

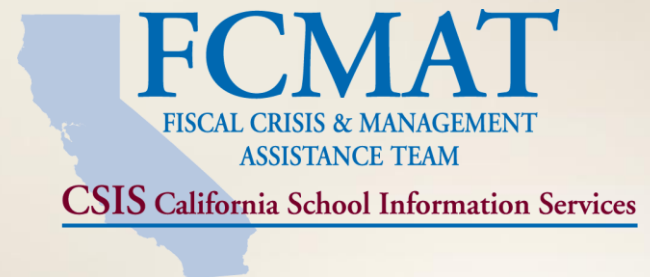
The Importance of Charter School Oversight

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Conference

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Overview of Today's Session

- Background
- Charter Oversight
- AB 139 Process
- Memorandum of Understanding
- Denials and Appeals, Renewals, and Revocations
- Annual Oversight Checklist
- Proposition 39 Facilities
- Where to Get Help

What Can We Do?

- Make sure everyone understands:
 - ✓ Collaborative efforts between charter schools and their authorizers are in the best interest of all students
 - ✓ Charter schools and their authorizers must understand each other's regulatory and proactive oversight reporting requirements
 - ✓ This is critical to everyone's success, especially students
 - ✓ Open communication is important every step of the way

Background

- Charter schools are independently run public schools that are given greater operational flexibility in exchange for greater performance-based accountability
- The number of charter schools statewide now exceeds the number of traditional public school districts
- A charter school authorizer may be a school district, county office of education (COE) or the State Board of Education (SBE)
- Charter schools are overseen by their authorizers, which is similar in structure to how a COE oversees a school district
- Charters are established by legally binding agreement: charter petition and memorandum of understanding (MOU)

Background, cont.

- Charter schools are part of the public school system but are exempt from many state laws related to specific educational programs
- The Charter Schools Act is a framework to be used as a launching point for establishing best practices within and among charter schools and their authorizers
- An initial charter authorization may be granted for a period not to exceed five years
- Each subsequent renewal shall be for a period of five years

A Petition Has Been Approved- Now What?

Oversight Responsibility

- The charter school's authorizing agency is responsible for **adequate and appropriate oversight**, including determining if a charter school is following **prudent business practices and generally accepted accounting principles** when accounting for revenues and expenditures and preparing financial reports.
- Remember, to assess the fiscal condition of charter schools, the chartering authority can request any financial information in addition to the aforementioned reports.
- Much of this can be **documented in an MOU**.

Authorizer Oversight

EC 47604.32 (d) - Authorizing entities must monitor the fiscal condition of charter schools.

- EC *doesn't say how* – the details are left to be determined by the authorizer and the charter school and should be spelled out in your charter petition and/or MOU before authorization.
- Starts as soon *as the petition is approved*; there could be start-up loans or other grants.
- Oversight includes *pupil performance, fiscal accountability and legal compliance*.
- Should be treated as that *second set of eyes* to help ensure success.
- Should be *sufficient and adequate*.
- Should be *documented* – **consider FCMAT's checklist.**

Authorizer Oversight, cont.

- Identify at least one staff member as a contact person for the charter school.
- Visit each charter school at least annually.
- Ensure that the charter school complies with all reports required of charter schools by law, including the annual Local Control and Accountability Plan (LCAP) update.
- Monitor the fiscal condition of each charter school under its authority.
- Provide timely notification to the CDE if any of the following circumstances occur or will occur:
 - (1) A renewal of the charter is granted or denied.
 - (2) The charter is revoked.
 - (3) The charter school will cease operation for any reason.

Oversight – Spell It Out

At a minimum charter schools must:

- Prepare a LCAP by **July 1**.
- Adopt a budget by **July 1**.
- Complete first and second interim reports by **December 15** and **March 15** of each year.
- Submit unaudited actuals by **September 15**.
- Submit audited financial statements annually by **December 15**.

Oversight Considerations

- Establish **team approach**.
- Maintain active and ongoing contact with charter school to ensure compliance with **the requirements established in the charter petition, MOU or other local agreements**.
- **Support the successful establishment** of the charter school.
- **Evaluate** both educational and financial progress regularly during the year, as well as annually.
- Perform **periodic site visits**.
 - No requirement to schedule these visits.
- Verify **compliance with charter, MOU, and law**.
 - Document your actions when you work to resolve issues.

