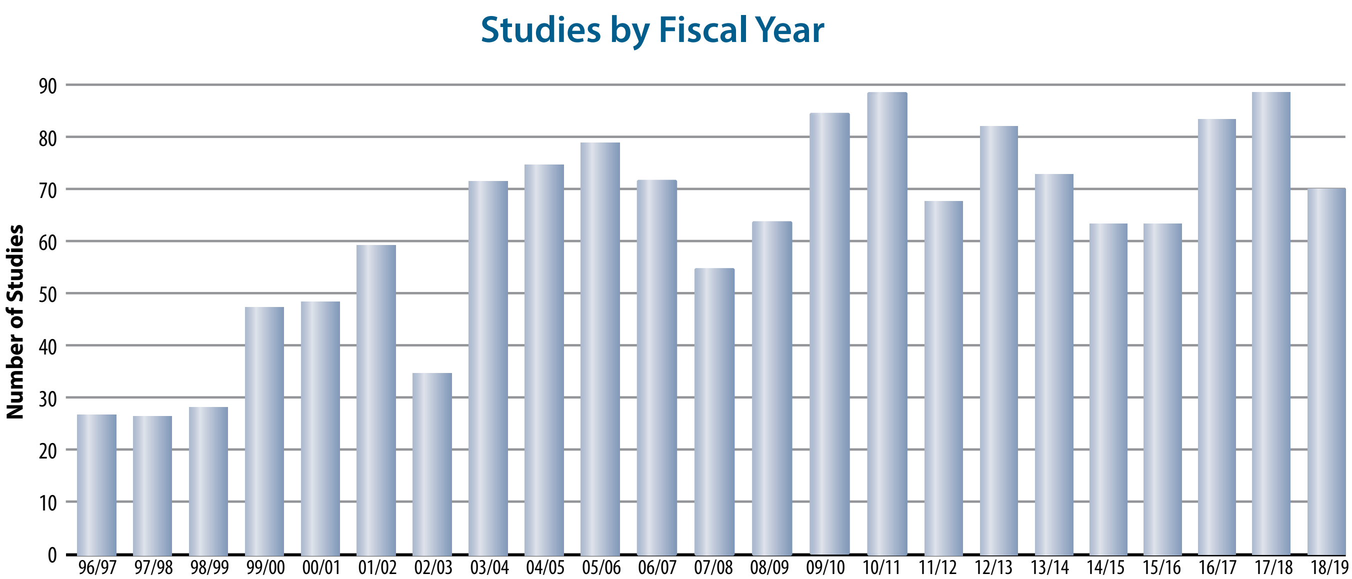
- Charter School Oversight 5
  - Fees for Oversight 7
  - Calculating Oversight Fees 7
- Board Policies and Administrative Regulations 9
- Annual Oversight 12
  - Governance and Organizational Management 12
  - Memorandum of Understanding (MOU) 13
  - Educational Program Assessment 14
  - Local Control and Accountability Plan (LCAP) 15
  - Fiscal Oversight 16
  - Financial Statements 16
  - Cash 17
  - Reserves 18
  - Audits 18
  - Renewal and Revocation 19
- Appendix 22

About FCMAT

FCMAT's primary mission is to assist California's local K-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT's fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support the training and development of chief business officials and help to create efficient organizational operations. FCMAT's data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and inform instructional program decisions.

FCMAT may be requested to provide fiscal crisis or management assistance by a school district, charter school, community college, county office of education, the state Superintendent of Public Instruction, or the Legislature.

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.



FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of K-14 LEAs and the implementation of major educational reforms. FCMAT also develops and provides numerous publications, software tools, workshops and professional learning opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website (www.ed-data.org) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. AB 1115 in 1999 codified CSIS' mission.

AB 1200 is also a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. AB 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, Senate Bill 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

On September 17, 2018 AB 1840 was signed into law. This legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting the former state-centric system to be more consistent with the principles of local control, and providing new responsibilities to FCMAT associated with the process.

Since 1992, FCMAT has been engaged to perform more than 1,000 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

Introduction

Background

San Diego County Office of Education encompasses 4,300 square miles and serves approximately 502,785 students countywide, which is 8.16% of California's student population. The county provides support for 42 school districts and 134 charter schools and serves as the authorizer of nine charter schools with approximately 4,495 students. The California State Board of Education is the authorizer of seven of the charter schools within the boundaries of San Diego County.

The county's first charter school was Literacy First Charter, which was approved by the San Diego County Board of Education on appeal from Cajon Valley Union School District in June 2001. Literacy First Charter School has subsequently been renewed by the board in April 2006, May 2011, and April 2016, which granted the charter school a five-year renewal through June 30, 2021.

Court rulings regarding geographic restrictions have guided charter school services and oversight. In 2013, Anderson Union High School District filed a complaint against Shasta Secondary Home School, a non-classroom-based public charter school. The school district alleged that the charter school was operating a resource center illegally within the district's boundaries based on the geographic site restrictions found in the Charter Schools Act (Education Code [EC] 47605 et seq.).

In December 2014, a trial court ruled in favor of the charter school, but Anderson Union appealed the decision in August of 2015. In October 2016, the Third District Court of Appeals reversed the original finding and held that the geographic restrictions in E.C. Sections 47605(a) and 47605.1(d) apply to nonclassroom-based charter schools operating out-of-district in-county resource centers. Although Shasta Secondary Home School appealed to the California Supreme Court, on January 18, 2017 the appeal was denied and the Third District Court's decision became law.

Partly because of that decision, the county office has experienced a rise in the number of appeals from nonclassroom-based charter schools seeking to change their resource centers into separate charter schools, to comply with the court decision. In two years, the county board of education approved an additional eight charter schools, six as a result of the court decision while the other two were standard charter school start-up petitions.

In response to the increased number of county-authorized charter schools, in the fall of 2018 the county office created a Charter School Department under the direction of the deputy superintendent of business services. Since then, additional reforms to the Charter Schools Act of 1992 were enacted under AB 1505 and 1507, which affects the process of charter school authorization, including oversight, appeals and renewals. Most of the provisions from these two bills became operative on July 1, 2020. These two bills will affect the county office because of the appeal-process modification for new charter school petitions as well as the renewal for existing charter schools at the county and state level. Previously, if the State Board of Education approved a charter petition on appeal, it was responsible for the oversight of that charter school. New law shifts those oversight duties to the school district or the county office.

In February 2020, the county office entered into an agreement with FCMAT to conduct a review of its charter school oversight processes and make recommendations for improvements, if any. The goal of this request is to ensure that the county office's efforts and duties as a charter school authorizer meet the standards.

Study and Report Guidelines

On May 4-7, 2020 FCMAT conducted interviews online with the county office and charter school staff and collected data and reviewed documents. Three charter schools were randomly selected out of the nine charter schools authorized by the county office for sampling purposes of this review. Following interviews, FCMAT continued to review and analyze documents. This report is the result of those activities.

FCMAT's reports focus on systems and processes that may need improvement. Those that may be functioning well are generally not commented on in FCMAT's reports. In writing its reports, FCMAT uses the Associated Press Stylebook, a comprehensive guide to usage and accepted style that emphasizes conciseness and clarity. In addition, this guide emphasizes plain language, discourages the use of jargon, and capitalizes relatively few terms.

