

# CHARTER SCHOOLS IN CALIFORNIA: AN EXPERIMENT COMING OF AGE

In just a dozen years, charter schools have gone from an experiment involving a handful of schools and students to a sizable and growing segment of the school system. In California today, one out of every 20 public schools is a charter school. And one out of every 50 students is being educated in one of these schools, which are allowed to operate outside of many of the state's established rules and regulations for public education.

Those numbers are still relatively small, and some educators and local school leaders barely notice charter schools. Others remain skeptical about the value of this experiment. Nonetheless, the charter movement appears to be building. Charter supporters are increasingly convinced that this new approach to public schooling holds the promise of significantly improving student achievement, especially for low-income and minority students.

There is little doubt that charter schools in California are starting to get more attention from both their supporters and their detractors. The



**char·ter school (chär'ter skōol)** *n.* A public school operated independently under a performance agreement with a school district or other public agency; funded on a per-pupil basis; freed from most regulations that apply to school districts and county offices of education; usually able to hire its own teachers and other staff; subject to closure if it fails to meet its promises in regard to student outcomes.

number of charters continues to increase each year, and a new association of charter school supporters in California is dedicated to increasing the percentage of all public school students in charter schools from a little more than 2% to at least 10% within another decade. If the rate of growth in the past decade simply continues, the association will not meet its goal. However, new networks of charter operators—backed in some cases by substantial private donations from individuals and foundations—are starting to scale up their models; and in some of the state's large urban

school districts, charter schools are emerging as a significant reform strategy. These efforts may speed up the charter movement considerably. However, the California Teachers Association (CTA) will be working hard to ensure that existing public schools are not disadvantaged by the growing charter movement and that teachers in charter schools belong to unions and exercise considerable influence over how these schools operate.

This report provides an overview of where charter schools stand today in California and the context in which they will either thrive or struggle in the years to come. It includes a quick look at the origin and intent behind the charter school movement in the state and nationally, combined with information about how charter law and policy have evolved. Of particular importance is the question of how charter schools are funded, including the provisions for facilities. The report also presents vital statistics that give a sense of what the charter school community in the state looks like,

including teachers and students. An EdSource report on student academic performance in the state's charter schools will be issued in the fall.

### California ventures into charter schools in 1992

California was the second state in the country (after Minnesota) to enact charter school legislation. State lawmakers passed the Charter Schools Act of 1992 during a contentious battle over a proposed voucher initiative that would have enabled public monies to be used for private schools. The initiative, which eventually became Proposition 174, put school choice at the top of the state's policy agenda when supporters started gathering signatures early in 1992. Although voters soundly defeated Proposition 174 in the fall of 1993, it gave momentum to California educators and policymakers who wanted to see more options and increased parental choice within the public school system.

The idea of parents being able to choose from a variety of school

formats emerged originally as part of the alternative education movement of the 1960s and '70s. The premise was that tailoring individual schools to the needs of students, interests of parents, and abilities of educators would result in more effective schools and higher student achievement. The charter school concept built on these ideas.

Ray Budde is often credited with being the conceptual father of charter schools. His 1988 book—*Education by Charter: Restructuring School Districts*—called for allowing groups of teachers to develop a formal agreement with their school boards to operate alternative education programs. Budde thought that such arrangements would redefine the role of teachers and administrators, with teachers responsible and accountable for instruction and pupil outcomes while administrators worked on long-term planning and creating a positive teaching and learning environment. School boards would focus more on results and less on administrative and logistical matters. All parties would be forced to come to consensus on the scope of knowledge that students should develop. Schools would evaluate and improve their curricula on an ongoing basis.

*Charters provide a chance for innovation, greater choice, and improved performance*

California's law authorizing the creation of charter schools echoed these ideas. Its stated intent was to "provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure." According to the legislation, this independence was meant to serve specific ends, including:

- Improved pupil learning.
- Increased learning opportunities

for all pupils, with special emphasis on those identified as academically low achieving.

- Encouragement of different and innovative teaching methods.
- New professional opportunities for teachers, including the chance to be responsible for the learning program at the school site.
- Expanded choice for parents and pupils within the public school system.

To reach those ends, the legislation also sought to combine flexibility with accountability. The new charter schools would have freedom from many of the state statutes and regulations governing other public schools. In return, they would be expected to meet measurable pupil outcomes. The legislation, in other words, would provide a small number of schools "with a method to change from rule-based to performance-based accountability systems."

Motivated educators and community members could create schools in their own vision. The survival of those schools would depend on adherence to the charter, an agreement worked out between school operators and a sponsoring school district. The charter had to include a way of measuring pupil achievement results. If the school did not capitalize on its freedom from bureaucratic requirements and produce academic results within a specified time period (generally five years), the district could close the school.

California's Charter Schools Act was a state-level experiment. The legislation limited the number of charter schools to 100, with no more than 10 per school district. The cap was set to quell fears that schools created by inexperienced community members with possibly questionable agendas—and taught by uncreden-

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## Charter School Vital Statistics: Types of schools

### Schools by type in 2003-04

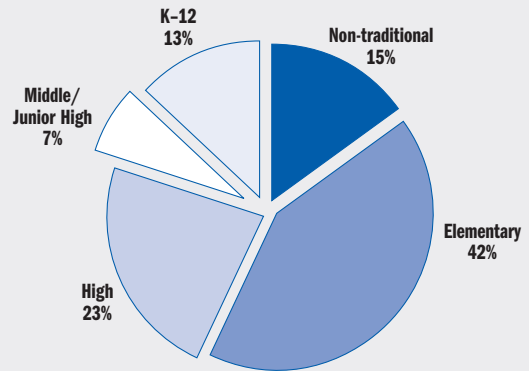
|   |     |
|---|-----|
| Conversion schools (a regular public school that becomes a charter school)        | 30% |
| Start-up schools (a school established as a charter school)                       | 70% |
| Classroom-based instruction (a traditional classroom system)                      | 69% |
| Nonclassroom-based instruction (e.g., independent study, computer-based learning) | 31% |

### School configurations in 2003-04

Most charter schools, like most traditional schools, are configured as elementary, middle, or high schools. A substantial proportion, however, depart from that model by serving kindergarten through 12th graders inclusively or serving a grade span that is non-traditional (e.g., grades 3-10). In comparison to the state as a whole, charter schools are also substantially more likely to be high schools. (Just 11% of all public schools in 2002-03 were high schools.)

In the chart to the right:

- An elementary school is one in which the lowest grade served is 4 or below and the highest grade is up through 8. (Examples: K-6, K-8, 2-4, 4-8)
- A middle school is one in which the lowest grade served is 5 or above and the highest grade is up through 8. (Examples: 5-6, 6-8, 7-8)
- A high school is one in which the lowest grade served is 9 or higher and which serves at least two grades. However, a 7-12 school counts as a high school. (Examples: 9-10, 10-12, 11-12, 7-12)
- A non-traditional school is one that serves only one grade or serves grades in more than one type listed above. (Examples: K, K-9, 4-12, 1-10, 7-11, 12)
- A K-12 school serves all of grades kindergarten through 12.



### Grade levels served in charter schools in 2002-03

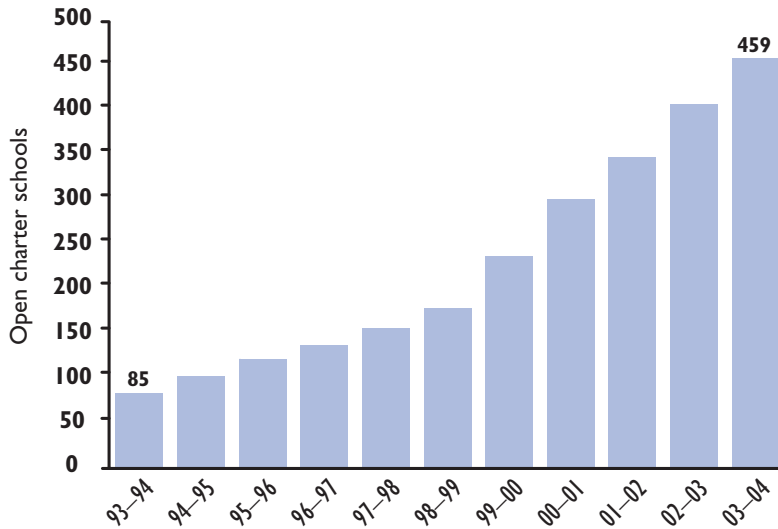
| Grade               | Number of students |                  | Percent of total enrollment |             |
|---------------------|--------------------|------------------|-----------------------------|-------------|
|                     | Charter            | Non-Charter      | Charter                     | Non-Charter |
| Kindergarten        | 10,737             | 446,203          | 8%                          | 7%          |
| 1st                 | 10,498             | 475,688          | 7%                          | 8%          |
| 2nd                 | 9,957              | 479,167          | 7%                          | 8%          |
| 3rd                 | 9,925              | 483,203          | 7%                          | 8%          |
| 4th                 | 10,015             | 481,495          | 7%                          | 8%          |
| 5th                 | 9,842              | 478,308          | 7%                          | 8%          |
| 6th                 | 10,278             | 484,960          | 7%                          | 8%          |
| 7th                 | 11,686             | 488,452          | 8%                          | 8%          |
| 8th                 | 10,614             | 462,939          | 7%                          | 8%          |
| Ungraded elementary | 350                | 39,422           | <1%                         | 1%          |
| 9th                 | 13,503             | 508,605          | 10%                         | 8%          |
| 10th                | 11,711             | 459,937          | 8%                          | 8%          |
| 11th                | 10,768             | 417,349          | 8%                          | 7%          |
| 12th                | 11,576             | 373,605          | 8%                          | 6%          |
| Ungraded secondary  | 292                | 23,318           | <1%                         | <1%         |
| <b>Total</b>        | <b>141,752</b>     | <b>6,102,651</b> | <b>100%</b>                 | <b>100%</b> |

A comparison of the grade levels also shows that charter school students are disproportionately of high school age. Of particular note, non-charter enrollments show a drop off in 11th and 12th grades that is not present in charter schools.

DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

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**figure 1** | The number of charter schools has grown steadily since 1993



DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

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tialed, nonunionized teachers—would not live up to their promise and would harm students. Policymakers built into the experiment a requirement that the California Department of Education (CDE) complete an evaluation of the charter school approach six years after the effective date of the law—long enough to see a complete cycle of charter approval and renewal.

By 1995 California's local education agencies had approved 100 charter schools and the State Board of Education had authorization to waive the cap. This allowed local agencies to approve about 40 additional charter schools before state policymakers enacted legislation in 1998 allowing districts to authorize more charters.

Assembly Bill (AB) 544 expanded the statewide cap to 250 in 1998–99 and allowed for an additional 100 charters each year thereafter. In 2003–04 the state has a total of 459 active charter schools (and 68 with charters pending). (See

Figure I on this page.) The bill also eliminated the 10-school limit on charters within a district.

This experiment was to be “revenue neutral,” meaning that the state would spend no more on charter schools than it otherwise would have spent had charter school students attended traditional public schools. Funding would “follow the student” as he or she left a traditional public school to attend a charter school. The cost of school facilities was left out of the equation entirely, an omission that quickly raised ambiguities for charter schools and their districts.

#### *Admissions requirements keep charters explicitly public*

From the beginning, charter schools have been envisioned as explicitly public in certain regards. They are to be nonsectarian in their programs, admission policies, employment practices, and all other operations. They cannot charge tuition or discriminate against any student based on ethnicity, national

origin, gender, religion, or disability. Like other public schools, such as magnet schools, they are allowed to have admissions guidelines to increase the likelihood of a match between a student's interests and the school's mission. For example, a charter school with a curriculum centered on performing arts may require pupils to audition.

Further, admission to a charter school is not to be based on where a student lives, except that when a regular school is converted to a charter it must give preference to students who live within the former attendance area. Since 1998 charters have been required to use an admissions-by-lottery process if demand exceeds capacity, with preference to pupils residing in the district. The chartering authority can permit other preferences on an individual school basis as long as they are nondiscriminatory.

#### **Hopes and visions blend with realities**

In concept, charter schools are easy to embrace. Who could be against the idea of reducing bureaucracy and red tape in schools in order to focus on results? Certainly policymakers on both sides of the aisle can support those goals. As with so many education policies, however, the devil lies in the details. When educators in the field start deciding how these schools will really operate—and how they will fit into the public school system—difficult questions arise and not everyone is optimistic about charters. Advocates and opponents make claims and counterclaims with respect to this new type of school. As the movement has matured, some studies have looked at these issues in California and nationally.

#### *Are charter schools more accountable for results?*

California law requires charter schools to state in their petitions the measur-

ble pupil achievement outcomes they will strive for and monitor. The charter-granting agency, which can be a district, county, or state board, can close the school if it determines that the school has not pursued or met its goals as stated. Authorizers have revoked 20 charters, according to a January 2004 report by California's Legislative Analyst's Office (LAO).

When charter schools were first authorized in California, this "perform or shut down" dynamic did not exist in the non-charter world. However, that was before the state implemented its standards-based accountability system in the late 1990s based on pupil achievement outcomes (mostly annual statewide standardized test results).

Today schools that do not meet performance targets can face serious consequences whether or not they are charter schools. A 2003 study by California's Bureau of State Audits indicated that these new state policies may have considerably more bite than those in the charter law. The study showed that some charter schools were not monitoring student outcomes as outlined in their charters, and the four charter-granting agencies studied (large urban districts) were not holding charters accountable for results. Questions about accountability for student performance are an area of growing focus for charter supporters and critics alike, just as they are for the public school system as a whole.

### *Do independence and flexibility improve efficiency and encourage innovation?*

By design, charter schools are exempt from many of the laws that govern other public schools. Most also do not operate under the constraints of a collective bargaining agreement and seniority rights with their teachers.

That means they are able to hire their own teachers rather than taking the ones the district sends. Some arrange their own contracts for maintenance and other noneducation services. Further, should they feel constrained by a particular state law, they can seek a waiver from the State Board of Education if their chartering agency

## **California's Charter Schools Act, which passed in 1992, was a state-level experiment.**

San Carlos Elementary School in San Mateo County was the first school to receive a charter. It opened in 1993 and today serves 220 students in grades K-8.

will not seek one for them. (Other public schools must rely on their governing school district to request a waiver on their behalf.)

These freedoms are supposed to allow charter schools to be inventive and efficient. Charter operators can certainly offer examples of creative arrangements that allow them to save money compared to other public schools. These savings are supposed to be directed into instruction. Until recently, however, California charter operators could argue that they have not really had the chance to prove these suppositions. Many start-up schools have had to use operational funds for facilities costs. Further, California's education funding levels—particularly in the context of the state's high-cost labor market and high proportion of disadvantaged students—mean that California schools generally have to get along with about a third fewer staff than is true in other states (though this varies by grade level). In addition, about a third of school funding in this state is earmarked for categorical programs, and the charter commu-

nity as a whole gets less categorical funding on average than the non-charter sector, according to a 2003 RAND evaluation of California charter schools. The net result is that most California charter operators say they have fewer funds than other public schools in the state.

It is possible that some charter

schools have less funding because their operators do not know enough about school finance or do not have time to pursue viable sources of income. Charter operators would likely assert that they do not have time to "jump through hoops" to get the funding or adhere to programmatic requirements to keep receiving the money. Many charter schools could also be criticized for not being big enough to realize economies of scale. Charter proponents would likely respond that their small size creates a more comfortable environment for students who do not fit into the traditional public schools. Some proponents and opponents alike argue that charters can make do with less because their teachers and other staff are not union members, a situation that creates either problems or advantages depending on the observer's point of view.

The overarching question is whether any funding discrepancies charter schools may experience hurt the quality of education they can provide students. Freed from the demands of a centralized bureauc-

## Charter School Vital Statistics: Staffing and enrollments in 2002-03

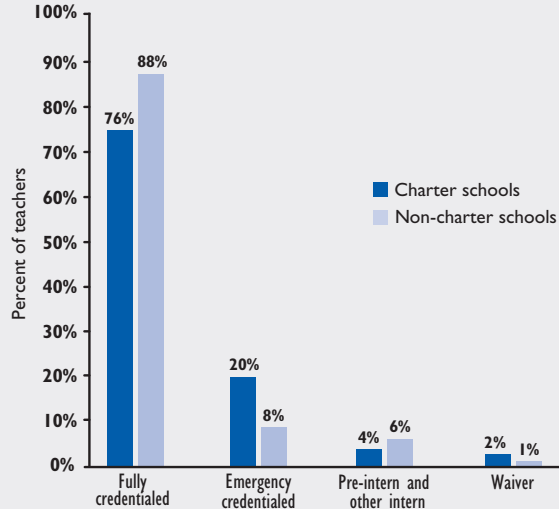
### Teacher characteristics

California's charter schools employed 7,177 teachers in 2002-03, about 2.4% of the state's total teacher work force. As the chart to the right shows, charter school teachers are noticeably more likely to hold emergency credentials than their peers in non-charter schools. In addition, teachers in charter schools are more likely to be new to the profession. While 12% of teachers in non-charter schools have two or fewer years of experience, the same is true for 21% of their charter school counterparts.

### Enrollments and staffing ratios

In 2002-03 charter schools served 2.3% of California's public school students, or about 142,000 pupils. While charter schools generally have lower enrollments—and some are quite small—a handful rival the largest public schools in terms of size. The average charter school has about 370 students compared to the 700 students in the average non-charter school. The relatively small size of charter schools helps to explain why the ratio of pupils to administrators is substantially smaller. Pupil-teacher ratios are very similar between charters and non-charters.

Charter school and non-charter school teacher credentialing



Note: Teachers may hold multiple credentials.

|                            | Charter schools by grade span |        |        |        |                 | Overall charter | Overall non-charter |
|----------------------------|-------------------------------|--------|--------|--------|-----------------|-----------------|---------------------|
|                            | Elementary                    | Middle | High   | K-12   | Non-traditional |                 |                     |
| Number of schools          | 175                           | 26     | 85     | 60     | 37              | 383             | 8,717               |
| Enrollment                 | 54,186                        | 10,969 | 26,944 | 39,470 | 10,183          | 141,752         | 6,102,651           |
| Average school size        | 317                           | 441    | 358    | 658    | 275             | 370             | 700                 |
| Pupils per administrator*† | 273                           | 218.9  | 236.7  | 327.7  | 163             | 260.1           | 382.9               |
| Pupils per teachers †      | 19.3                          | 23.3   | 23.8   | 23.7   | 22.9            | 21.8            | 21.1                |

DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

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\*An administrator is only reported at one school; so if he or she works at two or more schools, these numbers may be slightly inflated.

† Based on full-time equivalent.

racy, charters should theoretically be able to do more with less. On average, their student achievement is comparable to non-charter schools, according to the RAND report. One could therefore argue that charter schools are doing at least as well, though performance comparisons are complex.

The flexibility charter schools enjoy is also supposed to enable them to try new methods of operation and instruction, with successful innovations serving as models for other schools. Some say that many charters do not look all that different from

other public schools and that rivalry or a lack of communication between charters and non-charters prevents innovations from spreading to traditional public schools. It could be argued that the lack of communication is not surprising given the fact that the original Charter Schools Act called for charter schools to be operated “independently from the existing school district structure.”

Whether or not charter schools' innovations are spreading to other public schools, charters have developed some important alternatives for students. New choices at the high

school level are of particular note. Prior to the creation of charter schools, most California students simply had no choice but to attend their local large, comprehensive high school. Low graduation rates and high remediation rates among those students who go on to college both indicate that traditional high schools are failing to serve large portions of students. Early, if limited, performance results for charter high schools—many of which serve difficult populations—give some cause for optimism on both counts, though the voluntary nature of attending

charter schools also needs to be taken into account.

But have those instances of innovation been worth the costs of flexibility? Some schools have not adhered to their charters, and in a few cases there have been allegations of outright abuses. Charter proponents see those as a few bad apples that do not spoil the whole lot.