And Never Forget...

- Strong proactive oversight is essential for pupil performance, fiscal accountability, and legal compliance.

Don't wait for a problem to arise!

Limitations on Authorizer Liability

EC 47604 (c): *An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is **not liable** for the **debts** or **obligations** of the charter school, or for **claims** arising from the performance of acts, errors, or omissions by the charter school, **if the authority has complied with** all oversight responsibilities required by law, including, but not limited to, those required by § 47604.32 and subdivision (m) of § 47605 [emphasis added].*

Reimbursement for Oversight

- The chartering agency may charge an “oversight fee” for the actual costs of supervision, not to exceed 1% of a charter school’s applicable revenues (EC 47613[a])
 - Exception: Limit becomes up to 3% of the charter school’s revenue if the charter school obtains substantially rent-free facilities from the authorizer (but still cannot exceed actual costs).
 - Recommendation: Include provision in MOU.

Reimbursement for Oversight, cont.

- 1% to 3% limits are based on the revenue of the charter school, defined as the amount received in the current fiscal year from LCFF (base grant + supplemental grant + concentration grant + Targeted Instructional Improvement Grant [TIIG] + home-to-school transportation).

Oversight and Accountability

- The California Research Bureau has done studies that found up to 20% of all authorizers fail to perform their oversight responsibilities as defined in EC yet charge the maximum allowable for oversight responsibilities.
- Few charter authorizers document the time or cost that they spend performing their oversight responsibilities.
 - When they do document, there is no consistency in authorizer activities or reported expenses.
 - Most authorizers report that they spend more than the cap amount they are able to receive, but they don't account for how they spend the funds they do receive.
- Charter authorizers differ significantly around the state on the oversight responsibilities they perform.

AB 139 Process

Education Code Section 1241.5(b)(c) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school district or charter in that county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination.

AB 139 Process, cont.

Education Code Section 47604.4(a) states as follows:

In addition to the authority granted by EC sections 1241.5 and 47604.3, a county superintendent of schools may, based upon written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within that county and conduct an investigation into the operations of the charter school located within that county.

AB 139 Process – County Superintendent's Role

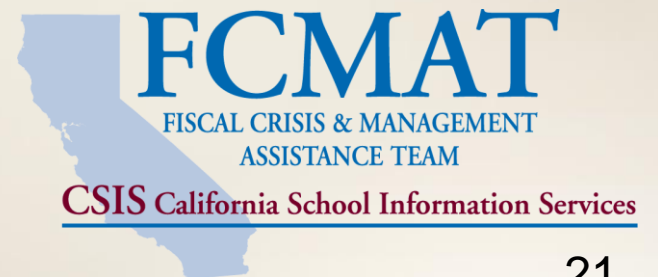
- The authority to call for an investigation rests with the county superintendent of schools.
- The review determines if sufficient documentation and evidence exists to further investigate the findings, or if there is evidence of a potential criminal activity that should be reported to the local district attorney's office for further investigation.
- If a report is provided to the district attorney's office, they will determine whether to prosecute the alleged perpetrator(s).

AB 139 Process, cont.

- To engage a potential AB 139 audit:
 - Notify your **immediate supervisor** of the alleged fraud
 - Ensure all evidence is **documented**
 - Notify your **county office** of findings/alleged fraud**
- Next Step: County office contacts FCMAT.

**You should also notify your authorizer.

Memorandum of Understanding (MOU)



What is an MOU?

- Supplements the charter petition and **should be approved in conjunction with the charter petition.**
 - Once signed, the MOU is a **binding contract.**
- Provides **more detail** regarding the **authorizer's conditions** of authorization, operational and fiscal requirements.
- Enforced as part of the charter and **supersedes any inconsistent language in the charter petition.**
- **Not required by law...**but why wouldn't you want one...**this is your protection if you develop it correctly.**

Memorandum of Understanding

A well-thought-out MOU:

- Clarifies expectations for how the school will operate in a variety of areas
- Acknowledges that the day-to-day operation of the school is appropriately carried out by the faculty and staff of the school
- Outlines what the school can expect from the authorizer
- Outlines what the authorizer expects from the charter school
- Addresses matters related to the operation of the school and to the effective oversight of the school, which go beyond the provisions included in the school's charter

Memorandum of Understanding, cont.