Study Team

The study team was composed of the following members:

Jennifer Noga, CFE
Intervention Specialist

Robbie Montalbano, CFE
Intervention Specialist

Leonel Martínez
FCMAT Technical Writer

Marcus Wirowek, CFE
Intervention Specialist

Each team member reviewed the draft report to confirm accuracy and achieve consensus on the final recommendations.

Executive Summary

California E.C. Section 47600, also known as the Charter Schools Act of 1992, was enacted "to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure..." Charter schools are part of the public school system, but differ from traditional public schools because they are exempt from many state laws relating to specific educational programs. Charters offer a more flexible governance model, but remain accountable for student achievement and fiscal management.

The chartering agency, which may be a school district, county office of education, or the California State Board of Education, that grants a charters petition is responsible for adequate and appropriate oversight of the charter school. This includes determining if a charter is following prudent business practices and generally accepted accounting principles (GAAP) in accounting for revenues and expenditures and preparing financial reports. In return, the agency may charge up to 1% or 3% oversight fee depending on whether facilities are used. These fees are intended to compensate the authorizer for the additional oversight functions, cannot exceed actual costs, and may not exceed the percentage threshold.

San Diego County has approximately 134 charter schools with an estimated enrollment of 79,312 students. The county office serves as the authorizer of nine charter schools. The county's first charter school was approved in 2001, and by 2017-18 that number had grown to nine. Of those, two are countywide and were approved in 2017. If a charter organization can demonstrate that its mission cannot be accomplished by operating within a single school district, it may apply to the county office for recognition as a countywide charter school.

In addition to the Education Code, court rulings regarding geographic restrictions have guided charter school services and oversight. The California Court of Appeal decision in Anderson Union High School District v. Shasta Secondary Home School (2016) held that charter schools may not locate outside of their authorizer's boundaries. The courts further held that the Charter Schools Act provides no exception for resource centers to locate within the authorizer's county, but outside the authorizing district's boundaries. In two years, the county office board of education approved an additional eight charter schools. Six of these were due to the court decision while the other two were standard charter school start-up petitions.

Additional reform to the Charter Schools Act in 2019 modified the appeal process for new charter school petitions as well as renewals for existing charter schools at the county and state level. Previously, if the State Board of Education approved a charter petition on appeal, the California Department of Education (CDE) performed oversight duties on the board's behalf. Beginning July 1, 2020, if a petition is approved by the state board on appeal, either the district or the county office will be designated as the authorizing agency and will be responsible for all oversight duties.

To provide proper oversight and support to the charter schools within the county's boundaries, the Charter School Department was created in September 2018 with three major areas of focus: petition review and renewal, monitoring and oversight, and training and support. The staff hired in this department are new to their positions and operate without predefined written processes and procedures that outline and prioritize department workflow.

The law does not include details on how the authorizing agency executes its oversight duties. Instead, these are defined through an agreement between the authorizing agency and the charter school by language outlined in the charter petition and/or memorandum of understanding (MOU). Although the county office identified staff members for this purpose before creating the Charter School Department, the process used for oversight, year over year, has not been consistent.

The county office as the authorizer should consider including in the MOU with each authorized charter a list of the reports it requires to complete its charter school oversight duties. For example, in addition to the reports included in E.C. Section 47604.33, the MOU should include student attendance reports, multiyear projections, a cash flow statement, and a monthly financial report from each charter school. Additionally, MOUs should be clear about the funding sources used to calculate the oversight fees and should explain that the required oversight fees are to be based on the LCFF as outlined in E.C. Section 47613.

A comprehensive rubric should be used in performing oversight responsibilities. This can help determine whether the school has adequate controls for operation and whether it meets the requirements of its petition and the MOU between the school and the county office. A rubric assists authorizers in performing their oversight responsibilities and can help evaluate areas in which a charter school operates effectively or needs support.

Findings and Recommendations

Charter School Oversight

Once a charter petition is approved, the charter school's authorizing agency is responsible for adequate and appropriate oversight of academic achievement and fiscal accountability. This includes determining whether the charter school follows prudent business practices and generally accepted accounting principles (GAAP) when accounting for revenues and expenditures and preparing financial reports. Additionally, thorough documentation of oversight activities creates a record that can be used in the renewal or revocation processes.

Additional reform to the Charter Schools Act in 2019 modifies the appeal process for new charter school petitions as well as renewals for existing charter schools at the county and state levels. Previously, if the State Board of Education approved a charter petition on appeal, the CDE performed oversight duties on the board's behalf. Beginning July 1, 2020, if a petition is approved by the State Board on appeal, it will designate, in consultation with the petitioner, either the district or the county office as the authorizing agency who will be responsible for all oversight duties.

In September 2018, the county office created the Charter School Department to provide proper oversight and support to the charter schools within its boundaries and to anticipate additional reform to the appeals process as discussed above. The department is under the direction of the deputy superintendent of business services. The department was originally staffed with 1.5 full-time equivalents (FTEs): a senior director and a part-time administrative assistant II. The senior director has an extensive background in fiscal services as it relates to local educational agency (LEA) financial reporting, guidelines, and oversight. However, when there were needs pertaining to the educational program, the senior director used staff members from other county office departments to provide support or assistance to the charter schools. In April 2020, a coordinator was hired for the department. To complement the senior director's fiscal background, the coordinator position's job requirements focus on curriculum and instruction with an educational program background.

At the time of FCMAT's study, the department had yet to develop an underlying strategic plan. However, the county office indicated that the development of more formal processes and procedures remained an ongoing objective, with a focus on three main areas: reviewing and renewing charter school petitions, monitoring ad oversight requirements, and providing training and support. This includes the development of written guidelines, roles and responsibilities that outline and prioritize the workflow in each area.

Charter schools are part of the public school system but differ from traditional public schools because they are exempt from many state laws relating to specific educational programs. Specific goals and operating procedures governing the charter are detailed in agreements (e.g. charter petitions and MOUs) between the authorizing agency and the charter school organizers.

The charter authorizing agency is responsible for ensuring the charter school operates in compliance with all applicable law and the terms of its charter. E.C. Section 47604.32 identifies the duties of a charter authorizing agency. This scope provides a broad framework for authorizers, allowing individual authorizers discretion on how to perform their oversight function. Specifically, the charter authorizing agency must do the following:

1. Identify at least one staff member as a contact person for the charter school.
2. Visit each charter school at least annually.

3. Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the Local Control and Accountability Plan (LCAP) and annual update to the LCAP required by E.C. Section 47606.5.
4. Monitor the fiscal condition of each charter school under its authority.
5. Provide timely notification to CDE if a charter is renewed, revoked, or if the charter school will cease operation for any reason.

According to E.C. Section 47604, an agency approving a petition for a charter school that will be operated by a nonprofit public benefit corporation cannot be held liable for the debts or obligations of that charter school, claims arising from the charter school's acts, errors, or omissions if the agency has complied with all the oversight responsibilities required by law.