Proponents also say that some of the worst fears about flexibility have not materialized. Some skeptics feared that charters schools would take advantage of their freedom and indoctrinate students in a religion or cult. A 1996 study of charter schools by the bipartisan, independent Little Hoover Commission found these fears to be unfounded. Since then there may have been one or two cases of abuse, but it has not been a widespread problem.

### *Are more choices and increased competition improving the entire education system?*

Ideally, charter schools provide alternative educational approaches within the public system. Thereby, teachers, parents, and students are able to find the schools that fit them best. Charter opponents fear that those parents and students most likely to choose charter schools are the ones who are most motivated. That leaves behind schools with high concentrations of less academically-oriented students. Some critics also worry that parents may not have enough information about their choices to make good decisions.

Other critics say the charter movement is not going far enough. They believe that the real answer is a voucher system in which low-income families are granted public dollars so they can choose among all public *and private* schools. They believe that if families

have full access to the type of education they seek for their children, public schools will feel serious competitive pressure to perform well and be more “client-centered.” There is currently not enough research to verify the extent to which this free-enterprise approach to education actually results in generalized improvements in student achievement.

## ***Charter school operators can convert an existing school or create an entirely new one.***

The largest conversion charter to date is Granada Hills High School in Los Angeles Unified School District, which opened in 2003 and has more than 3,900 students.

Opponents of the competitive theory, and the charter movement generally, say that other reforms—if executed properly and given enough time—will bring about the desired change in schools. Those other reforms include smaller classes, smaller schools, intervention programs for struggling schools and students, other approaches to reforming governance, overhauling the school-finance system, teacher and administrator professional development, and others.

### **Creation, operation, and governance of charter schools evolve**

California’s experience with charter schools has evolved within the context of these varied hopes and concerns. Based on that experience and the continuing debates, the state’s policies related to charter school operations have changed over time.

Given the fairly bold nature of the original charter experiment, the language in California’s 1992 Charter Schools Act is relatively brief and nonspecific. It covers the charter petitioning and approval process for schools and entire districts, the dura-

tion of a charter and criteria for charter revocation, some funding issues, and the evaluation requirement.

The brevity and relative lack of specificity was in part by design. In a state as diverse as California, with almost 1,000 school districts that vary dramatically in size and situation, many issues between charter-granting entities and charter schools

would have to be worked out locally. Not all of it was by design, however; legislators could not have foreseen all the issues that have come up over time. Since 1993 when the Charter Schools Act went into effect and the first California charter school opened, the Legislature has continued to add and fine-tune its policy direction. (See the box on page 9.)

In some cases, new statutes have provided more freedom or resources to charter schools. In other cases, legislators have reacted to reported abuses by tightening the regulations and reporting requirements. In addition, the state’s standards-based reforms related to testing and accountability beginning in the mid-1990s have, for the most part, included charter schools. The accumulation of this body of law and policy has resulted in a fairly sophisticated set of rules for how charter schools are authorized, operated, governed, and staffed in California.

### *Charters begin with the petition process*

The first official step in creating a charter school is the development

## A charter petition must include specific elements

Each charter petition must at least contain reasonably comprehensive descriptions of each of 16 required elements. They include:

- A description of the educational program of the school, as specified. If the school is a high school, the charter must describe the process for communicating course-transferability and college-eligibility information to parents.
- The measurable pupil outcomes identified for use by the school.
- The method by which pupil progress in meeting those outcomes is to be measured.
- The school's governance structure, including parental involvement.
- The qualifications to be met by individuals employed by the school.
- Procedures to ensure health and safety of pupils and staff.
- The means by which the school will achieve racial and ethnic balance among its pupils, reflective of the general population residing in the district.
- Admission requirements, if applicable.
- The manner in which annual financial audits will be conducted, and how audit exceptions and deficiencies will be resolved.
- The procedures by which pupils may be suspended or expelled.
- Provisions for employee coverage under the State Teachers' Retirement System, the Public Employees' Retirement System, or Social Security.
- The public school alternatives for pupils residing within the district who choose not to attend charter schools.
- A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
- A dispute resolution process.
- A declaration of whether the charter school will be the exclusive public school employer of the charter school employees.
- The procedures to be used if the charter school closes.

The school board considering the petition must also require a description of the school's facilities, administrative services, and the potential civil liability impact on the school and district.

— Education Code §47605(b)(5)(A-P)

and submission of the charter petition. Anyone can circulate a petition to start a charter school, which they then submit to a chartering authority—generally a school district, but also a county office of education or, in limited circumstances, the State

Board of Education. Prospective charter school operators can convert an existing public school or create an entirely new one. The former type is known as a “conversion” and the latter as a “start-up” charter school.

State law specifies who must sign a charter school petition based on whether the school is a conversion or start-up. Conversion schools must have the signatures of at least 10% of the district's teachers or 50% of the teachers at the existing school. This was originally the only option, perhaps reflecting an implicit expectation that teachers would be converting existing schools into charters, rather than the impetus coming from parents or others outside of the existing school system. Changes in 1998—in AB 544—made it easier to create a start-up school. Signatures from at least half the parents of students expected to enroll in the school in its first year can now qualify a petition, as can signatures from half the teachers *at the proposed charter school*.

California law also specifies the elements that must be contained in the charter document and establishes the process by which the petition is to be reviewed. Originally, the charter petition had to have a total of 13 elements that described not only the school's structure, but also its expectations for student performance. The school board considering the petition could, in addition, require a description of the school's facilities, administrative services, and the potential civil liability effects on the school and district—an option that later became a state requirement. Preference was to be given to petitions demonstrating an ability to help low-achieving pupils, but in practice this has rarely come into play.

Since 1992 lawmakers have added several more elements to the basic petition. The box on this page lists the original elements and those that have been added. The additions include formalized procedures for resolving disputes—a reflection of the hostility that some districts had shown toward



## A timeline: Major state laws related to charter schools and the key policy areas they address

Since the passage of Senate Bill 1448—the Charter Schools Act of 1992—more than 30 other laws have addressed the operation, oversight, or funding of charter schools. Some dealt with small changes in regulation and some covered numerous aspects of charter school law. The table below lists the major bills and indicates the key policy areas they addressed, plus state bond measures that addressed facility issues.

| Bill number and author     | Key policy areas addressed    |            |                    |          |            |         |       |
|----------------------------|-------------------------------|------------|--------------------|----------|------------|---------|-------|
|                            | Approval & revocation process | Governance | Student admissions | Teachers | Facilities | Funding | Other |
| <b>1992</b>                |                               |            |                    |          |            |         |       |
| SB 1448 (Hart)             | ✓                             | ✓          | ✓                  | ✓        | ✓          | ✓       | ✓     |
| <b>1996</b>                |                               |            |                    |          |            |         |       |
| AB 3384 (Knox)             | ✓                             | ✓          |                    |          |            | ✓       |       |
| AB 2135 (Mazzoni)          |                               |            |                    |          |            |         | ✓     |
| <b>1998</b>                |                               |            |                    |          |            |         |       |
| AB 544 (Lempert)           | ✓                             | ✓          | ✓                  | ✓        |            | ✓       | ✓     |
| <b>1999</b>                |                               |            |                    |          |            |         |       |
| AB 1115 (Budget committee) |                               |            |                    |          |            | ✓       | ✓     |
| SB 267 (Lewis)             |                               |            |                    |          |            | ✓       |       |
| AB 631 (Migden)            |                               |            |                    | ✓        |            |         | ✓     |
| SB 434 (Johnston)          |                               |            |                    |          |            |         | ✓     |
| <b>2000</b>                |                               |            |                    |          |            |         |       |
| SB 1759 (Lewis)            |                               |            |                    |          |            | ✓       |       |
| SB 1728 (Lewis)            |                               |            |                    |          |            | ✓       |       |
| SB 1841 (Poochigian)       |                               | ✓          |                    |          |            |         |       |
| Proposition 39             |                               |            |                    |          | ✓          |         |       |
| <b>2001</b>                |                               |            |                    |          |            |         |       |
| SB 955 (Alpert)            |                               |            |                    |          |            | ✓       | ✓     |
| SB 740 (O'Connell)         |                               |            |                    |          | ✓          | ✓       | ✓     |
| <b>2002</b>                |                               |            |                    |          |            |         |       |
| SB 2039 (O'Connell)        |                               |            |                    |          | ✓          |         |       |
| AB 14 (Goldberg)           |                               |            |                    |          | ✓          |         |       |
| AB 1994 (Reyes)            | ✓                             | ✓          |                    |          | ✓          | ✓       | ✓     |
| Proposition 47             |                               |            |                    |          | ✓          |         |       |
| <b>2003</b>                |                               |            |                    |          |            |         |       |
| AB 1137 (Reyes)            | ✓                             | ✓          |                    |          |            | ✓       | ✓     |
| <b>2004</b>                |                               |            |                    |          |            |         |       |
| Proposition 55             |                               |            |                    |          | ✓          |         |       |

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## California allows charter districts

An entire district can convert to charter status if it gathers signatures from at least half of its teachers, addresses the required elements in the petition, and secures approval of the state superintendent of public instruction and the State Board of Education. An important factor in whether a petition is approved is the petition's description of alternatives for students who do not wish to attend a charter school because no student can be compelled to do so.

In the districts that have secured complete conversion, every school is independently operated. Proponents see this option as a way to create more options for parents within a district, decentralize most operations so more funds are available to individual schools, and attract capable teachers and leaders to public schools through improved working conditions.

### All-charter districts

| County     | District                              | Number of schools |
|------------|---------------------------------------|-------------------|
| Fresno     | Alvina Elementary                     | 1                 |
| Fresno     | Kingsburg Elementary Charter          | 9                 |
| Humboldt   | Jacoby Creek Elementary               | 1                 |
| Kings      | Delta View Joint Union Elementary     | 1                 |
| Kings      | Island Union Elementary               | 1                 |
| Kings      | Kings River Hardwick Union Elementary | 1                 |
| Kings      | Pioneer Union Elementary              | 2                 |
| Stanislaus | Hickman Community Charter             | 3                 |

charter schools, the unorthodox methods and inexperience of some charter operators, and continuing issues related to funding. Collective bargaining rights and representation for charter school employees have also been addressed. And since 2002, petitions have had to include procedures for closing the school.