A well-thought-out MOU:

- Provides guidance on the oversight policies and procedures of the authorizer
- Outlines the parties' agreements governing their respective fiscal and administrative responsibilities and their legal relationships
- Clearly defines the obligations of each party in specific, objectively definable terms whenever possible
- Defines which party has final authority where objective standards are not feasible, e.g., "equitable" (EC 47646)

Memorandum of Understanding, cont.

- An MOU is **negotiated to meet mutual needs**, outlining the parties' agreements about their respective fiscal and administrative responsibilities and legal relationship.
- The MOU should address **subject matter that is related to but not a condition of charter approval**, including, but not limited to:
 - A process for agreeing on what services will be provided by the authorizer and how the authorizer shall be reimbursed
 - **Annual or semiannual reports to the authorizers**
 - Student performance expectations

*Not an all-inclusive list

Memorandum of Understanding, cont.

- Examples of subject matter include:* (cont.)
 - Funding and reporting
 - Payment schedules
 - Compliance with laws, including the Political Reform Act, Public Records Act, and Brown Act
 - Use of facilities
 - Purchase of administrative and other services from the authorizer
 - Material amendments
 - Charges for supervisorial oversight

*Not an all-inclusive list

Memorandum of Understanding, cont.

Examples of subject matter:* (cont.)

- Governance and organizational management
- Educational/student performance
- Fiscal operations and financial reporting requirements
- Fulfilling the charter terms
- Special education implementation, procedures and funding
- Student data requirements
- Insurance coverage requirements
- Indemnification
- Attendance accounting
- Documentation requirements
- Services provided by the sponsoring agency
- Food service and transportation

*Not an all-inclusive list

Memorandum of Understanding, cont.

Examples of subject matter:* (cont.)

- Frequency of school site visits
- Financial reporting requirements
- Dispute resolution
- Independent study programs
- Required disclosures accountability for academic performance
- Material revisions to charter
- Charter school revocation, renewal and school closure

*Not an all-inclusive list

Charter Petition Denials, Appeals, Renewals, and Revocations

Grounds for Denial

EC 47605 (b) specifies that an LEA shall not deny the approval of a charter petition unless it makes written factual findings, specific to the particular petition, that:

- The charter school presents an unsound educational program
- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition
- The petition does not contain the required number of signatures
- The petition does not contain an affirmation of each of the conditions described in EC 47605(b)

Grounds for Denial, cont.

- The petition does not contain reasonably comprehensive descriptions of the required 15 elements
- The petition does not contain a declaration of whether or not the charter school shall be deemed the exclusive public employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code

When a Petition Is Denied by a District

- If the COE receives a petition on appeal:
 - There is a strict timeline for action
 - County boards of education are required by regulation to either grant or deny the appeal
 - Countywide charter petitions that are denied cannot be appealed

When a Petition Is Denied by a District, cont.

The COE must receive:

- A complete copy of the petition as it was denied
- The denied petition no later than 180 calendar days after denial
- Evidence of the district's governing board's action to deny the petition and factual findings
- Signed certification that petitioner(s) will comply with all applicable laws
- Description of changes to show the county board as chartering entity, as applicable

The COE will review the denied petition in accordance with EC 47605(b)

When a Petition Is Denied by a COE

- If a charter school petition is denied by a COE upon appeal, a charter school petitioner may appeal to the SBE
 - If a petition is submitted to the SBE on appeal, the petition must be received no later than 180 days after the denial by the COE, or the petition shall not be acted upon by the SBE
 - If the SBE does not take action upon a petition appealing denial within 120 days of receipt, the decision for denial by the governing board of the school district is subject to judicial review
 - This deadline may be extended by 30 days upon agreement by both parties

When a Charter Is Brought for Renewal

- The renewal needs to include same elements as the initial charter petition that was approved
 - Except new signatures are not required
- In addition, the authorizer needs to be sure the charter has successfully implemented the program set forth in the petition

Factors Contributing to Failure

- Lack of knowledge about school finance and business
- Lack of appropriate accounting practices
- Lack of financial management
- Uncontrolled spending
- Focusing energies on the mission, vision, and educational program such that less attention is paid to a school's fiscal management

Charter school failure is more likely because of financial reasons; therefore, the budget, start-up costs, and cash flow should become more of a focus in the petition process and review process.