California statutes provide little guidance for authorizers about their actual duties. The charter law includes only basic duties, such as acting on petitions and conducting site visits but provides no consistent professional expectations, and authorizers are left to create their own tools and trainings. Many resources provide information on this subject such as the CDE, the Charter Authorizers Regional Support Network (CARSNet) and the National Association of Charter School Authorizers (NACSA). Several authorizers around the state have created comprehensive processes detailing the oversight process as well as implemented various tools to assist them. FCMAT has also created a Charter School Oversight Checklist, which can be found at https://www.fcmat.org/PublicationsReports/charter-school-oversight-checklist.pdf. At a minimum, FCMAT recommends that oversight include the items on that checklist, including:

- General Requirements
- Fiscal and Business Operations
- Educational Program: Local Control and Accountability Plan (LCAP)
- Educational Program and Ongoing Assessment
- Facilities, Maintenance, and Operations
- Governance
- Personnel
- Student Services

The use of a checklist or other rubric assists authorizers in performing their oversight responsibilities and can help evaluate areas where a charter school operates effectively or needs support.

Oversight is an ongoing process that can continuously change. Throughout the life of the charter, the county office's Charter School Department should constantly evaluate the charter schools it authorizes as well as support the county districts that have authorized their own charter schools. A core responsibility of every authorizer is to do the following:

> …engage in responsible oversight of charter schools by ensuring that schools have both the autonomy to which they are entitled and the public accountability for which they are responsible. (National Association of Charter School Authorizers, "Principles and Standards for Quality Charter School Authorizing, 2015".)

At the beginning of 2019-20, the county office sent a letter with an extensive document request list to each of its authorized charter schools. It is unclear whether all documents were ultimately received and reviewed since the process of the financial review is not well-documented.

The Charter School Department staff should conduct regularly scheduled visits and meetings with the administration of all charter schools it authorizes. The purpose of these visits and meetings is to monitor each school's progress in achieving the academic, organizational, and fiscal objectives outlined in its charter petition and MOU. Department staff should also regularly attend board meetings and review agendas and materials, which is critical to understanding the board actions affecting the charter school. FCMAT could not confirm that department staff had regularly attended authorized charter school board meetings or reviewed board agendas and materials from each meeting.

Fees for Oversight

According to E.C. Section 47613, the agency that grants a charter petition is responsible for the oversight of that charter school and may charge fees to the charter for the actual costs of oversight, with the following limits:

<u>One Percent Oversight Fee</u>

These fees are not to exceed 1% of the charter school's revenue when the authorizer does not provide the charter school with substantially rent-free facilities.

<u>Three Percent Oversight Fee</u>

These fees are not to exceed 3% of the charter school's revenue when the authorizer provides the charter school with substantially rent-free facilities. The 3% oversight fee is composed of 1% for oversight and 2% for use of the school facilities. An example of a substantially rent-free facility is when a school district allows a charter to use a school building that the district either does not use or partially uses and does not charge for the use.

Calculating Oversight Fees

For purposes of calculating the oversight fee, charter school revenue means the amount received in the current fiscal year from the Local Control Funding Formula (LCFF). (E.C. 42238.03) The LCFF is based on student attendance and the unduplicated pupil count (that is, no student may be counted twice) of enrolled students who are classified as English learners, low-income, or foster youth. Federal revenues, restricted state revenues, one-time state allocations and local revenue sources such as donations are not included when calculating the oversight fee.

While the statutes discuss reimbursement of actual expenses, charter schools and their authorizers commonly agree to automatic reimbursement of the applicable limit without verification that the fee collected does not exceed the actual costs incurred by the authorizer. While oversight activities frequently cost more than the fees collected (the 1% or 3%), the authorizer is out of compliance without documentation of that cost. Collection and calculation of oversight fees should be defined in the MOU. FCMAT found several inconsistencies between each of the nine charter schools' MOUs related to the oversight fees and the collection of these fees.

FCMAT's review of the provided documentation indicates that while some oversight responsibilities are performed, the department does not document all time spent or track all costs related to oversight responsibilities. The Charter Department should implement an improved system to document all time spent on oversight responsibilities, and track these costs by each authorized charter school. Some best practices for tracking actual costs include, but are not limited to the following:

- Use of time management software that can track time spent and quantify it.
- Use of time sheets or logs tracking:
    - Time spent on emails, memos, meetings, training, site visits, etc.
    - Time spent reviewing the various materials requested throughout the year.
    - Annual site visits.
    - Professional learning.
- Use of expense logs tracking:
    - Travel and mileage for site visits.
    - Printing and publication costs.
    - Professional learning expenses.

Recommendations

The county office should:

1. Develop processes and procedures detailing what oversight of their authorized charter schools encompasses.
2. Implement a comprehensive performance-based accountability and compliance monitoring system that is defined by the MOU and provides the information necessary to make data-driven decisions regarding intervention, renewal, or revocation.
3. Ensure the MOU with each charter school is clear about the charge for oversight fees being based on the LCFF and that the fee does not exceed actual expenses incurred by the authorizer.
4. Visit each school annually, at minimum.
5. Review the board agendas and materials for each meeting.
6. Regularly attend board meetings.
7. Document and track staff time and expenditures spent on oversight responsibilities by each authorized charter school.

Board Policies and Administrative Regulations

Board policies should be periodically reviewed to ensure that changes in legislation are reflected. They should also be regularly reviewed and continually updated to remain consistent with current law as well as the best practices in K-12 education and board direction. These policies and regulations are based on the requirements in numerous documents including the California Constitution, Education Code, Code of Regulations, Government Code, federal regulations, case law, and industry best practices.

The board policies and administrative regulations that FCMAT reviewed address almost all of the operational and legal compliance areas for the new Charter School Department. However, the department staff's operational practices do not directly connect to the guidelines in board policies and administrative regulations. Each board policy and administrative regulation should have an operational procedure that details the steps to implement these guidelines and the people responsible for the process. Interviews indicated that staff members appear to understand that more structure, processes, and procedures are needed and welcome this review's recommendations for improvements.

As part of this study, FCMAT requested copies of the county's board policies and administrative regulations, which were provided from the county office's website. A FCMAT review of the policy and administrative regulations on charter schools found that they have not been revised since fiscal year 2015, and the administrative regulations pertaining to special education of county-board-approved charter schools have not been revised since the initial adoption date of July 11, 2003. Additionally, the county's board policy may not include all statutory changes related to charter schools. Some of the main subject matters that should be addressed in the county's policies include, but are not limited to the following:

- Petition Review
- Oversight of charter schools
- Material Revisions
- Charter Renewals
- Revocation
- Facilities
- Special Education

Several of these subjects are outlined in the county office's administrative regulations. However, the board has only a single policy that discusses all of the guidelines and processes related to its corresponding regulation. Because the county board of education adopts these documents to serve as direction, these policies and regulations should be updated and separated by topic.

The county office subscribes to the California School Boards Association's (CSBA) GAMUT policy manual and online policy maintenance services and the county recently created an in-house Legal Services Division. Interviews indicated that this division is gathering the most recent policies pertaining to charter school laws and regulations and comparing them to the county office board policies and administrative regulations. CSBA provides policy updates to its clients at least quarterly. The Charter School Department should work closely with the Legal Services Division to review all policies and administrative regulations to ensure they reflect the latest statutory requirements and align with county protocol.

