



San Diego Unified

SCHOOL DISTRICT

Assembly Bill 1505 (“AB 1505”) Implementation Plan FINAL

Adopted by Board of Education on February 2, 2021

First Review by Board of Education on November 3, 2020

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BACKGROUND AND INTRODUCTION

The San Diego Unified School District (“district”) is the second largest charter authorizer in the state. The district currently authorizes 43 charter schools, serving approximately 20,500 students. The charter schools serve varying configurations of grades TK/K-12, and represent both classroom-based and nonclassroom-based programs.

Several new laws affecting charter schools and charter school authorizers were signed by Governor Newsom in 2019, including Senate Bill (“SB”) 75, SB 126, Assembly Bill (“AB”) 1505 and AB 1507. These new laws, particularly AB 1505, represent the most significant and comprehensive changes to charter school legislation since the original Charter Schools Act of 1992.

In response to these legislative changes, on July 28, 2020, the San Diego Unified School District Board of Education (“Board”) adopted a resolution requesting that the Superintendent bring forward an AB 1505 Implementation Plan (“Plan”) within 90 days. As part of its resolution, the Board requested information that is responsive to the following fundamental questions:

- How will the district evaluate a new charter petition’s potential community and fiscal impact on the district as a whole and on surrounding schools?
- How will the district evaluate potential fiscal and programmatic impacts on the district as a whole and on surrounding schools for a new charter petition, and for material revisions, and specifically for revisions that add grade levels or student enrollment?
- How will the district evaluate whether a new petition offers programs or strategies that are not otherwise available to students through either district school or district-authorized charter schools?
- Prior to a charter school’s renewal, how will the district evaluate whether a charter school is serving all students?
- How will the district evaluate a charter school’s performance on various dashboard metrics to recommend either two-year, five-year, or seven-year renewal term, or denial?
- How will the district monitor new legal standards for charter schools regarding:
 - 1) qualified teachers
 - 2) non-discrimination of specified student groups
 - 3) transparency and accountability

As requested by the Board during the adoption of its resolution, the district sought input from various stakeholder groups including parents/guardians and leaders from district schools, parents/guardians and leaders from charter schools, labor organizations, and charter school advocacy organizations.

The district’s goal in creating this Plan is to be fair and transparent. This Plan will provide charter school stakeholders (petitioners, operators, parents/guardians, and students), district stakeholders, and the public with information on how the district may consider various factors related to charter school authorization and oversight. At the same time, the Plan retains some flexibility in the definitions and criteria that will be

considered as part of the authorization process because not every new petition, renewal, or material revision will present the same need, impacts, or circumstances.

Senate Bill 75, the Education Omnibus Budget Trailer Bill, effective July 1, 2019, prohibits charter schools from discouraging pupils to enroll or seek enrollment in the school for any reason, or encourage a pupil currently attending the school to disenroll for any reason. It also requires the charter school to hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the local control and accountability plan (“LCAP”), and requires the district to post on its website the LCAP for each of its authorized charter schools

Senate Bill 126, effective January 1, 2020, added section 47604.1 to California Education Code. The new law expressly states that charter schools and entities managing charter schools are subject to the Ralph M. Brown Act (or Bagley-Keene Open Meeting Act if appropriate), the California Public Records Act, the Political Reform Act of 1974, and Government Code section 1090.

Assembly Bill 1505, effective January 1, 2020, and July 1, 2020, amended California Education Code sections 47604.5, 47605, 47605.6, 47607, 47607.3, 47607.5, and 47632; and added sections 47605.4, 47605.9, 47607.2, 47607.8, and 47612.7 relating to charter schools. The new laws change timelines, require material revisions for certain changes, adds new denial reasons, changes the appeal process, adds teacher credentialing requirements, prohibits approval of new nonclassroom-based charters for a two-year period, and revises renewal criteria.

Assembly Bill 1507, effective January 1, 2020, amended sections 47605 and 47605.1 of the California Education Code relating to charter schools. The new laws prohibit a charter school from locating outside the jurisdiction or geographic boundary of the authorizing school district, with very limited exceptions.

1. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (New Petitions)

Assembly Bill 1505 amended and added sections to the California Education Code related to new charter petitions, as detailed in the following paragraphs.

1.1 Submission of Petition

Assembly Bill 1505 added section 47605.9 to the Education Code. This section requires that a petition to establish a charter school must be “submitted to the governing board of the school district or county office of education within the boundaries of which the charter school proposes to locate.” For petitions submitted to the district, only the Board has the authority to grant or deny a charter petition. The Board shall make its determination to grant or deny the petition based upon the statutory requirements of the Charter Schools Act (Education Code section 47600, *et seq.*) and a staff recommendation.

Education Code section 47612.7 places a two-year moratorium on the establishment of new nonclassroom-based charter schools, from January 1, 2020, to January 1, 2022, inclusive.¹ The moratorium does not apply to nonclassroom-based charter schools that were granted approval of their petition and were providing educational services to pupils before October 1, 2019, under either of the following circumstances:

1. The charter school is required to submit a petition to the governing board of a school district or county board of education in an adjacent county in which its existing resource center is located in order to comply with Section 47605.1, or to retain current program offerings or enrollment.
2. A charter school is required to submit a petition to a school district or county board of education in which a resource center is located in order to comply with the Anderson² court decision, or other relevant court ruling, and the petition is necessary to retain current program offerings or enrollment.

1.2 Timelines and Board Meetings

Per Education Code section 47605(b), the governing board of a school district shall hold a public hearing on the provisions of the charter no later than 60 days after receiving a petition, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents. A petition is deemed received for purposes of commencing the timelines on the day the petitioner submits a petition to the district, along with a signed certification that the petitioner deems the petition to be complete.

The governing board of the school district shall either grant or deny the charter within 90 days of receipt of the petition. This date may be extended by an additional 30 days if both parties agree to the extension.

The governing board of the school district shall publish all staff recommendations, including the recommended findings, regarding the petition at least 15 days before the

¹ Nonclassroom-based charter schools are defined in Education Code section 47612.5(e)(2).

² Anderson Union High School District v. Shasta Secondary Home School (2016) 4 Cal.App.5th 262

public hearing at which the governing board of the school district will either grant or deny the charter. The staff recommendation and findings will be posted on the district's "Charter Schools" department webpage. All recommendations and findings published on the district webpage pursuant to this section shall become public records, and shall become part of the record of the proposed charter school and/or its petitioners.

At the public hearing at which the governing board of the school district will either grant or deny the charter, petitioners shall have equivalent time and procedures to present evidence and testimony to respond to the staff recommendations and findings. The governing board may ask district staff and petitioners follow-up questions regarding the recommendations and findings. These follow-up questions and responses are not subject to the equivalent time requirement.

1.3 Contents of Petitions

AB 1505 made changes to one of the required elements that that must be included in a charter petition, as well as information that the school district is required to request from the petitioners.

Education Code section 47605(c)(5)(G) was amended to require that the charter petition must contain a reasonably comprehensive description of the means by which the charter school will achieve a balance of racial and ethnic pupils, ***special education pupils, and English learner pupils, including redesignated fluent English proficient pupils***, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

Per Education Code section 47605(h), the governing board of a school district shall require that the petitioner provide information regarding the proposed operation and potential effects of the charter school, including, but not limited to, the facilities to be used by the charter school, the manner in which administrative services of the charter school are to be provided, and potential civil liability effects, if any, upon the charter school and upon the school district. The description of the facilities to be used by the charter school shall specify where the charter school intends to locate. The petitioner or petitioners also shall be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation. ***If the school is to be operated by, or as, a nonprofit public benefit corporation, the petitioner shall provide the names and relevant qualifications of all persons whom the petitioner nominates to serve on the governing body of the charter school.***

1.4 New Criteria for Petition Review

Assembly Bill 1505 added new criteria for evaluating charter petitions, and two new findings that may be used to deny a charter petition. The addition of these new criteria and findings require a reconsideration and balancing of the existing law.

Education Code section 47605(c) has included the following statement for several years:

In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice...