Not all the important elements of a charter school's plan are in the petition. For example, the school can choose to receive its funding through its chartering district or directly from the state. State law allows charter schools to make this decision annually.

Over time, charter law has also responded to the resistance some districts have shown to approving charters. The 1992 law envisioned that local school boards would

choose whether to authorize the charter schools that intended to operate in their districts. If the district disapproved, petitioners could appeal the decision to a review panel at the county office of education, which could ask the district to revisit its decision. If the district denied the charter again, the charter school supporters could ask the county board to hear their petition.

AB 544 made significant changes in the approval and appeal processes in 1998, most notably by requiring approval as the default decision of school boards. They are expected to grant the charter unless they make written findings that the petitioners have proposed an unsound educational program, are demonstrably unlikely to implement the charter, or

do not meet specific petition requirements. The law also allows petitioners to go directly to a county office as the chartering authority if the county would otherwise be responsible for the students (such as youth in the juvenile justice system or some Special Education students).

Should the district deny the charter, petitioners now go directly to the county board. If the county denies them as well, they can appeal that decision to the State Board of Education (SBE). Charter petitions submitted directly to county offices of education, and then denied, can also be appealed to the state board. The SBE could approve the charter and then assign oversight to a district or county office in which the school would be located. Beginning in 2003, schools that have a statewide constituency, such as online schools, can go directly to the state board.

Since charter schools became a reality in California, 86 have come and gone either as a result of decisions made by the school operators themselves or the authorizing districts, according to the LAO's 2004 report. The idea that a charter would not just continue indefinitely was built into California law from the beginning. Today, charters are approved for up to five years and renewal periods are another five years. A district can revoke a charter for any of the following reasons: a material violation of the charter; failure to meet or pursue the pupil outcomes described in the petition; violation of generally accepted accounting standards of fiscal management; and violations of the law. However, unless the violation constitutes a severe and imminent threat to the health or safety of students, charter operators are given a chance to remedy the situation. The SBE also has the authority to revoke a charter if it finds fiscal mismanagement.

During the charter approval process, most school districts scrutinize petitions carefully. Charter schools can have a variety of impacts on a school district whether they succeed or not. Their ongoing operation affects finances and facilities most noticeably. Their closure, should it occur, can also affect other schools and staff, depending on the personnel and “right of return” policies agreed to in the petition.

#### *Laws cover charter school governance, accountability, and oversight*

As public schools supported by tax dollars, charters are implicitly subject to the federal and state constitutions as well as laws that generally apply to governmental bodies, such as contracting laws. This includes the legal protections and entitlements extended to certain categories of students, including those with disabilities and those whose primary language is not English. Employment laws, such as teachers’ due process rights, also apply to charter schools. However, charter schools run by or as nonprofit corporations face ambiguities: a body of law covers nonprofits, and it is sometimes unclear whether education or nonprofit regulations govern. Whether charter schools must conduct their affairs according to the open meeting provisions of the Brown Act is an example of a gray area; the Legislature is wrestling with this issue as it considers AB 1860 (Reyes).

#### **Charter schools are accountable for student performance**

The Charter Schools Act explicitly requires charter schools to meet statewide performance standards. While this may have had little impact

through 1997—during the years when California was enmeshed in developing its state assessment systems and academic content standards—it has proven important since. Charter schools, like all public schools in California, must participate in the state testing system. They are also rated based on the Academic Performance Index (API) unless they have fewer than 11 valid test scores or serve

alternative accountability system. The school will also be able to renew if its chartering authority determines that its performance is comparable to that of other district schools its students would otherwise attend.

#### **California law does not spell out governance expectations**

By law, local school districts are under the oversight of a publicly elected

## **Networks are seen as a promising strategy...because they can provide both professional and financial support to a fledgling school.**

Animo Inglewood High School, the second Green Dot Public Schools network school, has 280 students in grades 9-10. It opened in August 2002, and after its first year, its academic performance is ranked “4” among all high schools in the state and a “10” among 100 similar high schools.

a majority of at-risk pupils, in which case they fall under the Alternative School Accountability Model. In addition, California’s charter schools, along with all other public schools, must make Adequate Yearly Progress (AYP) under the federal No Child Left Behind Act (NCLB). Those receiving Title I funding under NCLB face a series of interventions if they repeatedly fail to make AYP.

Recently, state leaders strengthened the connection between charter school renewals and student performance. Beginning in 2005, charter schools that have operated for at least four years will be required to show a certain level of academic performance in order to have their charters renewed. Schools can fulfill this requirement by meeting their growth targets on the API, by ranking above the 30th percentile statewide or in the group of 100 schools to which they are most similar, or by qualifying for the state’s

governing board made up of local residents. Traditional public schools that receive funds from one of a host of categorical programs must have an elected school site council—comprising parents, teachers, and other staff—for the purpose of developing a school plan.

No such specifics cover the public oversight of charter schools. While a charter school petition must describe the school’s governance structure, it is not required to have any particular type of governing body or board per se. The Charter School Act simply states that every school is required to consult regularly with parents and teachers about its educational programs. In 1998, AB 544 authorized charter schools to operate as—or be operated by—nonprofit corporations and also guaranteed the chartering authority one representative on the nonprofit’s board.

## Some of the major charter school networks are active in California

| Charter group and founding year         | Number of California school sites   | Some special features  |
|---|---|--|
| Aspire Public Schools, 1999             | 10  | Focuses on low-income communities; offers longer school day and year; requires personal learning plans for each student developed with teachers and parents outlining learning goals for each semester.<br>See: <a href="http://www.aspirepublicschools.org">www.aspirepublicschools.org</a> |
| Knowledge is Power Program (KIPP), 1994 | 8 (31 nationwide)   | Founded as middle grades charter schools for low-income students; focuses on longer school day and year; 2–3 hours of homework each night.<br>See: <a href="http://www.kipp.org">www.kipp.org</a>  |
| Green Dot Public Schools, 1999          | 3; 5–7 to open in the next four years   | Focuses on high school level and Los Angeles area; hopes the Los Angeles Unified School District will create more small schools for district; works closely with teacher unions.<br>See: <a href="http://www.greendotpublicschools.org">www.greendotpublicschools.org</a>                    |
| Leadership Public Schools, 2001         | 1; 3 in planning  | High school program that combines a traditional, rigorous college-preparatory curriculum with small school size, personal attention, and a leadership program for students.<br>See: <a href="http://www.leadps.org">www.leadps.org</a>   |
| High Tech High Schools, 2000            | Influencing program and building design for 4 new schools being built in San Diego over the next 10 years | Prepares students with skills needed to succeed in the high-tech workplace and elsewhere; integrates technical and academic education; offers internships for all students.<br>See: <a href="http://www.hightechhigh.org/HTHL/HTHL.htm">www.hightechhigh.org/HTHL/HTHL.htm</a>               |

The lack of statutory specificity with respect to governance has helped foster the development of a variety of governance structures. Increasingly, charter school networks are stepping in to instigate the creation of charter schools and then manage those schools based on a set philosophical and operational strategy. In most cases, these networks begin with one successful school whose approach is then replicated. In some cases, a central office manages administrative details and realizes economies of scale for a group of schools. The Education Code does not limit the size of networks or prohibit for-profit enterprises from running charter schools, though most networks in California are nonprofit. Networks are seen as a promising

strategy for charter school development in part because they can provide both professional and financial support to a fledgling school and reduce the leadership burden for the school principal. On the other hand, the “central office” approach runs the risk of creating the same layers of bureaucracy for which non-charter school systems are criticized. (See the box on this page for a list of charter school networks in California.)

### District oversight has been lacking

Perhaps predictably, concerns began to emerge over time about the absence of effective oversight on the part of school districts and about abuses of the system. The law allows charter-authorizing districts to charge up to 1% of a charter school’s

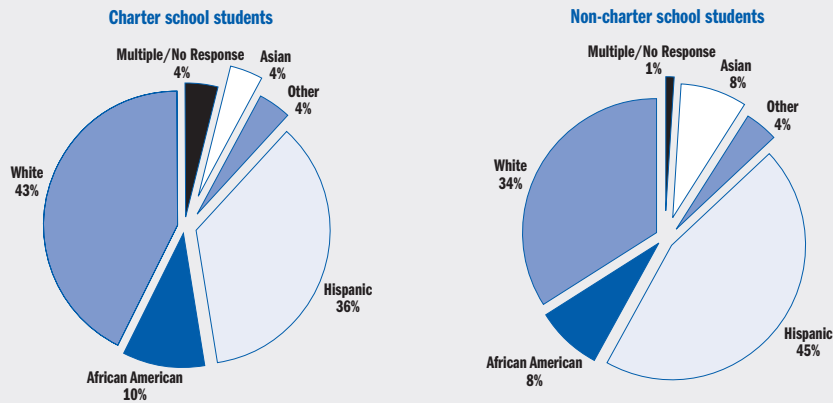
revenues for the actual costs of providing oversight, or up to 3% if they provide the charter school with substantially rent-free facilities. (The sources of revenue that authorizing districts may draw from are the charter school’s general-purpose and categorical block grant funds, which are described on pages 15–20.)