Below is a list of several bills that have been passed throughout the years with a direct impact on charter schools and authorizers. Outdated board policies and administrative regulations can leave an LEA and its charter schools at risk of noncompliance with law and inadequate oversight, which is a potential liability.

Timeline of Major Charter School Legislation

Year	Chapter	Bill	Significance
1992	Chapter 781	(SB 1448, Hart)	Authorized the creation of charter schools in California.
1998	Chapter 34	(AB 544, Lempert)	Increased the statewide cap to 250 charter schools for the 1998-99 school year, with an additional 100 charter schools allowed to open annually thereafter, and eliminated the districtwide cap. It slightly eased (1) petition requirements, (2) the petition submittal process, (3) the appeals process, and (4) the revocation process. Unlike the 1992 law, it also required all core-subject teachers to hold a state credential. Additionally, it clarified that charter schools could receive funding directly from the state. It also required school districts to offer charter schools any unused district facilities at no charge and capped the oversight charges school districts could assess charter schools.
1999	Chapter 162	(SB 434, Johnston)	Required Independent study programs run by charter schools to provide a minimum number of instructional minutes.
	Chapter 78	(AB 1115, Strom-Martin)	Clarified the language on funding by expressing legislative intent to provide charter schools with operational funding equal to the total operational funding available to similar public schools serving similar student populations. It also established a funding model that allowed charter schools to receive funds either locally through the school district or directly from the state. The model consisted of three basic components: (1) revenue limit funding, (2) categorical block grant funding, and (3) separate categorical program funding - all of which were designed to yield charter school funding rates that were comparable to those of similar public schools.
	Chapter 828	(AB 631, Migden)	Applied state collective bargaining laws to charter schools.
2000	Proposition 39		Requires school districts to provide charter schools with facilities that are “reasonably equivalent” to those occupied by district students. Charter schools in these facilities must pay a pro rata share of their districts’ annual facility costs.
	Chapter 160	(SB 326, Lewis)	Allowed charter schools to appeal a revoked charter to the county office of education (COE) or SBE.
2001	Chapter 344	(SB 675, Poochigan)	Required charter schools to submit annual financial and compliance reports to CDE in addition to their authorizer.
	Chapter 892	(SB 740, O’Connell)	Changed funding rules for nonclassroom-based charter schools. Created the Charter School Facility Grant Program.
2002	Chapter 1058	(AB 1994, Reyes)	Increased financial reporting requirements for charter schools. Limited ability of charter schools to locate anywhere in the state.
	Chapter 935	(AB 15, Goldberg)	Created bond-financed Charter Schools Facilities Program.
2003	Chapter 892	(AB 1137, Reyes)	Required charter schools seeking renewal to meet schoolwide minimum academic performance standards.
2005	Chapter 359	(AB 740, Huff)	Instituted second round of significant fiscal changes.
2012	Chapter 576	(AB 1290, Alquist)	Required charter schools seeking renewal to meet minimum academic performance standards for student subgroups.
	Chapter 38	(SB 1016, Committee on Budget)	Requires school districts selling or leasing surplus property to offer that property to interested charter schools before any other party and caps the sale or lease price through a formula. These provisions sunset on July 1, 2016.
2013	Chapter 49	(SB 91, Committee on Budget and Fiscal Review)	Required charter schools to develop Local Control and Accountability Plans similar to those required of districts and COEs.

2018	Chapter 291	(AB 406, McCarty)	Prohibited for-profit organizations from operating charter schools.
2019	Chapter 3	(SB 126, Leyva)	Explicitly subjected charter schools to open meetings, public records, and conflicts-of-interest requirements previously applied to districts and other local governments.
	Chapter 51	(SB 75, Committee on Budget and Fiscal Review)	Expands charter schools' authorizers oversight authority.
2019	Chapter 486	(AB 1505, O'Donnell)	Empowers communities to consider the fiscal impact of new charter schools on existing schools in the neighborhood, increases accountability and transparency for all charter schools, and ensures that high-quality charter schools continue to thrive.
	Chapter 487	(AB 1507, Smith)	Removes the statutory authorization allowing out-of-district charters when the school cannot locate within the authorizing school district's boundaries.

Recommendations

The county office should:

1. Regularly review and update board policies and administrative regulations as updates are sent by CSBA.
2. Develop new board policies and administrative regulations as needed.
3. Implement a plan to keep board policies and administrative regulations current.
4. Separate board policies and administrative regulations into the various subject matters.
5. Ensure the Charter School Department and the Legal Services Division review board policies and administrative regulations to ensure compliance with current law and county protocol.
6. Post revised and updated board policies and administrative regulations on the website.

Annual Oversight

Governance and Organizational Management

The Education Code states that a charter will “operate independently from the existing school district structure” (E.C. 47601). Authorizers are required to ensure that their relationship with a charter school is balanced with their role as the charter school’s oversight agency and with the statutory directive that a charter school operate independently from the public school system. The law requires authorizers to ensure that a charter school complies with the charter petition, the MOU, and the law, including conflict-of-interest provisions.

In 2018, Governor Jerry Brown signed Assembly Bill (AB) 406 requiring all charter schools to be operated by or as a nonprofit organization beginning July 1, 2019; private entities can no longer profit from public education dollars. All schools that do not meet this new provision must comply at the time of a material revision or renewal request.

The charter school is required to establish a governing board and board policies that require constituents and employees to exercise due diligence in oversight of the charter school and obligate them to take full responsibility for the charter operations, including educational programs and financial activities. Charter boards should approve contracts and expenditures, select the school administrator(s), approve hiring teachers and other staff, and approve the selection of an independent auditor to conduct an annual financial audit. Charter board members have a fiduciary duty to properly manage public funds and to be held accountable if funds are mismanaged or misused in any way. Other governing board oversight responsibilities include the prevention of nepotism, conflict of interest by board members or administrators, and establishing ethical performance standards and fraud prevention policies. It is imperative that each governing board member of the charter school have a clear understanding of his or her roles and responsibilities. This means having a foundational knowledge of the requirement of their bylaws, policies, the charter petition, and the MOU with the authorizer. Many of those who volunteer for a public charter school board have little or no experience in public sector governance and should receive specialized training.

Charter school governance structures may vary but should always include a governing board with a minimum of three members. Because conducting business requires a quorum of board members, having five or more is preferable. Many charter schools’ boards include parents, teachers, administrators, staff, and community members. E.C. Section 47605(b)(5)(D) states that a charter school should include a reasonably comprehensive description of the school’s governance structure process to be followed to ensure parental involvement.

Bylaws are defined as the rules that set up an organization’s internal structure. According to the California School Boards Association (CSBA) publication “Form of Bylaws California Public Charter Schools.” “The adoption of bylaws is a necessary setup to organize a nonprofit public benefit corporation and is a task that typically is undertaken by the initial board of directors early in the corporate formation.” Bylaws are the framework for internal governance and day-to-day operations and are considered requirements which the charter must follow. Education and Government codes include some specific requirements for bylaws, such as those pertaining to conflict of interest, the Brown Act, Government Code 1090, etc. For oversight purposes, the authorizer should review the charter’s bylaws to ensure there are no conflicts between the petition, memorandum of understanding, the authorizer’s board policies, law, or industry best practices. Bylaws are specific to each charter since each charter may differ in how it is governed.