Now, almost three decades after the introduction of the Charter Schools Act, the original legislative intent must be reconsidered in the context of the changes made by Assembly Bill 1505 and its intent. The original “encouraged” and “shall grant a charter if it is consistent with sound educational practice” intent must now be balanced with the “interests of the entire community” intent.

In passing AB 1505, the legislature provided district authorizers with more flexibility in the authorization process, kept authorization and oversight at the more local level, and supported limitations on new and/or expanding charter schools. These items, and the ability of districts to look at impacts on its existing programs/services/staffing, as reflected in the following examples and comments from the AB 1505 legislative sessions, represent items that San Diego Unified School District and other authorizers identified as areas of concern and sought changes to:

- The bill gives districts greater authority to choose which charter schools are approved in their community, and to consider the fiscal impact of the charter school on the current students in the district
- This bill allows school districts flexibility to consider the community impact, including the fiscal impact to the school district, when a new charter school or existing charter school that is expanding, presents a petition to the school district
- The intent is to authorize school districts to consider the impact that a charter school would have on school district programs such as English Learner instruction, hands-on science, music, and theater
- The challenges of sharing space with a charter school may limit use of science labs, music rooms, and computer labs, and these are some of the factors AB 1505 will allow school districts to consider before a new or expanding charter school is approved
- School districts may consider the staffing needs of district services and programs that might be impacted by a charter school, and if layoffs of school staff is likely to be exacerbated by the addition of a new or expanding charter school, school boards must take this into account in order to meet the needs of all students

1.5 New Denial Findings

Education Code provides that the governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or both of the new findings. Assembly Bill 1505 added two findings that may be used to deny a charter petition, as stated in Education Code sections 47605(c)(7) and (8).

Per Education Code section 47605(c)(7), a charter petition may be denied if the charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:

- The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
- Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.

Per Education Code section 47605(c)(8), a charter petition may be denied if the school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131, has a negative interim certification pursuant to Section 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

Aligned with the new statutory language, authorizers will no longer be constrained to considering only the “four corners of the document” when reviewing a charter petition. Rather, authorizers will now look at the existing system of schools (district and charter), to determine how a new or expanding charter school may impact the system, either negatively or positively. Please see section 4, *et al* for detailed information on definitions and factors the district may include as part of the analysis for the new evaluation criteria and new denial findings.

2. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (Renewal Petitions)

Assembly Bill 1505 amended and added sections to the California Education Code related to renewal charter petitions, as detailed in the following paragraphs.

2.1 Submission of Renewal Petition

Renewal petitions must be submitted in the final school year of the current charter term, on July 1 or after. For any renewal petition that includes material revisions to the approved charter petition, a separate analysis will be conducted for the revisions. While a request for material revision may be submitted concurrently with the renewal, the renewal and material revision will be separately reviewed and separately presented to the Board for action. Additional details regarding material revisions are included in sections 3 and 4.

2.2 Timelines and Board Meetings

Per Education Code section 47607(a), a chartering authority may grant one or more subsequent renewals of charter petitions. Additionally, renewals and material revisions of charters are governed by the standards and criteria described in Section 47605. As with new charter petitions, the governing board of a school district shall hold a public hearing on the provisions of the charter no later than 60 days after receiving a petition, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the school district, other employees of the school district, and parents. A renewal petition is deemed received for purposes of commencing the timelines on the day the petitioner submits a petition to the district, along with a signed certification that the petitioner deems the petition to be complete.

The governing board of the school district shall either grant or deny the charter within 90 days of receipt of the petition. This date may be extended by an additional 30 days if both parties agree to the extension.

The governing board of the school district shall publish all staff recommendations, including the recommended findings, regarding the petition at least 15 days before the public hearing at which the governing board of the school district will either grant or deny the charter. The staff recommendation and findings will be posted on the district's "Charter Schools" department webpage. All recommendations and findings published on the district webpage pursuant to this section shall become public records, and shall become part of the record of the proposed charter school and/or its petitioners.

At the public hearings at which the governing board of the school district will either grant or deny the charter, petitioners shall have equivalent time and procedures to present evidence and testimony to respond to the staff recommendations and findings. The governing board may ask district staff and petitioners follow-up questions regarding the recommendations and findings. These follow-up questions and responses are not subject to the equivalent time requirement.

The district has historically used a “Fast Track” renewal process for charter schools that meet the eligibility requirements. The district intends to continue this practice. To be eligible, the charter school must have been renewed at least two times previously, must meet current state renewal standards for charter schools, must have improved student academic achievement, and must have successfully implemented its charter during the most recent term. Charter school renewals that meet these criteria shall be placed on the Board’s Consent Agenda for the meeting date on which the Board shall either grant or deny the charter petition. Denial recommendations will not be placed on the Consent Agenda.

2.3 Content/Updates for Renewal Petitions

Per Education Code section 47607(b), charter school renewals are governed by the standards and criteria described in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

Per Education Code section 47607(c)(2)(F) A high performing charter school shall only be required to update the petition to include a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed and as necessary to reflect the current program offered by the charter.

2.4 New Renewal Standards

Education Code sections 47607 and 47607.2 establish a “three-tier” performance-based classification system for renewing charter schools.³ This classification system details criteria to be used to determine if a charter school is “high performing,” “middle performing,” or “low performing.”⁴ The primary criteria to be considered are the charter school’s results on the Dashboard indicators, with an emphasis on the “Measurements of Academic Performance,” which include California Assessment of Student Performance and Progress (“CAASPP”) results, the English Learner Progress Indicator, and the College/Career Readiness Indicator.

The statutes also allow for the use of “verified data” as a consideration. Per Education Code section 47607.2(c), verified data is data derived from nationally recognized, valid, peer-reviewed, and reliable sources that are externally produced. Verified data shall include measures of postsecondary outcomes. By January 1, 2021, the state board shall identify an approved list of valid and reliable assessments that shall be used for

³ Dashboard Alternative School Status (“DASS”) charter schools are exempt from the classification system.

⁴ For the 2020-21 school year, the CDE determined the performance classification for each charter school. It is unknown if the CDE will make the determination each year. If they do not make the determination, staff will analyze Dashboard data and statewide average data and determine the performance classification for each charter school. If necessary, staff will annually make this determination within 30 calendar days of the public release of the Dashboard and statewide data for the most recent school year.

the purpose of verified data. No data sources other than those adopted by the state board shall be used as verified data.⁵

Per Education Code section 47607(c)(1), as an additional criterion for determining whether to grant a charter renewal, the chartering authority shall consider the performance of the charter school on the state and local indicators included in the evaluation rubrics adopted pursuant to Section 52064.5.

Per Education Code section 47607(c)(6), if the Dashboard indicators for the most recently completed school year prior to renewal are not available, the chartering authority shall consider verifiable data provided by the charter school related to the dashboard indicators, such as data from the CAASPP, or any successor system, for the most recent academic year.

High Performing Schools*	Middle Performing Schools*	Low Performing Schools*
<u>Shall not deny</u> renewal	<u>May deny</u> renewal upon written findings	<u>Shall not renew</u> without written findings
Renewal term: 5 to 7 years	Renewal term: 5 years only	Renewal term: 2 years only
<p>Must meet these criteria for the two consecutive years immediately preceding the renewal decision⁶</p> <p>Criteria:</p> <ol style="list-style-type: none"> Blue or green schoolwide on at least two indicators on the Dashboard for which the school received results <p style="text-align: center;">OR</p> <ol style="list-style-type: none"> For all measurements of academic performance, the charter school received performance levels schoolwide that are the same or higher than the state average, and, 	<p>Criteria:</p> <p>Schoolwide performance and performance of all subgroups on the Dashboard, providing greater weight to performance on measurements of academic performance</p> <p>Chartering authority shall consider clear and convincing evidence, demonstrated by verified data, showing either:</p> <ul style="list-style-type: none"> The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school 	<p>Must meet these criteria for the two consecutive years immediately preceding the renewal decision⁷</p> <p>Criteria:</p> <ol style="list-style-type: none"> Red or Orange schoolwide on all state indicators on the Dashboard for which the school received results <p style="text-align: center;">OR</p> <ol style="list-style-type: none"> For all measurements of academic performance: <ul style="list-style-type: none"> Received performance levels <u>schoolwide</u> that are the same or lower than the state average

⁵ Per Education code section 47607.2(c)(4), a charter school under consideration for renewal before the state board's adoption may present data consistent with this subdivision.