In 2002 the Bureau of State Audits (BSA) issued a critical report on charter school oversight based on their examination of four large school districts. BSA asserted that although oversight responsibilities were not explicitly stated in the law, they were implied by school districts’ power to approve and revoke charters, collect fees for oversight costs, and inspect or observe charter schools at any time. BSA expected but found little evidence

## Charter School Vital Statistics: Student characteristics in 2002–03

### Student enrollment by ethnicity

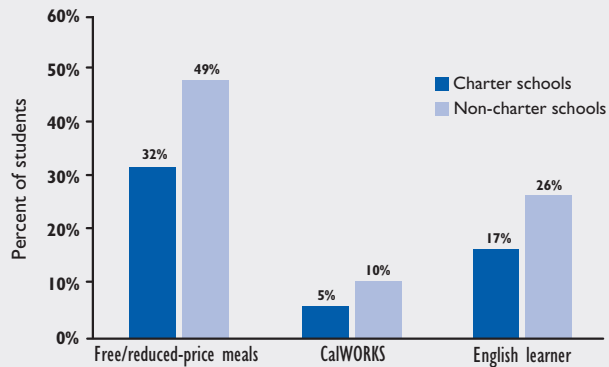
In terms of ethnicity, students in charter schools vary substantially from those in non-charter schools. In particular, it appears that charter schools are less likely to serve Hispanic students. Other data from the Education Data Partnership website provides further evidence of this. It shows that in districts in which Hispanics are the largest ethnic group, charters are less likely than non-charter schools to also have Hispanics as their largest ethnic group. The reverse is true regarding white students.



### Other student characteristics

Charter schools are less likely to serve students who are English learners and who come from low-income families. Many charter schools report that they do not participate in the subsidized meal program because of the paperwork requirements involved, so some believe the latter group of students is undercounted in charter schools. However, the CalWORKS data, which indicate students whose families receive public support, do not depend on school participation and yet shows the same general difference.

### Special program enrollment



DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

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that districts had established policies and procedures for assessing charter schools' financial management and academic achievement. They also questioned the way districts charged and accounted for their oversight services.

The districts in question strongly disagreed with BSA's findings. They asserted that BSA was holding them to a standard that the law does not require and that they have little or no grounds to deny or enforce a charter. These disputes highlight the difficulty

in finding the right balance between charter school independence on one side and responsible management of public resources on the other.

### State lawmakers react to limited instances of abuse

In 2002 oversight and governance issues were also on the minds of lawmakers. Of particular concern was alleged financial misconduct by a very small number of charter schools that were operating satellite sites. These

charter schools appeared to have not appropriately overseen their satellites, particularly with regard to fiscal management. Legislators passed AB 1994 to restrict charter schools' ability to operate multiple sites and to try to force them to locate their operations completely within the boundaries of their chartering authority. In addition, the county superintendent of schools now has authority to monitor the operation of local charter schools.

Reacting to other “creative” organizational strategies on the part of charter school operators, legislators also added some restrictions related to school district configurations. Charter schools approved after Jan. 1, 2003, are prohibited from serving grade levels not served by their authorizing agency unless the charter

- Designate a staff member as a contact person for the charter school.
- Annually visit each charter school.
- Ensure that each charter school submits quarterly financial reports.
- Monitor the fiscal condition of each charter school.
- Adjust the amount charged for related administrative costs.

room aides, and school secretaries—are represented separately from credentialed employees, such as teachers, counselors, and nurses. In some districts, principals also have union representation.

Within this context, the original charter legislation had to address the question of employment status. The petition was to include a description of the right of any employee who was leaving the district to work in a charter school and to return to the district after leaving the charter school. (Petitions must address the issue but do not have to guarantee anything specific.) Further, if a charter school participates in the State Teachers’ Retirement System (STRS), all employees qualifying for STRS must be covered and treated as if they worked in a traditional public school. The same is true for classified employees and their pension system, the Public Employees Retirement System. Clarity about the protections of an individual’s status within his or her school district and the state’s retirement system was a necessity.

Conversely, the original law was silent regarding what status—if any—charter school employees would have within their district’s bargaining unit or if they could form their own units. The need to address this question became more obvious over time, particularly among those charter schools that were conversions but remained closely tied to their authorizing district. In 1999, AB 631 added the requirement that a charter school petition declare whether the school or the chartering entity is the employer for collective bargaining purposes. Charter operators tend to declare themselves as the employer to maintain their independence and negotiate their own

## ***Charter schools offering nonclassroom-based instruction must apply to the State Board for a determination of their funding.***

Modoc Charter School, with a central office in Shasta County, was chartered by Modoc Joint Unified School District. It opened in January 2000 and provides independent study services to 415 students of all ages.

school serves all the grades offered by the authorizing entity. So, for example, a new charter high school serving grades 9–12 could not be chartered by a K–8 elementary district, but a K–12 school could.

A more far-reaching change was a new requirement—effective beginning in 2003–04—that charter schools must at the end of each school year submit a financial statement to their chartering authority, the Office of the State Controller, and the California Department of Education (CDE). Like school districts generally, the charter schools must submit their reports after the school year has ended.

While BSA officials acknowledged these new oversight provisions in their report, they questioned whether the changes would amount to much without a commitment from the chartering entities and the CDE to increase monitoring. Lawmakers responded to the BSA report in 2003 when they enacted AB 1137, which requires chartering authorities to:

- Provide timely notification to the state if the charter school is to cease operation.

All of these oversight activities are supposed to be covered by the oversight fees that chartering authorities already charge.

### ***New regulations tackle teacher issues***

In California public schools generally, the school site does not hire its own employees. Rather, all employees from the cafeteria worker to the principal have their formal employment relationship with the school district. Districts, in turn, vary in the process they use to assign employees to school sites.

Within the parameters set by law, issues of salary, benefits, working conditions, seniority, evaluation, and retention are governed by school district policies. Many of those policies are negotiated between the district and unions as the collective bargaining representatives for various groups of employees. Classified employees—such as maintenance workers, class-

contracts with their employees as opposed to being folded into the district's existing collective bargaining agreement. About a third of the state's charter schools have teachers who have chosen to be represented by a union, and most of those are conversion schools.

The new law also made it explicit that public school collective bargaining laws applied to charter schools. This means that charter school employees doing similar work have the right to choose a representative and form collective bargaining units to negotiate their salaries, benefits, and working conditions with the employer. They can also choose not to unionize. If the school's charter does not specify that it will be the public school employer of record for collective bargaining purposes, then the district assumes those responsibilities.

The original charter act did not say a teacher had to be fully credentialed. To some degree, this approach reflected the times. A serious overhaul of the state's credentialing process and teacher preparation standards was being debated amid skepticism about the quality and restrictiveness of both. Between 1992 and 1999, California took substantive action in this area and also increased the pathways by which college graduates, career-changing adults, and credentialed teachers from other states could earn full certification as California teachers.

Since 1998 most teachers in charter schools, regardless of when they started teaching or were hired, have been required to meet the same credentialing requirement that teachers in other public schools do. That includes allowing emergency permits and waivers, plus interns and pre-interns. (This requirement may not apply to teachers of noncollege-preparatory, noncore courses.)

## The funding allocation process creates challenges and some tensions

Charter schools receive their funding from a combination of local property taxes and state revenues. State law specifies a month-by-month allocation process that is not fully synchronized with when districts receive funding or when schools incur operational costs. As a result, the process can create cash flow problems and some tensions between districts and charter schools.

This is especially true with respect to property tax revenues. The district to which the charter applied, regardless of whether it approved the charter, must provide the charter school with a certain portion of property tax revenues each month (by the 15th of the month) beginning in August each year. For some districts this can be problematic because they do not receive their property taxes until early December.

Property taxes typically cover between 30% and 50% of a charter school's regular per-pupil funding. State aid makes up the rest. State funds are allocated to direct-funded charter schools on the same schedule as school district apportionments. The bulk of state funding goes to districts based on their average daily attendance (ADA). During the first seven months of the fiscal year, through January, the monthly amount is keyed to attendance figures for the prior school year. In February each year, when current attendance figures become available, the state adjusts a district's allocation based on the new figures to arrive at a new annual entitlement.

The law does not specify how a charter school should estimate its ADA for funding purposes. Because the ADA number is based on an averaging of how many students actually attend school throughout the year, districts and charter schools must use an estimate that they have to agree upon before school opens. For charter schools with growing student populations and for new schools, such estimates can be guesswork at best. The schools have an incentive to maximize the count, while districts may want to minimize it. Legislation enacted in 1999 (AB 1600) set up a formal process for estimating ADA in new charter schools. The school, charter-granting district, and county office of education must all certify the ADA estimate, preventing gross overestimates of attendance that cost both the state and school districts.

Charter schools are also required to keep proof of teacher certification on file for periodic inspection by the chartering authority.

### Funding of charter schools is a tough issue

As is true with public education generally in California, one of the most difficult issues for charter schools is funding. California's school finance system is largely controlled by the state and predicated on the assumption that

funding goes to local education agencies (LEAs)—typically school districts and county offices of education—which in turn allocate funds to school sites. Charter schools represent new entities in this system and function at times like a school within a district and at times like a separate LEA. The rules have evolved as these dual identities have become more clearly defined, but funding remains an area of change and sometimes of contention. (See the box above.)

### *Base funding for charter schools provides a set amount per pupil*

Most state revenues that school districts receive fall into one of two categories: general-purpose revenues and categorical program funding, which is earmarked for specific purposes. The amount per pupil that districts receive depends on a variety of formulas that result in substantial variation from one district to another.

By contrast, charter schools (except for those in charter districts) receive their funding as a uniform, set amount per pupil, with one amount for general purposes and another a “categorical block grant” that represents aggregate funding for approximately 44 of the categorical programs school districts can receive. While school districts must operate certain programs or follow specific regulations to receive virtually all categorical funding, charter schools may spend categorical block grant funding at their discretion. The block grant funds are allocated based on the average daily attendance (ADA) at the school, not the students enrolled. The amounts vary depending on the age of the school’s students, with more money being provided as students get older. (See Figure 2 on page 17.)

In addition, charter schools receive about \$111 for each student they serve who is identified as an English learner or eligible for free/reduced price meals. Schools receive double funding for each pupil who is *both* poor and an English learner. Schools with 10 or fewer eligible students get a minimum grant amount of \$4,901. Those with 11 or more eligible students get at least \$7,356. This is in lieu of state Economic Impact Aid, which provides about \$220 per pupil to school districts for students identified as English learners or as

low-income based on CalWORKS (welfare program) participation—generally a smaller number than those eligible for free meals.