In reviewing the documents provided, FCMAT found inconsistencies between some of the charters’ petitions and bylaws. Bylaws may change, but as part of the oversight process, the county office should always have a copy of those that were most recently approved. FCMAT's review found that some of the bylaws did not match the dates on the petition submitted to the county office. It was difficult to determine if this was because of discrepancies or a change that was made in bylaws after the petition was approved. Another petition had different names than what was reflected in the bylaws and petition. Most, if not all, of the bylaws lacked language on fraud prevention and conflict-of-interest provisions.

In the past, it was unclear whether charter schools and their governing boards were subject to the same transparency laws as school districts. However, Senate Bill 126 was passed in March 2019 and added Section 47604.1 to the California Education Code requiring all charter schools to comply with the same public records, open meeting and conflict-of-interest laws as school districts and county offices along with the following:

- Brown Act Public Records Act
- Government Code 1090 Fair Political Practices Commission (FPPC)
- California Division of the Occupational Safety and Health Administration (Cal/OSHA)
- California Longitudinal Pupil Achievement Data System (CALPADS) method of reporting to the CDE

Memorandum of Understanding (MOU)

An MOU between the authorizing agency and a charter school acts as a framework for the relationship and supplements the requirements outlined in statute. The MOU supplements the charter petition and ideally should be approved at the same time. The MOU should define the specific requirements and responsibilities of the two parties. Additionally, the MOU establishes the oversight process and serves to safeguard the authorizer in the event the charter is not successful. It may address in detail issues such as student performance and expectations of educational programs, special education services, frequency of school site visits, financial reporting requirements, and any services that are provided by the authorizing agency. It is essential for the relationship between the charter school and its authorizing agency to be clearly defined and documented.

Although not a comprehensive list, the MOU should address the following areas:

- Term of the agreement and the petition.
- A process for agreeing on what services will be provided by the authorizer and how the authorizer will be reimbursed (e.g. CalSTRS/CalPERS reporting and contributions).
- Annual or semiannual reports to the authorizer.
- Funding and reporting.
- In-lieu payment schedules.
- Compliance with laws, including the Political Reform Act, all applicable conflict of interest laws, Public Records Act, Brown Act, etc.
- Use of facilities, if any.
- Purchase of administrative and other services from the authorizer, if any.
- Material amendments.
- Oversight fees.

- Insurance coverage requirements (e.g. property, liability, workers' compensation).
- Governance and organizational management.
- Fiscal operations and financial reporting requirements.
- Fulfilling the charter terms.
- Student data coverage requirements.
- Indemnification.
- Documentation requirements.
- Services provided by the sponsoring agency.
- Food service and transportation.
- Reserve for economic uncertainty (amounts, consequences of not meeting).
- Dispute resolution.
- Independent study programs.
- Required disclosures of accountability of academic performance.
- Material revisions to the charter.
- Charter school revocation, renewal, and school closure.

MOUs differ. Many organizations offer sample MOU forms that can be edited to meet the needs of each particular agency. The Charter School Department should work with its Legal Services Division to create an MOU template for new or renewed charter schools.

Since the oversight process begins at the petition, all documents submitted with it should be thoroughly reviewed. Based on the documents submitted to FCMAT, some of the county office's MOUs with charters were missing signatures from one or both of the parties. One MOU did not identify the effective date (term). Lastly, only one MOU had a section covering a reserve for economic uncertainty. To protect both the authorizer and the charter schools and to ensure fiscal solvency, each charter MOU should have a section covering the reserve for economic uncertainty.

Educational Program Assessment

As an authorizing agency of charter schools, the county office should have guidelines on how it will monitor and assess a charter school's educational program in relation to the petition, MOU, and LCAP.

In evaluating a charter school's educational program, the authorizer is guided by the charter's adherence to the program and methods described in the approved petition. This includes, but is not limited to, employing qualified teachers who have received all required training, providing standards-based instructional materials to each student, using instructional design or strategies based on successful practice or research, ensuring students who are identified as eligible for special education receive services required by their individualized educational plans (IEP), and providing opportunities for parent involvement. The authorizer should use a checklist or other rubric that outlines the many areas of the educational program to be reviewed and relevant findings.

E.C. Section 47604.32 requires each authorizing agency to visit each charter school at least annually; additional visits are recommended as this helps build an open and collaborative relationship. While not required, notice should be given for at least one visit, so charter school staff is prepared. In satisfying its oversight obligations, the county office should consider implementing standard procedures to guide office staff in a structured and consistent approach to performing their annual visits.

In August 2019, the Charter School Department sent a letter informing its charter schools that the county office was strengthening its oversight process. The letter listed various documents that will be required throughout the year, included an oversight calendar and a schedule of professional development opportunities for the year. The letter also stated that annual site visits will be scheduled between March and April 2020 and included a list of documents and records that must be made available during the visit.

At the completion of the annual visit, an exit meeting should be held with the charter school administrator, as well as other staff members the administrator wants to include, to provide an initial impression of the visit. This meeting is not for making suggestions for improvement but to identify areas of concern that may require deeper analysis or additional documentation. Upon completion of the site visit and review of all documentation, a written report should be prepared that identifies the team's summary. This report should be provided to the charter school as well as the county board of education. All documentation should be maintained to support any concerns found during the annual visit, including items such as the document review checklist, interview schedules, data collected to assess student performance, the team's oversight checklist, and any other documentation used to support the information in the final written report. These documents should be referred to when the charter is up for renewal, material revisions, or possible revocation.

Local Control and Accountability Plan (LCAP)

As part of the LCFF, school districts, county offices, and charter schools are required to develop, adopt and annually update a three-year LCAP using the required state adopted template. Charters differ slightly from school districts and county offices in that they can complete their LCAP to align with the terms of the charter school's budget, which is then submitted to the charter school's authorizer. The term of the charter school's budget may be one or more years as described in the charter petition or an MOU with the authorizer. If a charter is only required to submit a one-year budget, it may choose not to complete the year two and three portions of the "Goals, Actions and Services" section of the LCAP template. If year two and/or year three is not applicable, the charter school must specify this.

The charter school's LCAP is a separate document from the petition. However, both describe goals and specific actions to achieve the goals, including measurable outcomes, for all students and each subgroup identified in E.C. Section 52052. This includes students with disabilities and for each of the state priorities that apply to the grade levels served, per E.C. Section 47605.5(a). The LCAP requires additional information regarding the goals, actions and services, and expenditures and must be developed with input from stakeholders.

Once charter schools' governing boards approve their LCAP, pursuant to E.C. Section 47604.33, they are required to submit it to the authorizing agency on or before July 1 of each year. Although a charter school's LCAP does not require approval, per statute, the chartering authorizer is required to ensure that it has complied with all report requirements according to E.C. Section 47606.5.