⁶ Education Code 47607(c)(2)(B) states that if the two consecutive years immediately preceding the renewal decision includes the 2019-20 school year, the chartering authority shall not deny renewal if the school meets either of the criteria for two of the three years immediately preceding renewal.

⁷ Education Code 47607.2(a)(2) states that if the two consecutive years immediately preceding the renewal decision includes the 2019-20 school year, the chartering authority shall not deny renewal if the school meets either of the criteria for two of the three years immediately preceding renewal.

<p>for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average</p>	<p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers <p>May deny renewal upon <u>making all three</u> following written findings that:</p> <ul style="list-style-type: none"> • The charter school failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils • Closure of the school is in the best interest of pupils • Greater weight was provided to performance on measurements of academic performance. 	<p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • For a majority of <u>subgroups</u> performing statewide below the state average in each respective year, received performance levels for a majority of subgroups that are lower than the state average of subgroups. <p>May renew for a two-year term only upon making <u>both</u> of the following written findings:</p> <ul style="list-style-type: none"> • The school is taking meaningful steps to address the underlying cause(s) of low performance, and those steps are/will be reflected in a written plan • Clear and convincing evidence, demonstrated by verified data, showing: <ul style="list-style-type: none"> ○ The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> ○ Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers
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*Renewal may be denied for any charter school based on substantial fiscal or governance factors, OR if the school is not serving all pupils who wish to attend [47607(e)]

2.4.1 HIGH PERFORMING SCHOOLS

Renewal criteria for high performing charter schools is detailed in Education Code section 47607(c)(2). Per this section, the chartering authority that granted the charter may renew a high performing charter school for a period of between five and seven years.

High performing charter schools are those that have met either of the following criteria for two consecutive years immediately preceding the renewal decision:⁸

- Received the two highest performance levels (blue or green) schoolwide on all of the state indicators for which it receives performance levels, OR
- For all measurements of academic performance, the charter school has received performance levels schoolwide that are the same or higher than the state average, and, for a majority of subgroups⁹ performing statewide below the state average in each respective year, received performance levels that are higher than the state average.

To qualify for renewal under either of the above high performing criteria, the charter school must have schoolwide performance levels on at least two measurements of academic performance per year in each of the two consecutive years immediately preceding the renewal decision, OR performance levels on at least two measurements of academic performance for at least two subgroups.

A charter school without sufficient performance levels to meet these criteria shall be considered under the middle performing criteria.

Under the new renewal criteria, high performing charter schools may be renewed for a period of five to seven years; however, the statute is silent on the criteria to be used for determining the five, six, or seven year renewal term. Based on the changes implemented by AB 1505 and other recent legislation, prior comments from the Board on issues that it considers important, and past operations of our authorized charter schools, the following table summarizes criteria that the district will take into consideration when determining the renewal term for a high performing charter school. Absent findings that the charter school has fiscal or governance concerns, or is not serving all pupils who wish to attend, a high-performing charter school will be granted a minimum of a five-year term. To be granted a six or seven year term, the school must meet all criteria listed in the column for that term length. Granting of six and seven year renewal terms are at the discretion of the Board, and are based upon staff recommendations and findings of the following criteria.

	5-Year Term	6-Year Term	7-Year Term
Transparency And Accountability	The school’s website has links only to documents required to be posted (i.e., board agendas, LCAP, and CDE notice required by SB 75)	The school’s website has links to more documents than are required to be posted (i.e., board agendas, board member contact information, LCAP,	The school’s website has links to more documents than are required to be posted, and reflect heightened transparency (i.e., board agendas, minutes and

⁸ Per Education Code section 47607(c)(2)(A)(iii), a charter school eligible for technical assistance pursuant to Section 47607.3 shall not qualify for renewal as a high performing school.

⁹ Per Education Code section 47607(c)(4), for purposes of renewal, “subgroup” means numerically significant pupil subgroups as defined in section 52052(a)(1) .

		complaint policy, CDE notice required by SB 75, etc.)	exhibits; individual board member contact information; LCAP; complaint policy; CDE notice required by SB 75, etc.
Equity And Access	The school does not enroll new students at all grade levels, and/or throughout the school year if seats are available	The school (if seats are available): <ul style="list-style-type: none"> enrolls new students at all grade levels, but limits new enrollment at some point during the school year <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> limits enrollment of new students at some or all grade levels, but enrolls new students during the school year. 	The school enrolls new students at all grade levels, at any time during the school year, if seats are available
	The school has a student matriculation rate of less than 70% throughout most recent charter term	The school has a student matriculation rate of at least 75% throughout most recent charter term	The school has a student matriculation rate of at least 80% throughout most recent charter term
	% of students with disabilities at the school was more than 3% below the district's average during the two most recently completed school years	% of students with disabilities at the school was no more than 3% below the district's average, and the school enrolled students with higher needs, during the two most recently completed school years	% of students with disabilities at the school was at least the same as the district's average, and the school enrolled students with higher needs, during the two most recently completed school years
	% of English learners at the school was more than 5% below the district's average during the two most recently completed school years	% of English learners at the school was no more than 5% below the district's average during the two most recently completed school years	% of English learners at the school was at least the same as the district's average during the two most recently completed school years
	% of socioeconomically disadvantaged students at the school was more than 15% below the district's average during the two most recently completed school years	% of socioeconomically disadvantaged students at the school was no more than 15% below the district's average during the two most	% of socioeconomically disadvantaged students at the school was at least the same as the district's average during the two most recently completed school years

		recently completed school years	
Operational History	The school was placed in “not in good standing” status for any period of time during the most recent charter term and resolved the issues	The school received at least one letter of concern, issued by the Office of Charter Schools, during the most recent charter term and resolved the issues	The school has not received any letters of concern issued by the Office of Charter Schools during the most recent charter term
	The school has <u>not</u> maintained stable enrollment ¹⁰ during most recent charter term	The school has maintained stable enrollment during most recent charter term	The school has maintained stable enrollment during most recent charter term
	The school has failed to respond or reply to the district in a timely manner on multiple occasions, including the submission of required reports after the posted deadline	The school has responded or replied to the district in a timely manner, including the submission of all required reports by the posted deadline	The school has responded or replied to the district in a timely manner, including the submission of all required reports by the posted deadline
Fiscal Stability	The school had fiscal issues, which may include low fund balances, inadequate reserves, deficit spending (for more than three years, or large amounts), poor debt ratios, and/or audit findings, throughout most recent charter term	The school has been fiscally sound throughout most recent charter term	The school has been fiscally sound throughout most recent charter term

2.4.2 MIDDLE PERFORMING SCHOOLS

Renewal criteria for middle performing charter schools is detailed in Education Code section 47607.2(b). Per this section, for all charter schools which are not classified as high performing or low performing, the chartering authority shall consider the schoolwide and subgroup performance on the state and local indicators. The chartering authority shall provide greater weight to performance on measurements of academic performance in determining whether to grant a charter renewal.

In addition to the state and local indicators, the chartering authority shall consider clear and convincing evidence showing either of the following:

¹⁰ Stable enrollment is defined as no more than 10% below or above the enrollment that the board approved as part of the new or renewing petition, or material revision.

- The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school
- Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers

The charter authorizer shall consider verified data to demonstrate the above two criteria until January 1, 2026. The verified data review will include a comparison to district schools and charter schools, serving the same or similar grade levels, based on CAASPP results, as indicated below:

- Comparison to district schools that the charter school pulled enrollment from
- Comparison to demographically similar district schools and charter schools (based on the student subgroups included in the Dashboard)
- Comparison to district schools and charter schools in the surrounding area of the charter school

A middle performing charter school shall be renewed for a period of five years. However, per Education Code section 47607.2(b)(6), the chartering authority may deny a charter renewal only upon making written findings, setting forth specific facts to support the findings, that the charter school has failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils of the school, that closure of the charter school is in the best interest of pupils and, if applicable, that its decision provided greater weight to performance on measurements of academic performance.