The general-purpose funding charter schools receive can be compared to the revenue limit amounts school districts receive. How much a district receives depends on the grades it serves, whether it is small, and its unique formula calculation based on historical patterns and participation in certain programs. Figure 2 displays the six categories of school districts that the state has delineated for revenue-limit funding purposes and their per-pupil funding amounts. Although some districts’ revenue limits vary substantially from the averages listed, the overwhelming majority of students attend school in districts with revenue limits within a band of \$350 per pupil. One difference between charter schools’ general-purpose funding and school districts’ revenue-limit funding is that a school district gets the same amount of revenue-limit funding per pupil regardless of student age. For example, a unified school district would get the same amount of money for a kindergarten pupil as it would for a 12th grader.

### *Categorical block grants are declining*

The 44 programs included in the charter school categorical block grant cover a wide variety of purposes, but many of them represent a relatively small amount of funding. Of the 22 largest state categorical programs (those that received \$50 million or more in 2003–04), just five were part of the categorical block grant. They included the School Improvement Program, Instructional Materials, Supplemental Grants, 9th Grade Class Size Reduction, and the Beginning Teacher Support and Assessment

(BTSA) program. (See the full list of programs in the charter school categorical block grant on page 19.)

Schools that receive the categorical block grant are not eligible for separate funding for any of the 44 programs, but they can apply for the many other state and federal programs for which they qualify. Not included in the block grant, for example, are federal categorical programs and a number of the largest state programs such as K–3 Class Size Reduction, Transportation, Targeted Instructional Improvement Grants (formerly Desegregation), Adult Education, Special Education, and Child Nutrition (free/reduced-price meals program).

The process a charter school must follow to apply for these programs depends on its relationship to its chartering authority. Some charter schools choose to be locally funded, which means they get their funds through their authorizing agency. Other charter schools establish themselves as a near equivalent of an LEA and are called direct-funded because they receive funds directly from the state. Locally funded charters can only receive federal and state categorical program monies if their authorizing agency applies for them on the school’s behalf. Direct-funded charters, like independent LEAs, apply for the programs on their own.

The LAO points out in its January 2004 report that the number of categorical programs in the block grant has decreased each year since it was implemented while the number of programs for which charters must apply separately has increased. Along with a decrease in the number of programs in the block grant has come a reduction in the funding represented by the programs. In 2000–01 the included programs



represented \$3 billion or 27% of all available categorical funding. In 2003–04 the included programs represented 15% of all available categorical funding. Not only the *share* fell, but also the absolute amount went down by \$1.3 billion despite a relatively constant level of total categorical funding during that time. This has translated to a decline in the per-pupil rate for grades 9–12 from \$313 in 2000–01 to \$164 in 2003–04.

The 2003–04 school year marks the first year in which direct-funded charter schools will have to submit financial data to the state. Those submissions will help provide information about which additional categorical funds charter schools receive. However, the allocations that go to locally funded schools do not have to be separated out from general district financial reporting, making it difficult to determine their use of categorical funds.

### *Do charter schools receive less funding than other public schools?*

The question of whether charter schools receive their “fair share” of operating funds is much debated without a clear answer. This lack of clarity is not surprising given the complexity of California’s school finance system generally and the difficulty of answering the same question for any specific school or district in the state.

That said, certain aspects of the charter school funding process could result in a charter school receiving either more or less funding than its non-charter counterparts. The hypothetical comparisons in Figure 3 on page 18 explain some of the funding differences between the two systems. To the extent that charter schools are willing to trade some flexibility for categorical funds, they can qualify for

**figure 2** Per-pupil charter and school district funding amounts are based on different calculations

Charter schools receive funds based on the grade level of the students they serve, with the general-purpose funds taking the place of district revenue-limit funds. An additional amount—the categorical block grant—is in place of a portion of the categorical funding districts receive. Charter schools have discretion over how they use the entire base funding amount.

**2003–04 estimated base charter school funding**

|                              | Kindergarten<br>–3rd grade | 4th–6th<br>grade | 7th–8th<br>grade | 9th–12th<br>grade |
|------------------------------|----------------------------|------------------|------------------|-------------------|
| General purposes             | \$4,528                    | \$4,594          | \$4,723          | \$5,485           |
| Categorical block grant      | \$172                      | \$177            | \$129            | \$164             |
| Total base per-pupil funding | \$4,700                    | \$4,771          | \$4,852          | \$5,649           |

School districts receive revenue-limit funding based on the type of district they are (elementary, unified, or high school), their size, and historical formulas. Revenue-limit funds represent about two-thirds of the revenues districts receive from the state, but that can vary substantially among districts.

**2003–04 average revenue limits by district type**

|  |         |                         |         |
|--|---------|-------------------------|---------|
| <b>Elementary</b> (kindergarten–8th grade) | \$4,645 | Small (<101 students)   | \$5,516 |
| <b>Unified</b> (kindergarten–12th grade)   | \$4,843 | Small (<1,501 students) | \$5,184 |
| <b>High school</b> (9th–12th grade)        | \$5,585 | Small (<301 students)   | \$6,128 |

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a substantial amount of categorical money through programs such as Child Nutrition and K–3 Class Size Reduction. Charter schools also have the option of negotiating with their chartering agency for a share of other categorical programs. They can also negotiate for local miscellaneous revenues, such as parcel tax proceeds and interest income.

In addition, the federal government has provided California with some funds earmarked for charter schools under the Public Charter Schools Grant Program. Charter developers, new charter schools, and those charter schools with a history of success are eligible for grants. The money can be used to disseminate information about successful practices in charter schools and to develop and implement start-up proposals.

The program operates in three-year cycles; 2003–04 is the final year of the current cycle. The state allocated nearly \$84 million from January 2001 through June 2003. Typically about half of the schools competing for funds are successful in securing grants. The state’s process for selecting proposals favors schools and operators with “educationally disadvantaged students, past success in starting and operating charter schools, and accountability.”

### *Special Education funding laws apply to charter schools*

Charter schools must abide by the laws that protect the rights of students with disabilities. Both state and federal Special Education laws require that these students receive a free, appropriate public education in the least

**figure 3 | Funding amounts in 2002–03 differ between the average unified district and charter schools in this hypothetical comparison**

| Type of funds   | Unified school district   | K-3 charter school   | High school charter |
|---|---|--|---------------------|
| General purpose funds (local property taxes plus some state support in most districts)  | \$4,778* (average per-pupil revenue limit for unified districts)                    | \$4,512 per pupil  | \$5,459 per pupil   |
| <b>State categorical funds:</b> Unified districts received an average of \$984* per pupil for all state categorical programs (including but not limited to the programs in the charter school block grant but excluding Adult Education, Child Development, Special Education, and Economic Impact Aid or EIA). Listed below are examples of state categorical programs and their funding levels, one of which (EIA) would not be included in the \$984 figure and two that would. Charter schools may have access to funding from categorical programs outside of the block grant if they operate qualifying programs or negotiate a share with their chartering district. |   |  |                     |
| Charter block grant   | N/A   | \$198 per pupil  | \$189 per pupil     |
| Economic Impact Aid (EIA) (Students who are poor and English learners receive double funding.)  | \$220 for each eligible student based on CalWORKS and English learner status        | \$111 (in lieu of EIA, flexible funding) for each eligible student based on free/reduced-price meals and English learner status  |                     |
| K-3 Class Size Reduction  | \$906 per K-3 student if district chooses to participate                            | \$906 per K-3 student if school chooses to participate   | N/A                 |
| Targeted Instructional Improvement Grants (formerly Desegregation)  | \$194 average per pupil in the 69 districts that receive funds                      | Charters can negotiate with their authorizing district for a share of these funds, if applicable.  |                     |
| <b>Federal categorical programs</b>   |   |  |                     |
| Including Titles I–X of the No Child Left Behind Act (NCLB), plus various programs  | \$449* average per pupil (excluding Special Education)                              | Locally funded charters can apply for various federal programs through their chartering authority, and direct-funded schools can do so independently. They must comply with all applicable regulations and reporting requirements. |                     |
| Public Charter Schools Grant Program  | N/A   | Charter schools can apply for grants to help with start-up and ongoing costs. California received \$24.1 million for its charter schools in 2002–03.   |                     |
| <b>Local miscellaneous funds</b>  |   |  |                     |
| Includes parcel taxes, interest income, and various other local revenue sources   | \$359* average per pupil statewide (2002–03) (Amounts vary widely among districts.) | Charters may negotiate with districts for a share of these funds.  |                     |
| <b>Lottery funds</b>  |   |  |                     |
| State lottery   | \$130 per student   | \$130 per student  |                     |

DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)  
\*EDUCATION DATA PARTNERSHIP

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restrictive setting. If any public school student is thought to need Special Education services, school agencies must assess the student and, if neces-

sary, develop and implement an individualized education program (IEP). This may call for the school to provide relatively low-cost services (such as

sending a child to a reading specialist twice a week) or intensive services every day, which can cost tens of thousands of dollars per year.

Local education agencies must submit to the state a “local plan” detailing how they will meet their obligations to special-needs students under state and federal law. Given the relatively small size of the majority of districts in California, most coordinate services with other districts in their area and form a Special Education Local Planning Area (SELPA). Some larger districts form their own SELPAs. In 2003 California’s 982 districts were organized into 116 SELPAs.

It is legally presumed that a charter school is an arm of its charter-granting agency and thus a part of its SELPA, much like any other public school. Charters can establish themselves as LEAs and join a SELPA on their own, but few have done so. More charter schools would probably declare themselves an LEA for Special Education purposes if they were free to join the SELPA of their choosing, but SELPAs have no obligation to accept charters that are located outside their boundaries. If a charter school does not want to join the local SELPA, the school can form its own; but it would have a difficult time surviving. Some state leaders have discussed alternatives to the geographically-based SELPA system, but the state has not implemented them.

Each SELPA must submit to the state its policies, governance plan, and financial statements along with assurances that it will meet state and federal requirements. The details of these plans matter to charter schools because Special Education funding flows from the state to the SELPA, and the SELPA’s policies determine how much each of its members receives.