NEVER FORGET:

Sound financial management, including understanding, establishing, implementing, and monitoring proper internal controls and accounting policies and procedures is essential to a charter school's ability to achieve its mission.

Proposition 39 (2000) Facilities

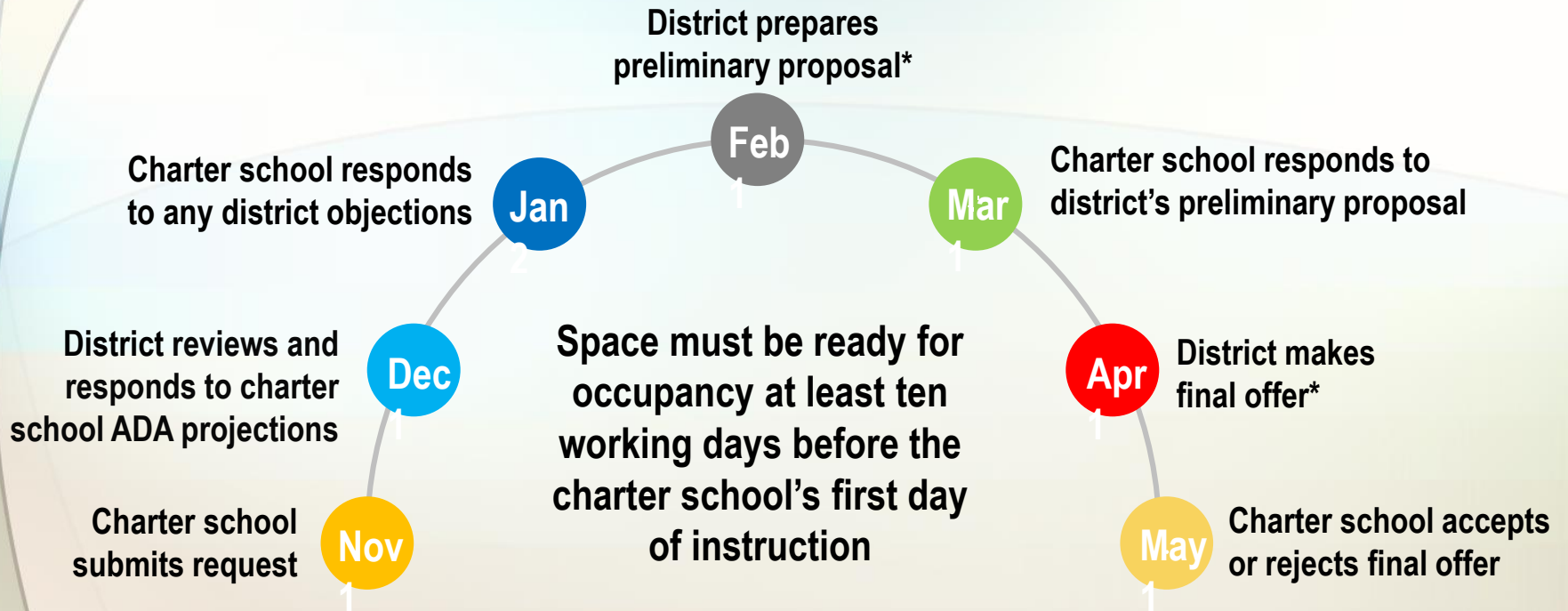
Proposition 39 (2000) Facilities

- Proposition 39's (2000) provisions relating to charter schools are based on two premises:
 - Students in public charter schools are entitled to reasonable access to a safe and secure learning environment
 - Public school facilities should be shared fairly among all public school pupils, including those in charter schools
- Proposition 39 (2000) requires that school districts provide reasonably equivalent, contiguous, furnished, and equipped space to charter schools serving in-district students in classroom-based instruction
 - Must provide sufficient facilities to accommodate all of the charter school's in-district students