2.4.3 LOW PERFORMING SCHOOLS

Renewal criteria for low performing charter schools is detailed in Education Code section 47607.2(a). Per this section, the chartering authority shall not renew a charter if either of the following apply for two consecutive years immediately preceding the renewal decision:

- The charter school received the two lowest performance levels (red and orange) schoolwide on all the state indicators for which it receives performance levels.
- For all measurements of academic performance, the charter school received performance levels schoolwide that are the same or lower than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.

The chartering authority shall consider the following factors, and may renew a low performing charter for a two-year term only upon making BOTH of the following written factual findings, specific to the particular petition, setting forth specific facts to support the findings:

- The charter school is taking meaningful steps to address the underlying cause(s) of low performance, and those steps are reflected, or will be

reflected, in a written plan adopted by the governing body of the charter school.

- There is clear and convincing evidence, demonstrated by verified data, showing either of the following:
 - The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school.
 - Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.

For schools operating on or before June 30, 2020, verified data for low performing charter schools shall be considered until June 30, 2025, only for the school's next two subsequent renewals. The verified data review will include a comparison to district schools and charter schools, serving the same or similar grade levels, based on CAASPP results, as indicated below:

- Comparison to district schools that the charter school pulled enrollment from
- Comparison to demographically similar district schools and charter schools (based on the student subgroups included in the Dashboard)
- Comparison to district schools and charter schools in the surrounding area of the charter school

2.4.4 DASHBOARD ALTERNATIVE SCHOOL STATUS (“DASS”)

Per Education Code section 47607(c)(7), DASS schools are exempt from the three-tier classification system. In determining whether to grant a charter renewal for a DASS school, the chartering authority shall consider, in addition to the charter school's performance on the state and local indicators, the charter school's performance on alternative metrics applicable to the charter school based on the pupil population served. The chartering authority shall meet with the charter school during the first year of the charter school's term to mutually agree to discuss alternative metrics to be considered and shall notify the charter school of the alternative metrics to be used within 30 days of this meeting. The chartering authority may deny a charter renewal only upon making written findings, setting forth specific facts to support the findings, that the closure of the charter school is in the best interest of pupils.

2.5 Additional Grounds for Denial of Renewal Petitions

Per Education Code section 47607(e), a chartering authority may deny renewal of a charter school upon making either of the following findings:

- The school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors, OR
- The school is not serving all pupils who wish to attend, as documented pursuant to subdivision (d).

2.5.1 Not Serving Pupils Who Wish to Attend

Per Education Code section 47607(d), as part of its determination of whether to grant a renewal for a charter school classified at any of the three performance levels, the chartering authority may make a finding that the charter school is not serving all pupils who wish to attend and, upon making such a finding, specifically identify the evidence supporting the finding.

In making this determination and finding, the chartering authority shall review data as detailed below, any data that may be provided to chartering authorities by the department, and any substantiated complaints that the charter school has not complied with the provisions of Education Code sections 47605(c)(5)(J).¹¹

Section 47607(d)(1) states that at the conclusion of the year immediately preceding the final year of the charter school's term, the charter authorizer may request, and the CDE shall provide, the following aggregate data reflecting pupil enrollment patterns at the charter school:

- A) The cumulative enrollment for each school year of the charter school's term. Cumulative enrollment is defined as the total number of pupils, disaggregated by race, ethnicity, and pupil subgroups, who enrolled any time during the school year.
- B) For each school year of the charter school's term, the percentage of pupils enrolled at any point between the beginning of the school year and census day who were not enrolled at the conclusion of that year, and the average results on the statewide assessments in the CAASPP system, or any successor system, for any such pupils who were enrolled in the charter school the prior school year.
- C) For each school year of the charter school's term, the percentage of pupils enrolled the prior school year who were not enrolled as of census day for the school year, except for pupils who completed the highest grade served by the school, and the average results on the statewide assessments in the CAASPP system, or any successor system, for any such pupils.

In addition to the criteria prescribed in the above section, the district will be taking into consideration the enrollment policies and practices of the charter school as part of its analysis of whether the school is serving all pupils who wish to attend. This analysis will include a review of how accessible the school is, and may include, but not be limited to, the following criteria:

- Does the school admit students throughout the school year if there is space available, or is enrollment stopped as of a specific date or time of year
- Does the school admit students at all grade levels served if there is space available
- Does the school fill vacant seats, especially at the high school level
- Does the school have any policies or practices that prohibit current students from moving on to the next grade level at the school

¹¹ Section 47605(c)(5)(J) details the suspension/expulsion procedures, and other involuntary removal of a student for any reason. These procedures must explain how the charter school will comply with federal and state due process requirements.

- Does the school have any policies or practices that result in limiting the ability of all students to access the school
- Has the district received and substantiated any complaints regarding a school's non-compliance with the enrollment/disenrollment process and notice requirements of SB 75

These criteria will initially be reviewed to ensure student access to the school, and will not be used as a basis for non-renewal. The district will begin incorporating these criteria as part of its non-renewal findings beginning July 1, 2024. This should provide enough time for schools to adjust their policies and practices to ensure student access before it is incorporated as part of the renewal determination.

The chartering authority may deny renewal of a charter school only after it has provided at least 30 days' notice to the charter school of the alleged violation and provided the charter school with a reasonable opportunity to cure the violation, including a corrective action plan proposed by the charter school. The chartering authority may deny renewal only by making either of the following findings:

- The corrective action proposed by the charter school has been unsuccessful, OR
- The violations are sufficiently severe and pervasive as to render a corrective action plan unviable.

2.6 Evaluation and Denial of Renewal Petitions that Propose Expanded Operations

Education Code section 47607(a)(3) states that a charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter. A material revision of the provisions of a charter petition may be made only with the approval of the chartering authority. A material revision of a charter is governed by the standards and criteria described in Section 47605.

While a request for material revision may be submitted concurrently with the renewal, the renewal and material revision will be considered separately and will be presented separately to the Board for action. In accordance with Education Code section 47607(a)(4), the analysis under sections 47605(c)(7) and (8) shall be limited to consideration only of the impact of the proposed material revision. If there are no material revisions included, the renewal petition will be evaluated using the applicable renewal standards as stated above. All material revision requests will be evaluated using the new criteria and denial findings established by AB 1505, as detailed in the "Material Revisions" section of this Plan.

3. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (Material Revisions)

Assembly Bill 1505 amended and added sections to the California Education Code related to material revisions, as detailed in the following paragraphs

3.1 Education Code References and District Interpretation

Material revisions to charter petitions are specifically mentioned in Education Code sections 47605(a)(4) and 47607(a)(3), as reflected below.

47605(a)(4) - after receiving approval of its petition, a charter school that proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter and shall notify the chartering authority of those additional locations or grade levels. The chartering authority shall consider whether to approve those additional locations or grade levels at an open, public meeting. If the additional locations or grade levels are approved they shall be a material revision to the charter school's charter.

47607(a)(3) - a charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter. A material revision of the provisions of a charter petition may be made only with the approval of the chartering authority. A material revision of a charter is governed by the standards and criteria described in Section 47605.

The district does not interpret this statutory language to be a limitation on items that are considered material revisions. While some minor changes to a charter petition may be considered non-material, any change that the district determines constitutes a material revision must be approved by the SDUSD Board before it can be implemented by the charter school. In addition to the specific items included in the aforementioned statutes, the district considers the following items to be material revisions:¹²

- Any changes in location or address, including administrative (non-student) sites
- Significant expansion of enrollment, defined as an increase in schoolwide enrollment of 10% or more beyond the current approved enrollment
- Changes to the Special Education Local Plan Area ("SELPA") membership
- Changes to admission procedures or preferences¹³
- Substantive changes to the Educational or Instructional Program
- Substantive changes to the governance structure at the school, or the corporate structure or bylaws, including but not limited to:
 - Changes to the articles of incorporation

¹² This list is not intended to be exhaustive, and depending on the proposed changes, a material revision may be required for an item not listed. Charter schools should contact the district to discuss any proposed changes and for a determination of whether or not the change constitutes a material revision.

¹³ Education Code section 47605(e)(2)(B)(i) requires that changes to admission preferences must be approved by the board at a public hearing.