Interviews indicated that in the year the Charter Department was formed, no oversight was performed on any of the charter LCAPs authorized by the county office. Beginning in the 2019-20 fiscal year, the Charter School Department staff used a checklist to review the charters' LCAPs, according to FCMAT's review of the documents, making notes to indicate items that were missing, information was lacking, and sections that were completed incorrectly.

At a minimum, the county office should ensure that the LCAP complies with all the state-required content, uses the state-adopted template and ensure that the process includes involvement from stakeholders. The review of the LCAP should also ensure that the charter school addresses the academic progress of unduplicated pupils, addresses the prior year's dashboard results, and more importantly, that the charter school's LCAPs goals, actions, and services align with both the charter's petition and practices.

Although the Charter School Department staff took the first step in reviewing the LCAPs, there was no indication that the department staff provided feedback to the charter schools. This would have indicated that the department is working collaboratively with the charter and ultimately assisting the charter in developing its future LCAPs. Additionally, the Charter School Department should establish a method that monitors the charter schools' year-over-year student progress and academic performance. These issues should be considered when the charter school is up for renewal, material revisions, or possible revocation.

Fiscal Oversight

As part of an authorizer's responsibilities, the chartering agency should evaluate and monitor a charter school's fiscal condition in accordance with E.C. Sections 47604.32 and 47604.33. Charter schools are required by law to prepare and submit documentation to both their authorizer and the county office along with any additional reasonably requested documents that allow for adequate oversight. At a minimum, charter schools are required to annually submit the following:

- On or before July 1, a preliminary budget
- On or before December 15, an interim financial report that reflects changes through October 31
- On or before March 15, a second interim financial report that reflects changes through January 31
- On or before September 15, a final unaudited report for the full prior year

E.C. Section 47604.33 also requires the following:

> …that the chartering authority shall use any financial information it obtains from the charter school, including but not limited to, the reports required by this section to assess the fiscal condition of the charter school.

Additionally, the charter school is required to have an annual independent financial audit prepared and provided to the chartering agency, the State Controller's Office, county office of education, and the CDE by December 15 of each year.

A review of the documents submitted by the county office found little evidence that comparisons or analyses were performed by oversight staff or that communication was sent to the charter school after the review.

Financial Statements

Financial statements are typically composed of statements of financial position, activities, and cash flows. These reports can be used to evaluate the charter school's financial health. The statement of financial position, also known as the balance sheet, lists all of the charter school's assets (e.g., cash, receivables, deposits, inventory, equipment), liabilities (e.g., payables, debt/loans, lease obligations), and net assets (which are divided into unrestricted net assets, temporarily restricted net assets and permanently restricted net assets). The statement of activities, also known as the income statement or profit and loss statement, shows the charter school's operational sources of cash (revenue), and uses (business expenses), and is typically divided into operating periods that cover months, quarters or years of operation. This report depicts the charter school's profitability. The statement of cash flows reports on the cash generated and used during a specific period, or even the difference between reporting periods, to help measure the health of the charter school's operations. The financial statements should be produced at least quarterly, but preferably after the close of each month, as well as for each fiscal year. Charter school authorizers should request these statements and regularly review them.

Additional information that will assist an authorizer in assessing the fiscal condition of the charter school should include, but are not limited to, enrollment and attendance reports, register reports, aging reports, bank statements, balance sheet and income statements, and debt documentation such as leases, loans and payment schedules.

When reviewing information received from charter schools an authorizer should compare it with budgets submitted by the charter school, trend analysis with previous years' information, and adherence to the charter petition and MOU. A review of the documents submitted found no evidence that analysis was performed.

Cash

While a cash flow statement and multiyear financial projections are not specifically required by the Education Code, they are critical components of any local educational agency's financial statements. Therefore, through an MOU, the authorizing agency should require these documents from the charter school and should review them throughout the year to help provide the required fiscal oversight. A review of the documents submitted found no evidence of a cash flow analysis.

Cash flow can be difficult for new charter schools. When a charter school starts and when it adds grade levels, it may receive an advanced apportionment equivalent to 37% of estimated average daily attendance (ADA) for July through November of the first year of operation as reported by the charter school and approved by its authorizing agency and the county office. This first apportionment occurs between mid-September and mid-October and is calculated using projected second principal apportionment period (P-2) ADA. A second apportionment for December and January occurs in late December and is revised based on actual attendance for the first 20 school days (E.C. 47652) as reported by the charter and approved by the authorizing agency and county office and adjusts the remaining months' payments based on those 20 days of attendance. Estimates and actual reporting are submitted to the CDE using the Pupil Estimates for New or Significantly Expanding Charters (PENSEC) report available on the CDE's website.

For advanced funding in the first apportionment period, the charter school should file its first PENSEC report immediately after the start of the new fiscal year on July 1. Charter schools may experience a cash decrease if they fail to request advanced funding and file the PENSEC report within the required period.

Calculating the sources of LCFF funding is integral to the cash flow process. The sources of LCFF funding are the state aid apportionment, Education Protection Account (EPA), and local property tax dollars transferred from authorizing school districts. Each source has a different frequency and timing of payment. The payment in lieu of property tax is managed locally; the state does not have a role. Therefore, it is important to monitor for potential over- or underpayment of taxes, especially when recertification occurs. These tax transfers can greatly affect a charter school's cash flow and should be closely monitored.

The cash flow report is used to monitor when cash is coming in (sources of cash) and the liabilities the charter school must pay (uses of cash). Cash flow reports provide a summary of the cash flowing through the charter school in the near term and help identify any potential cash shortfall before it occurs. The charter school and the authorizer should review the cash flow report monthly. The cash flow report should include projected operating cash balances as well as estimated cash receipts and projected disbursements. When possible, the accounts receivable aging and accounts payable aging reports should accompany the cash flow report. This monitoring should complement and not replace the need for a multiyear cash flow projection.

Reserves

A prudent level of reserves is maintained for economic uncertainties and is needed to manage cash flow and help protect a charter school from unforeseen revenue shortfalls, unexpected costs, and economic uncertainties. Financial reserves also help a charter school save for large purchases and reduce the cost of borrowing money. The authorizing agency should ensure that the charter school meets or exceeds the reserve levels as defined in their charter petition. Where no reserve level is established in the charter petition, the reserve level follows 5 CCR §15450, based on the number of ADA. Information on reserves can be found on the CDE website at https://www.cde.ca.gov/fg/fi/ss/distbudgetcsfy1920.asp as follows:

> (a) Available reserves for any of the budget year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:

- The greater of 5% or $69,000[1] for districts with ADA of 0 to 300
- The greater of 4% or $69,000[1] for districts with ADA of 301 to 1,000
- 3% for districts with ADA of 1,001 to 30,000
- 2% for districts with ADA of 30,001 to 400,000
- 1% for districts with ADA of 400,001 and over

Available reserves are the unrestricted amounts in the stabilization arrangements, reserve for economic uncertainties, and unassigned/unappropriated accounts in the general fund and special reserve fund for other than capital outlay projects. Available reserves will be reduced by any negative ending balances in restricted resources in the general fund. FCMAT recommends that charter schools adopt a minimum cash reserve of 5% of the total of all budgeted expenditures and develop a five-year plan to increase that reserve from 5% to 10% of total budgeted expenditures. Care should be taken to not spend more on nonclassroom-based instruction than the percentage allowed by the funding determination for this, if applicable.