District Obligations

- Obligation is to house classroom ADA, not ADA in nonclassroom-based programs (e.g., independent study), of any charter school that is “operating” in your district
 - This applies even if the charter school is authorized by a different entity than the school district from which it is requesting facilities
- Education Code states that a school district shall make facilities available based on the charter school’s projection of in-district classroom ADA
- Facility requests based on projections of fewer than 80 in-district students may be denied

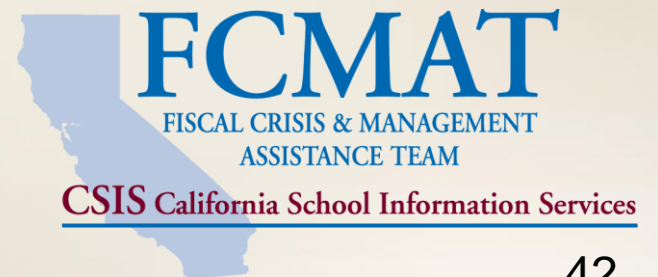
Timeline for Facilities Requests



*Board input recommended

Information provided by SSC (School Services of California)

Annual Oversight Checklist



Annual Oversight Checklist

- Provided as a template and tool for authorizing LEAs and their charter schools to use as they address annual oversight responsibilities, to help determine whether adequate management controls are in place for the school's operations, and whether the charter school meets the requirements of its petition and the memorandum of understanding between it and the authorizing agency.
 - Not an exhaustive list of necessary operations or tasks.
- Includes best practices for operation and oversight.

Annual Oversight Checklist, cont.

- Helps evaluate whether an authorized charter school is either **operating effectively** or **may need support**.
- Provides **an objective overview** of the effectiveness of a charter school's operations.
- Can be used for **periodic reviews, or annually**.
- Can be used by charter authorizers, or by a charter school to **conduct a self-assessment**.
- Charter school operators and authorizers should consider using this checklist **collaboratively and sharing the outcome** as a helpful communication tool for **internal review purposes**.

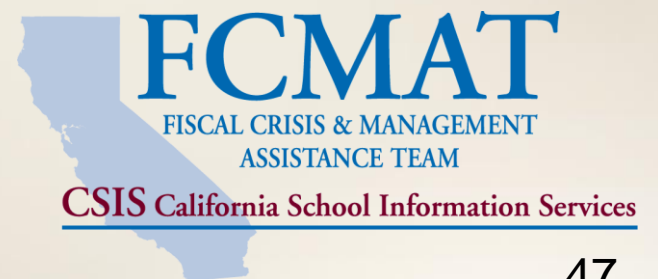
Annual Oversight Checklist, cont.

- General requirements
- Fiscal and business operations
- Educational program: LCAP
- Educational program and ongoing assessment
- Facilities, maintenance and operations
- New resource center/facilities form
- Governance
- Personnel
- Student services

Annual Oversight Checklist, cont.

- Not intended to be used as the sole determiner of whether a charter school will continue to be authorized or supported in the future.
 - Intended to serve as an internal document.
- Can be found at: <http://fcmat.org/wp-content/uploads/sites/4/2016/03/Charter-School-Annual-Oversight-Checklist-revised-final-3-17-2016.pdf>

How Authorizers Can Help



How Authorizers Can Help

- What can authorizers do to help charters be successful?
 - In-house training opportunities extended to charter staff.
 - Flyers from other organizations – CASBO / SSC / FCMAT – provided to charters.
 - Authorizers offer services to support the charter school's budget process.
 - National Association of Charter School Authorizers (NACSA) Core Principles of Charter Authorizing.
 - Charter Authorizers Regional Support Network (CARNet).
 - FCMAT's California Charter School Accounting and Best Practices Manual <http://fcmat.org/california-charter-school-accounting-and-best-practices-manual/>

Questions and Answers