- Addition/deletion of related or affiliated corporations or sole statutory members
- Changes to the number of board members or board member terms

The district's interpretation that these items constitute material revisions is grounded in historic practices, changes made by AB 1505, and stakeholder input. While the district considers all of these items to be material revisions, not all of them will trigger full impact assessments. Per statute, material revisions that include expanded operations will be subject to an impact assessment. The following table summarizes the analysis or assessment that will typically be done for each type of revision; however, depending on the specific changes requested, these may vary.

Item	Impact Assessment Required?	Analysis/Assessment ¹⁴ Done
Expanded Operations	Yes	Community, Fiscal, Programmatic, Academic Need
Location Changes ¹⁵	Yes	Community, Fiscal, Programmatic, Academic Need
Significant Enrollment Expansion	Yes	Community, Fiscal, Programmatic, Academic Need
Change in SELPA (non-district) ¹⁶	No	
Change to Bylaws	No	
Change to Educational Program	No	
Change to Governance	No	

3.2 Submission of Material Revisions

Material revisions may be submitted any time during the charter term. For material revisions that are submitted as part of a renewal petition, a separate analysis will be conducted for the revisions. While a request for material revision may be submitted concurrently with the renewal, the renewal and material revision will be separately reviewed and separately presented to the Board for action.

3.3 Timelines and Board Meetings

¹⁴ Community Assessment includes analysis of interests of the entire community and community impact. Fiscal Assessment includes analysis of impact on the district and/or charter schools. Programmatic Assessment includes analysis of substantially undermines existing services, academic offerings, or programmatic offerings; duplication of programs currently offered within the school district; capacity at existing programs; and reasonable proximity of existing programs. The district has discretion in determining the extent of the assessment done based upon the nature of the charter school's request, and the specific facts surrounding the request. For instance, for a charter school relocating its program to a new site, the district may take into consideration the geographic proximity of the new location to the original location, the size of the new facility, the proposed enrollment, etc. when determining the extent of the assessments done.

¹⁵ District-provided sites, including those via Proposition 39 and multi-year agreements, are exempt from analysis.

¹⁶ A charter school joining the SDUSD SELPA will require a Fiscal Assessment.

Unlike new and renewal charter petitions, material revisions require a single board meeting at which the Board may take action, and there are no statutory timelines for processing material revisions. This was affirmed in a recent court case¹⁷ which concluded that even if a material revision is submitted with a renewal petition there is no timeline for processing the material revision. Although there is no statutory timeline, the district has a practice and history of processing material revisions in a timely manner, and shall continue to do so. The district will endeavor to process all material revisions within 60 to 90 days.

3.4 Evaluating Material Revisions that Propose Expanded Operations

Per Education Code section 47607(a)(3), a charter school that, concurrently with its renewal, proposes to expand operations to one or more additional sites or grade levels shall request a material revision to its charter. A material revision of the provisions of a charter petition may be made only with the approval of the chartering authority. Section 47607(b) further states that a material revision of a charter is governed by the standards and criteria described in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

Assembly Bill 1505 added criteria for evaluating charter petitions, including material revisions that propose to expand operations to one or more additional sites or grade levels. The new criteria, found in Education Code section 47605(c), provides that the governing board of the school district shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice and ***with the interests of the community in which the school is proposing to locate.*** The governing board of the school district is also required to ***consider the academic needs of the pupils the school proposes to serve.***

3.5 New Denial Findings for Material Revisions that Propose Expanded Operations

Education Code section 47605(c) provides that the governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or both of the new findings. This language is made applicable to material revisions via Education Code section 47607.

Assembly Bill 1505 added two new findings that may be used to deny a material revision that proposes to expand operations to one or more additional sites or grade levels, as stated in Education Code sections 47605(c)(7) and (8).

Per Education Code section 47605(c)(7), a material revision that proposes to expand operations may be denied if the charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter

¹⁷ Today Fresh Start Charter School v. Inglewood Unified School District, Today's Fresh Start Charter School v. Inglewood Unified School District, et al. (Feb. 7, 2018, Case No. B280986), Cal.App.5th

school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:

- The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
- Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.

Per Education Code section 47605(c)(8), a material revision that proposes to expand operations may be denied if the school district is not positioned to absorb the fiscal impact of the proposed charter school. A school district satisfies this paragraph if it has a qualified interim certification pursuant to Section 42131 and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team, certifies that approving the charter school would result in the school district having a negative interim certification pursuant to Section 42131, has a negative interim certification pursuant to Section 42131, or is under state receivership. Charter schools proposed in a school district satisfying one of these conditions shall be subject to a rebuttable presumption of denial.

Please see section 4, *et al* for detailed information on definitions and factors the district may include as part of the analysis for the new evaluation criteria and new denial findings to be considered for material revisions that propose expanded operations.

The denial findings authorized by Education Code sections 47605(c)(7) and (8) shall not be used to deny a renewal of an existing charter school, but may be used to deny a material revision that proposes expansion. For a material revision, analysis under sections 47605(c)(7) and (8) shall be limited to consideration only of the impact of the proposed expansion.

4. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (Evaluation Criteria)

Assembly Bill 1505 amended and added sections to the California Education Code related to new evaluation criteria, as detailed in the following paragraphs

4.1 Evaluating New Petitions and Material Revisions Proposing Expansion

Assembly Bill 1505 added criteria for evaluating new charter petitions and material revisions proposing expansions. The new criteria, found in Education Code section 47605(c), provides that the governing board of the school district shall grant a charter for the operation of a school if it is satisfied that granting the charter is consistent with sound educational practice and ***with the interests of the community in which the school is proposing to locate***. The governing board of the school district is also required to ***consider the academic needs of the pupils the school proposes to serve***.

4.1.1 Community Impact

Given the uniqueness of each district school, charter school, neighborhood, and student population, a “one size fits all” approach to creating a single definition of community did not present a reasonable approach. While some factors considered under a community definition may be the same across all districts, schools, or neighborhoods, there are several factors that are not, creating the need for a multi-criteria approach. The Plan also incorporates flexibility as there is no way to anticipate every petition, need, or potential impact. The district has discretion in determining which of the factors listed throughout section 4 are used as part of any specific assessment, based upon the nature of the charter school’s request, and the specific facts surrounding the request.¹⁸

The community impact assessment for new and expanding charters may include, but not be limited to, the following factors:

1. Community definitions and factors

- a. Community should include an analysis from a district-wide perspective because charter schools have no resident attendance boundaries and pull from county-wide
- b. Community should include an analysis based on the district’s “cluster” areas and boundaries
- c. Community should include an analysis of a 3-mile radius around the proposed physical location of the charter school
- d. Community should include an analysis of the neighborhood demographics surrounding the proposed physical location of the new or expanding charter school

¹⁸ For instance, the district may use its discretion to determine that factors considered for an expanding charter school whose enrollment consists primarily of pupils that reside in the immediately surrounding neighborhoods may be different from the factors considered for an expanding charter school whose enrollment consists primarily of pupils who reside in multiple zip codes outside of the immediate neighborhoods.