Budgetary reserves differ from cash reserves. Therefore, a reserve based on overall fund balance could have insufficient cash to fund a charter school's operations. Revenue receipt and expenditure payment schedules and expectations should be closely monitored to ensure adequate cash reserves.

Audits

Most charter schools in California are organized as nonprofit public benefit corporations and use nonprofit financial reporting standards. Nonprofit financial statements are prepared using standards established by the Financial Accounting Standards Board (FASB) and are detailed in the FASB Accounting Standards Codification (ASC). FASB accounting standards are also known as GAAP accounting standards, though commonly referred to as GAAP codification. FASB ASC 958-210, Not-for-Profit Entities Balance Sheet, addresses reporting for nonprofits. Although their financial reports may be prepared using nonprofit reporting methods, charter schools are considered local government entities; therefore, the independent audit must be conducted based on governmental auditing standards and the provisions listed in the Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting, published by the Education Audit Appeals Panel (EAAP) and available at www.eaap.ca.gov.

Like traditional schools, charter schools must contract for the annual independent audit by April 1 of each year. Otherwise, the county office is required to contract with an audit firm to do so on behalf of the charter school by May 1 (E.C. 41020(b)(1) and E.C. 41020(b)(3)). Similar to its process with school districts, the county office should do the following:

- Review audit exceptions relating to attendance, inventory of equipment, internal control, and any miscellaneous items, and determine whether the findings have been corrected or an acceptable plan of correction has been developed.
- Review audit exceptions related to the use of instructional materials program funds, teacher misassignments, and school accountability report cards and determine whether the exceptions have been corrected or an acceptable plan of correction has been developed.
- Notify the charter school and request that the governing board of the charter provide to the authorizer a description of the correction or plan of correction by March 15 of the subsequent year.
- Review the description of the correction or plan of correction and determine its adequacy and, if the charter school's response was not adequate, require them to resubmit that portion of its response that is inadequate.

None of the audit reports provided had current findings although one audit report showed prior year audit corrective actions as "implemented."

Renewal and/or Revocation

A governing board that authorizes a charter's petition must recognize its ongoing responsibility to oversee and ensure that the charter school follows the terms of its petition and provides a high-quality educational program for the enrolled students. The county board delegates oversight responsibilities to the Charter School Department, which reports to the deputy superintendent of business services. Therefore, the Charter School Department staff is required to monitor the performance for each charter authorized by the county office to ensure the school's compliance with all legal requirements and progress towards meeting measurable outcomes as specified in each of their petitions, MOUs, and LCAP.

Strong proactive oversight is essential in monitoring pupil performance, fiscal accountability, and legal compliance, and begins as soon as a charter petition is approved. The authorizing agency and its charter(s) should understand all requirements regarding oversight and the connection between oversight with revocation and renewal of a charter school. The authorizer and the charter school should develop a relationship that is built on collaboration and support, including open communication along the way.

The assessment of a charter's renewal petition should use information and documentation received, reviewed, and analyzed by the authorizer in performing oversight duties. For example, the information reviewed during an annual site visit can help determine whether a charter school has achieved the measurable student outcomes established in the charter, both schoolwide and for each numerically significant student subgroup serviced in each school as defined in E.C. Section 52052. In addition, the authorizing agency's year-over-year monitoring of the charter's fiscal condition will help ensure the charter school is fiscally solvent during the renewal process. If the county office found any critical issues or concerns while performing oversight responsibilities, and because those items should have been communicated to the charter school, the authorizer would expect the renewal petition to present remediation efforts and a plan for corrective action during the next charter term.

Effective July 1, 2020, Assembly Bill 1505 enacted significant changes to the charter school renewal process. Authorizing agencies must now consider a charter school's performance as measured by the California School Dashboard as the primary evaluative factor. However, it is not the only consideration; if governance or financial-related deficiencies are severe, they can overrule the performance metrics.

In accordance with law, the county board may deny a charter school's renewal petition or revoke a charter based on the school's poor performance, especially with regard to inadequate achievement of all numerically significant subgroups of students served by each charter school.

If the board of education revokes or denies renewal of a charter or the charter school ceases operation for any reason, the superintendent or designee is required to provide assistance to facilitate the transfer of the charter school's former students and finalize financial reporting and closeout. This should occur only when applicable in accordance with the charter petition and/or an MOU.

The law requires the superintendent or designee to notify the CDE within 10 days of the board's action if renewal of the charter is denied, the charter is revoked, or the charter school will cease operation for any reason. This notification is required to include, but not limited to, a description of the circumstances of the closure, the effective date of the closure, and the location of student and personnel records. (E.C. 47604.32; 5 Code of California Regulations 11962.1)

During FCMAT's review, one charter school closed due to non-renewal by the county office. Initial notice of non-renewal to the charter school was dated January 13, 2020, with a second notification dated February 18, 2020. The charter school board formally acted to close the school on March 12, 2020. However, the 10-day requirement was not met. According to a letter addressed to the CDE, the county office notified the CDE on May 15, 2020, 64 days after the charter school action and 87 days after notifying the charter school that its petition would not be renewed.

Recommendations

The county office should:

1. Develop a template MOU that ensures appropriate laws are followed.
2. Develop a comprehensive oversight checklist or other rubric to guide the oversight process.
3. Identify key staff to assist in oversight.
4. Develop a yearly calendar for oversight.
5. Visit each charter at least annually.
6. Gather additional information necessary to perform effective oversight of its authorized charter schools.
7. Analyze information gathered for changes and trends.

8. At the conclusion of the annual visits, hold an exit meeting with the charter school administrator as well as other staff the administrator would like to include to provide an initial impression of the visit.
9. Upon completion of the site visit and review of all documentation, prepare a written report that includes the team's summary. This should be provided to the charter school administration as well as the county's board.
10. Maintain a comprehensive file for each charter school, documenting completed analysis and reviews and any relevant correspondence.
11. Ensure that the LCAP complies with all the state-required content, uses the state-adopted template and that the process includes engagement from their stakeholders.
12. Ensure that the charter school addresses the academic progress of their unduplicated pupils. It should address the prior year's dashboard results, and more importantly, the charter school's LCAP goals, actions and services should align with the charter's petition and their practices.
13. Provide feedback to charter schools regarding insufficiencies with the LCAPs.
14. Establish a method that monitors the year-over-year student progress and academic performance of the charter schools.
15. Communicate recommendations regularly to its authorized charter schools based on the analysis of financials. The AB 1200 review process should serve as a great model.
16. Document the audit review process and follow through on any findings and corrective actions.
17. Maintain an electronic file for each charter school, documenting completed analysis and reviews and any relevant correspondence. These documents create a record that can be used when considering renewal, material revisions, and revocation.

Endnote

1 The dollar amounts are to be adjusted annually by the prior year statutory cost-of-living adjustment (E.C. Section 42238), rounded to the nearest thousand.