Since 1998–99 Special Education funding in California has been based on the total number of students enrolled in a SELPA, rather

## The Charter School Categorical Block Grant includes 44 categorical programs

- Academic Improvement & Achievement: Regional Partnerships
- Agricultural Vocational Incentive Grants
- Apportionment: Apprenticeship Program *and* Elementary School Intensive Reading Program
- California Assessment Program Advanced Placement (AP)
- Exams-Fee Assistance
- California Peer Assistance & Review Program for Teachers
- California Public School Library Act
- Carl Washington School Safety & Violence Prevention, Grades 8–12
- Class Size Reduction, Grade 9 (or continuation of grades 10–12 Class Size Reduction)
- College Preparation Partnership: College Entrance Exams Preparation Courses
- Dropout Prevention: Implementation Model *and* Motivation/Maintenance (Outreach Consultants)
- Early Intervention for School Success (EISS)
- Education Technology: California Technology Assistance Project (CTAP)/Statewide Educational Technology Services (SETS)/Supplemental Grant
- Gifted & Talented Education (GATE)
- Healthy Start: Teenage Pregnancy Prevention Grant (TPPG) *and* Planning and Operational Grants
- High-Risk Youth & Public Safety: First-Time Offender
- Instructional Materials Fund
- The Instructional Materials Funding Realignment Program
- Mathematics Professional Development Grants, Grades 4–12
- Math and Reading Professional Development
- Miller-Unruh Reading Program
- Partnership Academies Program: Operation Grants *and* Program Plan Grants
- Restricted Revenue Limit: Community Day Schools
- School Community Policing Partnership
- School Improvement Programs (SIP): Grades K–6 *and* Grades 7–12
- School/Law Enforcement Partnership: Mini-grants and Safety Plans for New Schools
- School/Law Enforcement: School Community Violence Prevention *and* Conflict Resolution & Youth Mediation
- Specialized Secondary Programs
- Staff Development: Intersegmental College Readiness, Intersegmental Comprehensive Teacher Education Institutes (CTEI), Advanced Placement (AP) Challenge Grant, *and* Beginning Teacher Support & Assessment (BTSA)
- Standards-based Math Staff Development, Grades 4–12
- Supplemental Grants
- Supplementary Programs: Foster Youth Services *and* Opportunity Programs and Classes
- Teaching as a Priority (TAP) Recruitment Block Grant
- Tenth Grade Counseling (academic progress and counseling review)

than on the number of Special Education students and the services they receive. The average allocation is roughly \$550 per ADA. This usually covers about 75% of an agency's full cost of serving special-needs students. Districts are expected to bear 25% of Special Education costs through their general operating budgets. The law requires that a charter school share in that obligation, contributing "an equitable share of its charter school block grant funding

### *Nonclassroom-based instruction has caused concerns*

One area of charter school operation that has been of particular and unanticipated concern involves schools that offer nonclassroom-based instruction such as independent study, home schooling, work study, and distance-learning. State policymakers first dealt with these issues in 1999 when they enacted a bill to apply to charter schools the same independent study requirements that traditional public

schools face. (For example, an independent study program's pupil-teacher ratio must not be bigger than other educational programs in a district.)

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In 2001 Senate Bill 740 dealt with nonclassroom-based instruction more comprehensively. The bill required the State Board of Education (SBE) to adopt regulations and a process for setting funding levels for nonclassroom-based instruction in charter schools. The purpose was to prevent charter school operators from profiting unfairly by providing inexpensive or inadequate nonclassroom-based instruction and receiving funding equal to classroom-based schools.

An advisory committee helped the SBE develop the regulations. One of the first issues to settle was the definition of "nonclassroom-based instruction." The SBE now defines a school's instructional program as nonclassroom-based when the school does not require attendance of its pupils at the school site under the direct supervision and control of a qualified teaching employee for at least 80% of the required instructional time.

Charter schools that offer nonclassroom-based instruction must apply to the SBE for a determination of reimbursement for such instruction. The board adjusts the amount of funding that a charter school receives for nonclassroom instruction based on the amount the school spent on certificated staff salaries and benefits, school configuration, and the teacher-pupil ratio. To receive full funding in 2003–04 and beyond, a school must spend at least half of its public revenues on certificated staff salaries and benefits and at least 80% of all revenues on instruction-related costs. If a school does not spend at least 40% on salaries and benefits and at least 60% on instruction-related costs, the school receives no funding for its nonclassroom-based instruction. However, the board so far has not had to deny funding to any school.

## ***[Some] districts and charters have worked together harmoniously to address their facility challenges.***

Sequoia Union High School District is using its facilities bond money to construct a new building for East Palo Alto High School, a charter school serving 223 students in grades 9–11.

to support districtwide Special Education instruction and services." However, the law does not specify what an equitable share is or how to calculate it. In *California Charter School Finance 2003*, Eric Premack estimates that the typical amount is between \$200 and \$300 per pupil—a significant number.

Charter schools have to negotiate with their charter-granting agency how costs, revenues, and responsibilities will be allocated. For example, a school with no capacity to serve special-needs pupils may need to bear its share of the agency's cost and allow the charter-granting agency to keep the school's share of Special Education funding. In return, the agency would provide all Special Education services or give the school funds to contract out for the services. A more capable school could provide the more common services and contribute toward just the high-cost or low-incidence cases.

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### **Providing facilities has proved to be a major challenge**

Soon after charter schools began operation in California, it became clear that facilities were going to become an issue between school districts and would-be charter operators. To some degree, the problems evolved from the unwritten expectation in the original law that schools would be "conversions" and use district facilities—a potential problem when many districts already had severe facility shortages. As the movement matured and charter advocates became interested in starting up entirely new schools, housing the new ventures was a common challenge.

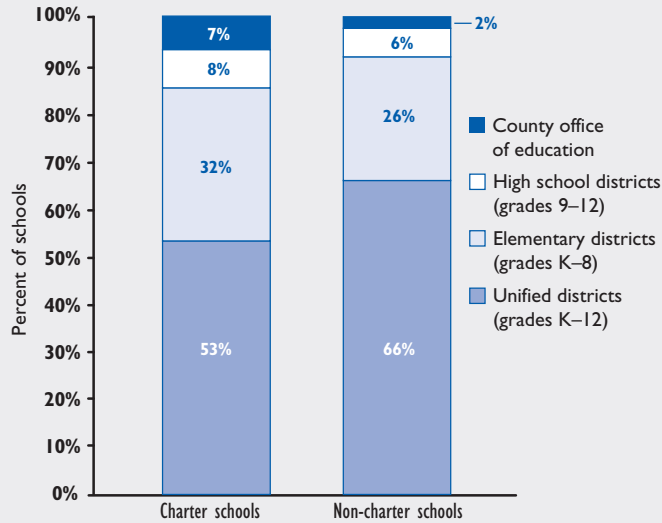
In the ensuing years, California went through some fairly contentious problems—particularly from the school district perspective—before

## Charter School Vital Statistics: School distribution as of March 2004

### Distribution by school district type

The distribution of open charter schools among different types of school districts varies somewhat from the distribution of non-charter schools.

### Charter and non-charter school distribution by district type



DATA: CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

EdSource 6/04

### Geographic distribution of charter schools

About 5% of all California public schools are charters. However, among the state's 58 counties, the distribution of charter schools varies widely, neither corresponding to regions within the state nor the size of the county. For example, the counties with no charter schools and the counties with the highest proportion of charter schools both tend to be small and rural. A total of 12 counties have no charter schools at all. They range in size from Alpine County with a total of nine schools to Imperial County with 65 schools.

Conversely, in eight small counties charter schools make up 10% or more of all schools. Those counties are Kings, Mendocino, Mono, Nevada, Santa Cruz, Shasta, Stanislaus, and Yuba.

state leaders stepped in to both clarify district obligations and provide some financial support. Increased statewide funding for school facilities from voter-passed bond elections has also helped the situation significantly.

### Recent laws clarify the district's obligation

The Charter Schools Act was supposed to be revenue neutral, with operational funding following the student from the traditional school to the charter school. Providing facilities funding on top of that would have cost the state money. The only reference to facilities was a provision allowing the charter-granting agency to require a description of the school's use of district buildings. (Through its silence, the law exempted charters from complying with the Field Act, which limits the buildings that can be used as classrooms by requiring strict

on-site inspections during the construction process along with the highest commercial level of seismic safety features. Charters thus have more options for school facilities than do traditional public schools.)

Once the limit on the number of charter schools was expanded in 1998 (AB 544), pressure around this issue began to increase. Proposition 39, passed by California voters in November 2000, lowered the voter-approval threshold for local general obligation bonds for school facilities from two-thirds to 55%. It also gave charter schools much greater access to facilities. As of November 2003, school districts must make facilities available to a charter school operating in the district. The space has to be adequate to accommodate the school's in-district students in conditions comparable to other district schools.

It must also be contiguous (not scattered throughout the district), furnished, and equipped. The facilities remain district property. The school district must make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate and may not move the charter school unnecessarily.

A charter school may request facilities based on its attendance projections, and the district is obligated to allocate facilities consistent with those projections. However, the district can reject requests for facilities for fewer than 80 students and must be reimbursed for overestimates of student attendance. A district can also charge a charter school for any facilities the district pays for through its operating revenues.

The State Board of Education adopted regulations meant to govern implementation and define terms.

However, some ambiguity remains. As a result, tension (and even hostility in some cases) continues between some charter operators and chartering authorities. However, other districts and charters have worked together quite harmoniously to address their facility challenges.

### *Funding for facilities has also increased*

Charter schools have benefited, along with other public schools, from California's strong and continued investment in school facilities since the mid-1990s. In addition, lawmakers have created some innovative programs to help charter schools pay for their facility and other capital needs, including earmarking a portion of state bond proceeds specifically for charter facilities.