- e. Community should include an analysis of how many district and charter schools serving the same or similar grade levels are located in the area where the charter school proposes to physically locate to determine if there is a school saturation issue
- f. Community should include an analysis of any unique programs being offered by the new or expanding charter school
- g. Community should include an analysis of any specific student subgroups being targeted for service by the new or expanding charter school
- h. How long has the expanding charter school been in operation
- i. How long has the expanding charter school served the community it proposes to expand into

2. Community engagement

- a. Have petitioners notified and been engaged with the community they intend to serve educationally, and the community in which they propose to locate, including engagement with the existing district and charter schools
- b. Will the expanding charter school matriculate only its existing students into the expanded program, or will it pull students from other schools
- c. Have petitioners created community in other areas with other schools
- d. Why have petitioners chosen a specific community or location
- e. Is there strong parental support for approval of the new or expanding charter school

3. Enrollment trends

- a. Increases/decreases in county-wide enrollment/trends should be considered because charter schools pull from all over, not just specific areas/ boundaries
- b. Increases/decreases in district-wide enrollment/trends should be considered because charter schools pull from all over, not just specific areas/ boundaries
- c. Increases/decreases in enrollment/trends at the schools nearest to the proposed new or expanding charter school's location should be considered
- d. Increases/decreases in enrollment/trends at the schools where the new or expanding charter may/will pull enrollment from should be considered
- e. What factors are driving the enrollment trends (birth rates, number of school-aged children, migration, etc.)
- f. Will the expanding charter school matriculate only its existing students, or will it pull enrollment from other schools

4. Facilities

- a. How far along in the process of securing a site are petitioners
- b. Has the community, including existing district and charter schools, where the new or expanding school intends to physically locate been made aware of the proposed facility location
- c. Are there adequate non-district facilities available in the area where the new or expanding charter school proposes to locate

- d. Will the proposed school's facilities plan impact district school programs and services¹⁹
- e. Does the expanding charter school have adequate space in existing facilities to house the expansion

If the new charter petition or material revision includes an easily identifiable definition of what it considers to be its community, this definition will be considered in addition to the factors listed in this section as part of the district's analysis. Charter petitions and material revisions that do not include this definition will be analyzed based on the above-identified factors and criteria. Charter school petitioners are encouraged to include information on their community and/or proposed community, and an impact analysis as part of their charter petitions and material revisions.

4.1.2 Academic Needs of the Pupils the School Proposes to Serve

For the same reasons as identified in the community impact section above, a multi-criteria approach to analyzing the academic needs of the pupils to be served presents the most reasonable approach.

The academic needs assessment for new and expanding charters may include, but not be limited to, the following factors:

- Review of the Dashboard indicators²⁰ on a district-wide basis, as charter schools pull enrollment from county-wide, compared with the state averages
- Review of the Dashboard indicators for the surrounding district and charter schools serving the same grade levels currently served and proposed to be served by the new or expanding charter school in the community where the school intends to locate, compared with the state averages
- Review of the Dashboard indicators for the district and charter schools serving the same grade levels currently served and proposed to be served by the new or expanding charter school that the school may pull enrollment from, compared with the state averages
- Review of the instructional program to determine if it is aligned with the needs of any targeted student population/community, and if it will meet the needs of the specific subgroups
- Review of the new petition to determine if it contemplates enrollment of specific subgroups (ie: students with disabilities, English learner, socioeconomically disadvantaged, etc.) in relatively the same proportions as the district's enrollment, and how it will meet the enrollment
- Review of how petitioners intend to increase student achievement at the new or expanding school

¹⁹ The district is aware of its obligations to provide facilities under Proposition 39 if requested. However, a Proposition 39 request does not negate the need for an impact assessment.

²⁰ The Dashboard indicators reviewed will include the measures of academic performance (ELA, Math, English learner, College/career), chronic absenteeism, graduation rate, and suspension rates, for both schoolwide and numerically significant subgroups. Any future modifications made by the state to the Dashboard will be incorporated into the review.

- Does the school offer a program not currently offered in the district, that will enhance educational opportunities for students
- How academically successful have students been at the current charter school, both schoolwide and in subgroups, compared to other district and charter schools serving the same or similar grade levels
- Does the existing charter school enroll similar percentages to the district and/or the surrounding district schools of students with disabilities (including those with higher needs), English learners, socioeconomically disadvantaged, homeless and foster youth, and ethnic/racial groups
- Is the existing charter school closing the achievement gap
- Does the existing school have a high student matriculation rate, or do they lose students in higher percentages than other schools

4.2 New Denial Findings

Education Code provides that the governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or both of the new findings. Assembly Bill 1505 added two findings that may be used to deny a charter petition, as stated in Education Code sections 47605(c)(7) and (8).

Per Education Code section 47605(c)(7), a charter petition may be denied if the charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate. Analysis of this finding shall include consideration of the fiscal impact of the proposed charter school. A written factual finding under this paragraph shall detail specific facts and circumstances that analyze and consider the following factors:

- The extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings.
- Whether the proposed charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate.

The legislation provided some key words which we have used as a starting point for creation of this Plan for the new denial findings. However, the statute has not been expanded beyond these terms, nor has it included language that limits additional considerations. The statute refers to “school district,” signaling that any analysis should include a district-wide assessment. Interests of the “entire community” can also be interpreted to signal a district-wide assessment. Notably, the “fiscal impact” sentence does not include any other language that limits the fiscal analysis.

4.2.1 Community Impact

The community impact analysis conducted under this criteria is the same as detailed in section 4.1 *et al* above.

4.2.2 Fiscal Impact

Per the relevant statute, as part of the fiscal impact analysis, the district is required to consider the extent to which the proposed charter school would substantially undermine existing services, academic offerings, or programmatic offerings, and whether the school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within reasonable proximity to where the charter school intends to locate. However, the district is not limited to a fiscal impact analysis that includes only these factors.

The fiscal impact assessment for new and expanding charter schools may include, but not be limited to, the following factors:

- What is the projected enrollment loss to the district based on the new or expanding charter school's enrollment projections
- What is the estimated revenue loss to the district based on the new or expanding charter school's projected enrollment
- What is the projected enrollment loss and revenue loss to surrounding district schools near the new or expanding charter school's proposed location
- What is the projected enrollment loss and revenue loss to district schools that the new or expanding charter school will pull enrollment from
- Is there adequate funding available to the district schools to continue fixed costs and/or services at the current level (custodial, utilities, etc.) if the new charter school is approved
- What are the estimated impacts to district staffing if the new or expanding charter school is approved
- What are the estimated impacts to district services if the new or expanding charter school is approved
- What are the estimated impacts to district schools/programs if the new or expanding charter school is approved, including analysis of whether the charter school will serve a population that is proportionate to the district and district schools of the highest need students (EL, mod/severe, homeless, etc.)
- Staffing comparison analysis (review includes number/type of staff, salary and benefits costs) for district schools and the new or expanding charter school
- What are the fiscal and enrollment impacts on existing charter schools if the new or expanding charter school is approved
- How much will the district receive in oversight fees from the new or expanding charter school
- What is the estimated cost savings to the district based on not having to provide educational services to the students that enroll at the charter school

4.2.3 Substantially Undermines Existing Services and Offerings

- Is there enrollment capacity in the surrounding district and charter schools
- Would under-enrolled district or charter schools be impacted by the approval of a new or expanding charter school

- If the new or expanding charter is approved, will the remaining revenues for the surrounding district schools and charter schools be enough for them to continue their existing programs and services at current levels
- If the new or expanding charter is approved, will the remaining revenues for the district schools and charter schools that the new or expanding charter pulls enrollment from be enough for these schools to continue their existing programs and services at current levels
- Could the new or expanding charter school have a disproportionate impact on specific district schools or programs, or is the impact spread across multiple schools and programs
- Will the new or expanding charter school serve subgroup populations of the highest need students (EL, mod/severe, homeless, etc.) that are proportionate to the district

4.2.4 Duplication of Programs, Sufficient Capacity, and Reasonable Proximity

- Do the existing programs have capacity for pupils, based on a district-wide, cluster, 3-mile radius, surrounding schools, and/or neighborhood analysis
- Will the new or expanding charter school create seats for an over-subscribed existing program
- Is the new or expanding charter school offering a program not currently offered in the district, that will enhance educational opportunities for students

5. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (Appeals)

Assembly Bill 1505 amended and added sections to the California Education Code related to charter school appeals, as detailed in the following paragraphs

5.1 Appeals to San Diego County Office of Education

Per Education Code section 47605(k)(1), if the governing board of a school district denies a charter petition, the petitioner may appeal to the county board of education within 30 days of the denial. Petitioners are required to provide the district with a copy of the petition submitted to the county board of education. The county board of education shall review the petition pursuant to Education Code sections 47605(b) and (c).

If the petition submitted on appeal contains new or different material terms²¹, the county board of education shall immediately remand the petition to the school district for reconsideration. The district shall grant or deny the petition within 30 days.²² If the governing board of the school district denies a petition after reconsideration, the petitioner may resubmit the petition to the county board of education.

If petitioner resubmits the petition, the county board of education shall review the appeal petition pursuant to Education Code section 47605(c). If the district's denial of the petition was made pursuant to Education Code section 47605(c)(8), the county board of education shall also review the school district's findings pursuant to that section.