Appendix

A. Study Agreement

FCMAT

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM

FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM
STUDY AGREEMENT
February 7, 2020

The Fiscal Crisis and Management Assistance Team (FCMAT), hereinafter referred to as the team, and the San Diego County Office of Education, hereinafter referred to as the COE, mutually agree as follows:

1. **BASIS OF AGREEMENT**

   The team provides a variety of services to local educational agencies (LEAs). The COE has requested that the team assign professionals to study specific aspects of the county operations. These professionals may include staff of the team, county offices of education, the California State Department of Education, school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this agreement.

2. **SCOPE OF THE WORK**

   A. Scope and Objectives of the Study

   Review the COE's charter oversight process and practices for the nine charter schools it authorizes, and make recommendations for improvements, if any.

   B. Services and Products to be Provided

   1. Orientation Meeting - The team will conduct an orientation session at the COE to brief COE management and supervisory personnel on the team's procedures and the purpose and schedule of the study.

   2. On-site Review - The team will conduct an on-site review at the COE office and at school sites if necessary.

   3. Exit Meeting - The team will hold an exit meeting at the conclusion of the on-site review to inform the COE of significant findings and recommendations to that point.

   4. Exit Letter – Approximately 10 days after the exit meeting, the team will issue an exit letter briefly memorializing the topics discussed in the exit meeting.

   5. Draft Report - Electronic copies of a preliminary draft report will be delivered to the COE's administration for review and comment.

6. Final Report - Electronic copies of the final report will be delivered to the COE's administration following completion of the review. The final report will be published on the FCMAT website. Printed copies are available from FCMAT upon request.

7. Follow-Up Support – If requested by the COE within six to 12 months after completion of the study, FCMAT will return to the COE at no cost to assess the COE's progress in implementing the recommendations included in the report. Progress in implementing the recommendations will be documented to the COE in a FCMAT management letter. FCMAT will work with the COE on a mutually convenient time to return for follow-up support that is no sooner than eight months and no later than 18 months after the completion of the study.

3. **PROJECT PERSONNEL**

The FCMAT study team may include:

A.	*To Be Determined*	*FCMAT Staff*
B.	*To be determined*	*FCMAT Consultant*

4. **PROJECT COSTS**

The cost for studies requested pursuant to Education Code (EC) 42127.8(d)(1) shall be as follows:

A. $800 per day for each staff team member while on site, conducting fieldwork at other locations, presenting reports, or participating in meetings. The cost of independent FCMAT consultants will be billed at their actual daily rate for all work performed.

B. All out-of-pocket expenses, including travel, meals, and lodging.

C. The COE will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon COE's acceptance of the final report.

Based on the elements identified in section 2A, the total not-to-exceed cost of the study will be $13,500.

D. Any change to the scope will affect the estimate of total cost.

Payments for FCMAT's services are payable to Kern County Superintendent of Schools - Administrative Agent located on 1300 17th Street, City Centre, Bakersfield, CA 93301.

5. **RESPONSIBILITIES OF THE COE**

A. The COE will provide office and conference room space during on-site reviews.

B. The COE will provide the following if requested:

1. Policies, regulations and prior reports that address the study scope.
2. Current or proposed organizational charts.
3. Current and two prior years' audit reports.
4. Any documents requested on a supplemental list. Documents requested on the supplemental list should be provided to FCMAT only in electronic format; if only hard copies are available, they should be scanned by the COE and sent to FCMAT in electronic format.
5. Documents should be provided in advance of fieldwork; any delay in the receipt of the requested documents may affect the start date and/or completion date of the project. Upon approval of the signed study agreement, access will be provided to FCMAT's online SharePoint document repository, where the COE shall upload all requested documents.

C. The COE's administration will review a draft copy of the report resulting from the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the team prior to completion of the final report.

Pursuant to EC 45125.1(c), representatives of FCMAT will have limited contact with pupils. The COE shall take appropriate steps to comply with EC 45125.1(c).

6. **PROJECT SCHEDULE**

The following schedule outlines the planned completion dates for different phases of the study and will be established upon the receipt of a signed study agreement:

Orientation:	***to be determined***
Staff Interviews:	***to be determined***
Exit Meeting:	***to be determined***
Preliminary Report Submitted:	***to be determined***
Final Report Submitted:	***to be determined***
Board Presentation:	***to be determined, if requested***
Follow-Up Support:	***if requested***

7. **COMMENCEMENT, TERMINATION AND COMPLETION OF WORK**

FCMAT will begin work as soon as it has assembled an available and appropriate study team consisting of FCMAT staff and independent consultants, taking into consideration other jobs FCMAT has previously undertaken and assignments from the state. The team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the COE and any other parties from which, in the team's judgment, it must obtain information. Once the team has completed its fieldwork, it will proceed to prepare a draft report and a final report. Prior to completion of fieldwork, the COE may terminate its request for service and will be responsible for all costs incurred by FCMAT to the date of termination under Section 4 (Project Costs). If the COE does not provide written notice of termination prior to completion of fieldwork, the team will complete its work and deliver its report and the COE will be responsible for the full costs. This agreement may be terminated with or without cause by the COE. Termination without cause shall be effective only upon 60-day written notice to FCMAT. During said 60-day period, FCMAT shall perform all consulting services in accordance with this agreement. This agreement may also be terminated by the COE for cause in the event of a material breach of this agreement, misrepresentation by FCMAT in connection with the formation of this agreement or the performance of services, or the failure to perform services as directed by the COE. Termination for cause shall be effected by delivery of written notice of termination to FCMAT. It is understood and agreed the termination may be delivered via email and shall be effective on the date sent. The COE understands and agrees that FCMAT is a state agency and all FCMAT reports are published on the FCMAT website and made available to interested parties in state government. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and distribution of a report once fieldwork has been completed, and the COE shall not request that it do so.

8. **INDEPENDENT CONTRACTOR**

FCMAT is an independent contractor and is not an employee or engaged in any manner with the COE. The manner in which FCMAT's services are rendered shall be within its sole control and discretion. FCMAT representatives are not authorized to speak for, represent, or obligate the COE in any manner without prior express written authorization from an officer of the COE.

9. **INSURANCE**

During the term of this agreement, FCMAT shall maintain liability insurance of not less than $1 million unless otherwise agreed upon in writing by the COE, automobile liability insurance in the amount required under California state law, and workers' compensation as required under California state law. FCMAT shall provide certificates of insurance, with San Diego County Office of Education named as additional insured, indicating applicable insurance coverages upon request.

10. **HOLD HARMLESS**

FCMAT shall hold the COE, its board, officers, agents and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of its board, officers, agents and employees undertaken under this agreement. Conversely, the COE shall hold FCMAT, its board, officers, agents and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of its board, officers, agents and employees undertaken under this agreement.

11. **CONTACT PERSON**

Contact person: Kristin Armatis
Telephone: (858) 292-3576
E-mail: kristin.armatis@sdcoe.net

2/12/20

Paul Gothold, County Superintendent — Date
San Diego County Office of Education

February 7, 2020

Michael H. Fine — Date
Chief Executive Officer
Fiscal Crisis and Management Assistance Team