### **State bonds provide funds under the Charter School Facilities Program**

Proposition 47 (approved by California voters in November 2002) and Proposition 55 (approved in March 2004) authorized the sale of K–12 school facilities bonds totaling \$11.4 billion and \$10 billion, respectively. These propositions created the first opportunity for charter schools to directly access facility bond funds from the state. Prior to this, charter schools had to convince districts to include them on their application for state funds. The state's Office of Public School Construction knows of only five new construction projects and four modernization projects that were funded the old way.

The first state bond included \$100 million for charter school facilities. After a delay to finalize the new regulations, the first application deadline for these apportionments was April 1, 2003. A total of 25 entities applied for the grants, far exceeding the amount available. The State Allocation Board (SAB) had to select which schools

would get funds, making sure they represented a cross section of charter schools. It made six preliminary apportionments, effectively exhausting the Proposition 47 funds. Voters approved an additional \$300 million for charter schools as part of Proposition 55.

The Charter School Facilities Program (CSFP) governs the expenditure of these state bond proceeds. Like the program for school districts generally, the CSFP allows a charter school, or the school district on its behalf, to apply for state funds for new construction projects. The state funds cover only 50% of the cost of the project; the charter school must come up with the other half, either as a lump sum or as lease payments over time (not more than 30 years). Unlike the program for districts, however, charter schools cannot receive funds for modernization. And charter schools offering nonclassroom-based instruction are not eligible for funds.

To qualify for funding, a charter school must prove to the California School Finance Authority (CSFA) that it is financially sound. For example, applicants must have operated for at least 24 months as a “financially capable concern” and offered instruction for at least two academic years. If applicants represent a new school, they must have at least two years' experience running *another* charter school successfully.

In addition, the SAB must deem the district in which the charter school is located eligible for state bond funds. The district is eligible if it cannot “house” all the students it anticipates having in the next five years. A district generally establishes eligibility based on crowding conditions over their entire area or individual high school attendance areas. Any facilities paid for with state bonds must also comply with the Field Act.

### **Lawmakers create the Charter School Revolving Loan Fund**

In 1996 state lawmakers created the Charter School Revolving Loan Fund (CSRLF) from existing state and federal funds (AB 3384). Charter-granting authorities could borrow up to \$50,000 on behalf of start-up charters. The schools had to use the money in their first year of operation and then were expected to repay the loan within the next two years. The money could be used for any start-up costs, including facilities.

In the years since, the CSRLF has changed significantly in response to the experiences and needs of charter schools. The maximum loan amount over the lifetime of a charter school is now \$250,000; schools can use the loan proceeds beyond their first year of operation, and the repayment period can be up to five years. Charter schools operated by or as nonprofit corporations can borrow directly from the CSRLF, as opposed to getting the money through the chartering authority. The charter schools are solely liable for these loans. A Charter School Security Fund in the State Treasury collects the interest paid on CSRLF loans and uses those funds to repay the CSRLF if a school defaults. Priority for loan applications goes to new charter schools.

### **Help is available to support the cost of leasing facilities**

Yet another program, the Charter School Facility Grant Program (SB 740), helps charter schools with rent or lease expenses (versus new construction costs). To be eligible for a facilities grant, a charter school must have at least 70% of its pupils eligible for free/reduced-price meals or be located in an attendance area with the same sort of student population. (With the state average at about 49%, this program is meant to serve areas

with populations considerably poorer than average.) Eligible schools are reimbursed up to three-quarters of their annual facilities rent and lease costs but not more than \$750 per pupil. The state appropriated \$5.5 million for the program in 2002–03 and \$7.7 million in 2003–04.

Charter schools have often found that obtaining adequate facilities presents a significant obstacle in part because lending institutions view them as risky investments. The fact that charters may be revoked for poor performance and must be renewed every five years creates this problem. Also, in contrast to other public schools, charter schools cannot issue low-risk general obligation bonds the way school districts can (with voter approval). The federal government created the Credit Enhancement for Charter School Facilities program to help charter schools address these issues. This program provided

\$37.3 million nationwide in competitive grants to organizations that are willing to guarantee loans and leases on behalf of charter schools. Currently seven organizations serve charter schools in 13 states, three of which are active in California. (See the box below left.)

### What's next?

The charter school experiment that began in California 12 years ago has not proved to be a panacea for all the problems of public education. Neither has it created the chaos or abuses that opponents feared. Rather, charter schools have become a viable alternative in a public school system that continues to struggle with how to effectively educate all students to high standards when resources are limited and students come to school with such varied needs. According to the LAO report: “Two statewide evaluations of charter schools in California have concluded that they are meeting the original legislative intent—expanding families’ choices, encouraging parental involvement, increasing teacher satisfaction, and raising academic achievement, particularly for certain groups of disadvantaged students.”

Several organizations in California have worked to strengthen the charter movement by helping charter operators write their petitions and then implement the school plans they envision. In 2003 some of these efforts were consolidated into the California Charter Schools Association, a voluntary membership organization. Among its goals is increasing the percentage of public school students in charter schools from about 2% to 10% within the next 10 years. Another important resource for charter school operators needing technical and professional assistance is the Charter Schools Development Center at the California

State University Institute for Education Reform in Sacramento.

As charter schools gain legitimacy, they are also garnering increased support, or at least attention, from other quarters. Not the least of these is a group of private foundations and individual donors who are making substantial investments.

The California Teachers Association (CTA), which has been an outspoken critic of charter schools, now seems to be acknowledging that charter schools are here to stay. The union’s emphasis has shifted to the task of “empowering” charter teachers through union membership and services, including leadership training. CTA is spending \$250,000 of its own funds plus an equal amount from its parent organization, the National Education Association (NEA), to organize teachers in California charter schools. This is part of a national effort by NEA. An April 14, 2004, article in *Education Week* stated that NEA leaders “argue that unionized teachers can play a watchdog role in charter schooling by pushing for greater public accountability, particularly in schools run by for-profit companies.”

The *EdWeek* article goes on to say: “Some California charter leaders are upbeat about the prospect for productive partnerships with unions, pointing to some places where such relationships have been forged. Others are deeply suspicious of the 335,000-member CTA’s organizing effort, afraid it will bring to charter schools a rules-oriented mentality that they left regular public schools to escape.”

Both the state and federal government have also developed policies that envision chartering as one strategy for taking over low-performing schools that fail to improve. A few schools may face these types of sanc-

#### Three Credit Enhancement for Charter School Facilities grantees work in California

- Low Income Investment Fund  
1330 Broadway, Suite #600  
Oakland, CA 94612  
510/893-3811, ext. 316
- Raza Development Fund  
111 W. Monroe St., Suite #1610  
Phoenix, AZ 85003  
602/417-1401
- Local Initiatives Support Corp.  
501 7th Ave., 7th floor  
New York, NY 10018  
212/455-9884


Additional information about the program is available at: [www.ed.gov/programs/charterfacilities/index.html](http://www.ed.gov/programs/charterfacilities/index.html)

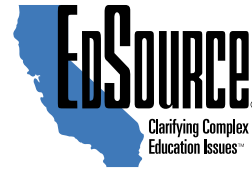
tions under California's Immediate Intervention / Underperforming Schools Program (II/USP) and High Priority Schools Grant Program (HPSGP).

Those numbers are small compared to the number of schools that could face charter conversion just a few years from now under the federal No Child Left Behind Act (NCLB). Each year, schools receiving federal Title I dollars are expected to meet a number of performance targets, known collectively as Adequate Yearly Progress (AYP). Schools that do not make AYP two years in a row enter an intervention program called Program Improvement. Continued failure to make AYP subjects a school to more and more serious consequences. After seven years, a school must implement an alternative governance structure, which can include converting to a charter school. Under the state programs, most schools make the modest progress necessary to escape sanctions.

However, under the federal program, schools face higher and higher performance targets each year, which almost guarantees that large numbers of schools will eventually enter Year 7 of Program Improvement and have to radically alter their governance structure. California has roughly 5,500 schools that receive Title I funding. Of those, about 1,200 are currently in Program Improvement, and 340 schools are already in their fifth or sixth year of not making AYP. It must be noted that the state has not yet invoked the charter option for schools in the state's intervention programs, and the decision to convert Program Improvement schools to charter status would lie with the governing district.

The idea of intervening in failing schools by making them charters raises a key question: To what degree are charter schools helping California students succeed academically?

From the start, accountability for student outcomes was a central promise of the charter concept, and that promise is coming due. Even many of the movement's staunchest supporters believe that charter schools need to pay more attention to their students' academic progress. A number of researchers have assessed student achievement in charter schools, and EdSource hopes to contribute to this knowledge base. A fall 2004 report will review what other researchers have found and analyze API scores of charter schools with the hope of providing some insight into the factors that help make a charter school successful. EdSource is also developing a comprehensive charter school database designed to further inform California about this ongoing educational experiment. 



**Trish Williams**  
*EdSource Executive Director*

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### To Learn More

- The RAND evaluation on California's charter schools can be found at: [www.rand.org/publications/MR/MR1700](http://www.rand.org/publications/MR/MR1700)
- See the Legislative Analyst's Office report at: [www.lao.ca.gov/2004/charter\\_schools/012004\\_charter\\_schools.htm](http://www.lao.ca.gov/2004/charter_schools/012004_charter_schools.htm)
- Information about the California Charter Schools Association can be found at: [www.charterassociation.org](http://www.charterassociation.org)
- For the Charter Schools Development Center's website, go to: [www.cacharterschools.org](http://www.cacharterschools.org)
- To order Eric Premack's book, *California Charter School Finance*, go to: [www.cacharterschools.org/pubs.html#Finance](http://www.cacharterschools.org/pubs.html#Finance)
- The 1996 Little Hoover Commission report on charter schools can be found at: [www.lhc.ca.gov/lhcdir/138rp.html](http://www.lhc.ca.gov/lhcdir/138rp.html)
- To see the 2002 report by the Bureau of State Audits, go to: [www.bsa.ca.gov/bsa/summaries/2002-104.html](http://www.bsa.ca.gov/bsa/summaries/2002-104.html)
- To learn more about the charter movement throughout the U.S., see: [www.uscharterschools.org/pub/uscs\\_docs/index.htm](http://www.uscharterschools.org/pub/uscs_docs/index.htm)