A charter school that receives approval of its petition from a county board of education shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the school district. A charter petition that is submitted to a county board of education shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate. Upon the approval of the petition by the county board of education, the petitioners shall provide written notice of that approval, including a copy of the petition, to the governing board of the school district in which the charter school is located, the department, and the state board.

If the county board of education denies a petition, the petitioner may appeal that denial to the state board. If the county board of education fails to act on an appeal petition within 180 days of receipt, the decision of the governing board of the school district to deny the petition shall be subject to judicial review.

²¹ Material terms means the signatures, affirmations, disclosures, documents, and descriptions described in sections 47605(a), (b), (c), and (h), but shall not include minor administrative updates to the petition (or related documents) due to changes in circumstances based on the passage of time related to fiscal affairs, facilities arrangements, or state law, or to reflect the county board of education as the chartering authority.

²² Due to the district's board meeting schedule, the district may request that petitioners consider signing a waiver of this timeline in order to place the item on a regularly scheduled board meeting if the established schedule resulted in the district being slightly over the 30 day timeline.

5.2 Appeals to State Board of Education

Appeals to the State Board of Education are now reviewed under an “abuse of discretion” standard. Per Education Code section 47605(k), if the county board of education denies a petition, the petitioner may appeal that denial to the state board within 30 days of the denial. The petitioner shall include the findings and documentary record from the governing board of the school district and the county board of education, and a written submission detailing with specific citations to the documentary record, how the governing board of the school district or the county board of education, or both, abused their discretion. Petitioners are required to provide the district and the county board of education with a copy of the petition submitted to the state board.

At the petitioner’s request, and no later than 10 business days after the request, the governing board of the school district and county board of education shall prepare the documentary record, including transcripts of the public hearing at which the governing board of the school district and county board of education denied the charter.

If the appeal contains new or different material terms,²³ the state board shall immediately remand the petition to the governing board of the school district for reconsideration. The school district shall grant or deny the petition within 30 days.²⁴ If the governing board of the school district denies a petition after reconsideration, the petitioner may elect to resubmit the petition to the state board.

Within 30 days of receipt of the appeal submitted to the state board, the governing board of the school district or county board of education may submit a written opposition to the state board detailing, with specific citations to the documentary record, how the governing board of the school district or the county board of education did not abuse its discretion in denying the petition. The governing board of the school district or the county board of education may submit supporting documentation or evidence from the documentary record that was considered by the governing board of the school district or the county board of education.

The state board’s Advisory Commission on Charter Schools shall hold a public hearing to review the appeal and documentary record. Based on its review, the ACCS shall submit a recommendation to the state board whether there is sufficient evidence to hear the appeal or to summarily deny review of the appeal based on the documentary record. If the ACCS does not submit a recommendation the state board shall consider the appeal, and shall either hear the appeal or summarily deny review of the appeal based on the documentary record at a regular public meeting.

²³ Material terms means the signatures, affirmations, disclosures, documents, and descriptions described in sections 47605(a), (b), (c), and (h), but shall not include minor administrative updates to the petition (or related documents) due to changes in circumstances based on the passage of time related to fiscal affairs, facilities arrangements, or state law, or to reflect the county board of education as the chartering authority

²⁴ Due to the district’s board meeting schedule, the district may request that petitioners consider signing a waiver of this timeline in order to place the item on a regularly scheduled board meeting if the established schedule resulted in the district being slightly over the 30 day timeline.

If the state board hears the appeal, it may affirm the determinations of the district and/or the county board of education, or may reverse only upon a determination that there was an abuse of discretion. If the denial of a charter petition is reversed by the state board, the state board shall designate, in consultation with the petitioner, either the district or the county board of education in which the charter school is located as the chartering authority.

A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the chartering authority to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

If the state board fails to act on a petition within 180 days of receipt, the decision of the school district to deny the petition shall be subject to judicial review.

6. AB 1505 – CHARTER AUTHORIZATION AND OVERSIGHT (Teacher Credentials)

The district will collaborate with the San Diego County Office of Education to monitor teacher credentialing and assignments. The district will monitor compliance with this section as part of its authorization and oversight process, including during annual site visits and throughout the year. Concerns regarding non-compliance with this section will be addressed with existing schools, and may form the basis for denial of new charter petitions.

Assembly Bill 1505 added section 47605.4 to the Education Code, which remains in effect until January 1, 2026. This new section states that teachers employed by charter schools during the 2019–20 school year shall have until July 1, 2025, to obtain the certificate required for the teacher’s certificated assignment. Teachers employed at charter schools after the 2019-20 school year are required to have the certificate required for the teacher’s certificated assignment.

Per Education Code section 47605(l)(1), a governing body of a direct-funded charter school may use local assignment options authorized in statute and regulations for the purpose of legally assigning certificated teachers in the same manner as a governing board of a school district. A charter school shall have authority to request an emergency permit or a waiver from the Commission on Teacher Credentialing for individuals in the same manner as a school district.

Per Education Code section 47605(l)(2), by July 1, 2020, all teachers in charter schools must obtain a certificate of clearance and satisfy the requirements for professional fitness.

7. SB 126 – ACCOUNTABILITY AND TRANSPARENCY

The district will monitor compliance with this section as part of its charter authorization and oversight process, including during annual site visits and throughout the year. Concerns regarding non-compliance with this section will be addressed with existing schools, and may form the basis for denial of a new or renewing charter petition, or denial of a material revision to expand operations.

Senate Bill 126, commonly referred to as the charter school Accountability and Transparency bill, added section 47604.1 to the Education Code, which expressly subjects charter schools and entities managing charter schools to the Ralph M. Brown Act (“Brown Act”) (or Bagley-Keene Open Meeting Act if appropriate), the California Public Records Act, the Political Reform Act of 1974, and Government Code section 1090.²⁵

Per Education Code section 47604(b)(1), as of July 1, 2019, a new or renewing charter school, or material revision, shall not operate as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization. For purposes of this section, a for-profit educational management organization and a for-profit charter management organization are entities that manage or operate a charter school

Per Education Code section 47604.1(e), to the extent a governing body of a charter school or an entity managing a charter school engages in activities that are unrelated to a charter school, Government Code section 1090, the Brown Act, the California Public Records Act, and the Political Reform Act shall not apply with regard to those unrelated activities unless otherwise required by law.

7.1 Ralph M. Brown Act (Government Code section 54950, et al.)

The Brown Act requires that all meetings of a local agency be open to the public and all persons must be permitted to attend unless a closed session is authorized. Per Government Code section 54954.2, meeting agendas shall be posted on the charter school’s website and in compliance with the Brown Act.

Per Education Code section 47604.1(c), the governing body of one charter school, or entity managing a charter school, shall meet within the physical boundaries of the county in which the charter school is located, unless otherwise permitted by another provision of law.²⁶ A two-way teleconference location shall be established at each schoolsite.

²⁵ For this section, all requirements must be met by the governing body of the charter school, and the governing body of the entity managing the charter school. Per section 47604.1(a), an “entity managing a charter school” means a nonprofit public benefit corporation that operates a charter school.

²⁶ This subdivision does not limit the authority of the governing body of a charter school and an entity managing a charter school to meet outside the boundaries if authorized by Government Code section 54954, and the meeting place complies with Government Code section 54961.

The governing body of one nonclassroom-based charter school that does not have a facility or operates one or more resource centers in different counties shall meet within the physical boundaries of the county in which the greatest number of pupils who are enrolled in that charter school reside. A two-way teleconference location shall be established at each resource center.

For a governing body of an entity managing one or more charter schools located within the same county, the governing body of the entity managing a charter school shall meet within the physical boundaries of the county in which that charter school or schools are located, and shall establish a two-way teleconference location at each schoolsite and each resource center.

For a governing body of an entity that manages two or more charter schools that are not located in the same county, the governing body of the entity managing the charter schools shall meet within the physical boundaries of the county in which the greatest number of pupils enrolled in those charter schools reside. A two-way teleconference location shall be established at each schoolsite and each resource center. The governing body of the entity managing the charter schools shall audio record, video record, or both, all the governing board meetings and post the recordings on each charter school's websites.

7.2 California Public Records Act (Government Code section 6250, et al.)

Members of the public have a right to access the records of a charter school. The California Public Records Act requires state and local agencies to make their records available for public inspection at all times during the office hours of the agency. Records shall be made promptly available upon request and payment of a fee, unless the records are exempt by law from disclosure.

In response to a public records request, the charter school and entity managing the charter school, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. The time limit prescribed in this section may be extended by no more than 14 days, by written notice to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched.

The charter school or entity managing the charter school shall make reasonable efforts to locate the requested records, including but not limited to, any electronic communication substantively related to the records such as email and text messages, regardless of whether they are transmitted through an employer-provided device or account, or through an employee's or governing board member's personal device or account.

7.3 Political Reform Act (Government Code section 81000, et al.)

Charter schools and entities managing charter schools are expressly subject to the Political Reform Act of 1974. The Political Reform Act of 1974 requires every state and local governmental agency²⁷ to adopt a conflict of interest code that requires designated employees to disclose certain financial interests on an annual Statement of Economic Interest (“SEI”) filing. Each charter school or entity managing a charter school shall ensure that its conflict of interest code is current and compliant with Political Reform Act requirements, and that all designated employees understand the filing requirements and the requirements regarding conflict of interest and self-dealing. The charter school or entity managing the charter school shall ensure that the conflict of interest code and SEI forms are submitted in a timely manner to the San Diego County Board of Supervisors.

7.4 Government Code section 1090

Members of the charter school governing body, members of the governing body of the entity managing the charter school, and individuals in leadership roles with decision-making authority at the charter school shall not be financially interested in any decision made by the governing body, and shall comply with all applicable laws regarding conflicts of interest. Charter schools and entities managing charter schools shall only enter into transactions that are compliant with Government Code section 1090 and other applicable conflict of interest laws.

Per Education Code section 47604.1(d), notwithstanding Government Code section 1090, an employee of a charter school shall not be disqualified from serving as a member of the governing body of the charter school because of the employment status. A member of the governing body of a charter school who is also an employee of the charter school shall abstain from voting on, or influencing or attempting to influence another member of the governing body regarding, all matters uniquely affecting that member’s employment.

²⁷ For purposes of Section 87300 of the Government Code, a charter school and an entity managing a charter school shall be considered an agency and is the most decentralized level for purposes of adopting a conflict-of-interest code.

8. SB 75 – EQUITY AND ACCESS

The district will monitor compliance with this section as part of its charter authorization and oversight process, including during annual site visits and throughout the year. Concerns regarding non-compliance with this section will be addressed with existing schools, and may form the basis for denial of a new or renewing charter petition, or denial of a material revision to expand operations.

Senate Bill 75, effective July 1, 2019, amended several sections of the Education Code, with sections 47605, 47606.5, 48985, and 52065 being the most relevant to this Plan.

The new laws expressly require the following:

- Charter schools shall not discourage a pupil from enrolling or seeking to enroll in the charter school for any reason. [§47605]
- Charter schools must hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the LCAP. [§47606.5]
- The district is required to post on its website the LCAP for each of its authorized charter schools. [§52065]

8.1 Enrollment and Disenrollment

Per Education Code section 47605(e)(4), a charter school shall not discourage a pupil from enrolling or seeking to enroll in the charter school, nor encourage a pupil currently attending the charter school to disenroll²⁸ from the charter school or transfer to another school, for any reason, including, but not limited to, academic performance of the pupil or because the pupil exhibits any of the following characteristics:

- Pupils with disabilities
- Academically low achieving pupils
- English learners
- Neglected or delinquent pupils
- Homeless pupils
- Pupils who are economically disadvantaged
- Foster youth
- Pupils based on nationality, race, ethnicity, or sexual orientation

A charter school shall not request a pupil's records or require a parent, guardian, or pupil to submit the pupil's records to the charter school before enrollment.

The state shall develop a notice of the requirements of this paragraph, and the charter schools shall post the notice on their websites. The charter school shall also provide a parent/guardian, or a pupil who is 18 years of age or older, a copy of this notice at all of the following times:

- When a parent/guardian, or pupil inquires about enrollment
- Before conducting an enrollment lottery

²⁸ This subparagraph shall not apply to actions taken by a charter school pursuant to the procedures described in Education Code section 47605(c)(5)(J).

- Before disenrollment of a pupil

A person who suspects that a charter school has violated this paragraph may file a complaint with the chartering authority. The state shall develop a template to be used for filing these complaints.

Based on the intent of the statute to ensure that students have access and equity in enrollment, the district will incorporate this notice and complaint process into the charter renewal process as indicated in section 2.5.1 above.

8.2 Local Control and Accountability Plan

Education Code section 47606.5 extends the existing law that requires school districts and county boards of education to hold at least one public hearing regarding its LCAP or annual update to the LCAP to charter schools. The governing body of a charter school shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the LCAP or annual update to the LCAP. The agenda for the public hearing shall be posted at least 72 hours before the public hearing, and the LCAP or annual update to the LCAP shall be made available for public inspection at each site operated by the charter school.

The governing body of a charter school may adopt revisions to a LCAP during the period the LCAP is in effect. The governing body of a charter school may only adopt a revision to a LCAP if it follows the process to adopt a LCAP pursuant to this section and the revisions are adopted in a public meeting.

The charter school shall prominently post its board-adopted LCAP, and any board-approved updates or revisions to the LCAP, on the homepage of its website.

8.3 District Posting of Charter School Local Control and Accountability Plans

Education Code section 52065 is amended to require that the district prominently post on its website all LCAPs submitted by charter schools that are authorized by the district, or links to those plans.

9. **AB 1507 – RESOURCE CENTER LOCATIONS**

The district will monitor compliance with this section as part of its charter authorization and oversight process, including during annual site visits and throughout the year. Concerns regarding non-compliance with this section will be addressed with an existing school, and will be grounds for denial of a new or renewing charter petition, or denial of a material revision.

In past years, charter schools were physically located outside of their authorizer's geographic boundaries. The ability of charter schools to locate outside of the authorizer's boundary was restricted by the *Anderson v. Shasta* ruling in 2016. Assembly Bill 1507, effective January 1, 2020, amends sections 47605 and 47605.1 of the Education Code, and further restricts charter school resource center locations. The new law prohibits a charter school from locating outside the jurisdiction or geographic boundary of the authorizing school district, with very limited exceptions.²⁹

Assembly Bill 1507 eliminated the ability of a charter school to locate outside the jurisdiction or geographic boundaries of its authorizing school district if the school was unable to locate a single site/facility to house the entire program, or if the site was needed for temporary use during a construction or expansion project.

Charter schools that established a site outside the boundaries of the authorizing school district, but within the county in which that school district is located before January 1, 2020, may continue to operate the site until the charter school submits its request for renewal of its charter petition. The charter school, before submitting its renewal, shall either first obtain written approval from the school district where the site is operating, or submit the renewal of the charter petition to the school district in which the charter school is located.

A charter school may establish one resource center, meeting space, or other satellite facility within the jurisdiction of the school district where the charter school is physically located if the following conditions are met:

1. The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.
2. The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the charter school is authorized.

²⁹ The noted exemptions: 1) a charter school located in an area subject to a Presidential declaration of a major disaster or emergency may relocate, for not more than five years, outside the area subject to the declaration, 2) charter schools located on a federally-recognized California Indian reservation or rancheria or operated by a federally-recognized California Indian tribe, and 3) charter schools that provide instruction exclusively in partnership with federal Workforce Innovation and Opportunity, federally affiliated Youth Build programs, federal job corps training, the California Conservation Corps or local conservation corps certified by the California Conservation Corps, and instruction provided to juvenile court school pupils or individuals who are placed in a residential facility.

A nonclassroom-based charter school may establish additional resource centers, meetings spaces, or other satellite facilities within the jurisdiction of its chartering authority only if the charter school is physically located within the boundaries of its chartering authority, and the charter school has obtained written approval from its chartering authority for each additional resource center, meeting space, or other satellite facility.

A charter school shall notify its chartering authority of the name and physical location of any resource center, meeting space, or other satellite facility operated by the charter school.