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**AB 1505:
Charter Renewal and
New Charter Petitions**

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THE CHARTER LAW FIRM

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YM&C Firm Overview

- Partners have over 100 years of collective experience working with charter schools
- 33 attorneys working with charter schools throughout the state in all areas of charter school law (e.g., employment/labor, special education, nonprofits, litigation, audits, facilities, etc.)
- Represent most of California's charter schools
- Conduct workshops for charter schools in all areas of legal compliance

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**Roadmap: Orienting
in a New Landscape**

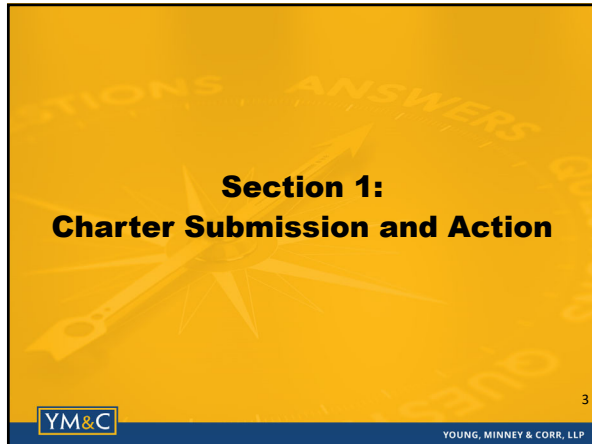
- Section 1: Charter Submission and Action
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- Section 6: Teacher Credentials
- Section 7: Charter Appeals

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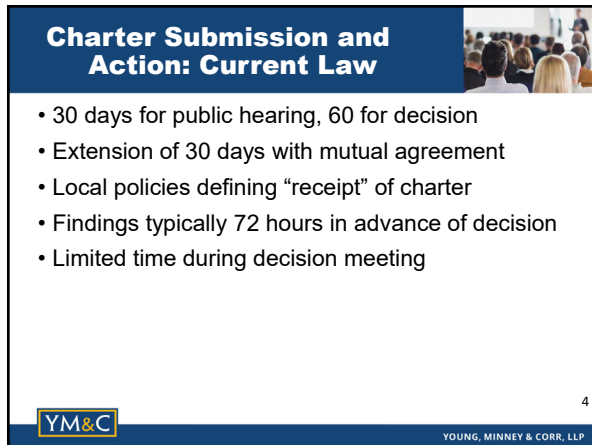


**Section 1:
Charter Submission and Action**

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Charter Submission and Action: Current Law

- 30 days for public hearing, 60 for decision
- Extension of 30 days with mutual agreement
- Local policies defining “receipt” of charter
- Findings typically 72 hours in advance of decision
- Limited time during decision meeting

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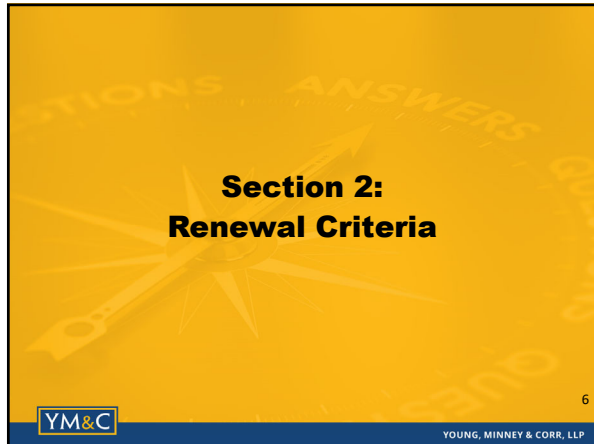
Charter Submission and Action: New Law

- **60 days for public hearing, 90 for decision**
- Extension of 30 days with mutual agreement
- Charter is **deemed received** by the Board on the day submitted to District office with a **certification of completeness**
- District Board shall publish staff recommendations, including recommended findings, 15 days before decision meeting
- Decision meeting is a public hearing
- **Equivalent time and procedures** to **present evidence and testimony** to respond to staff recommendations and findings

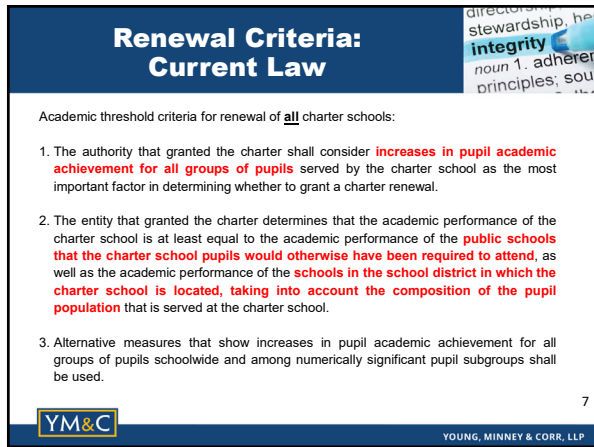
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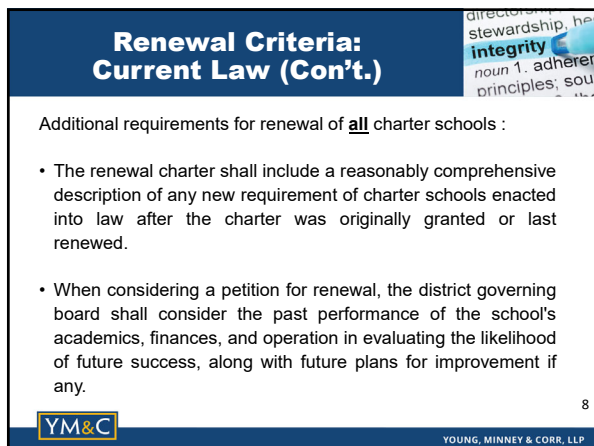
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Renewal Criteria: New Law



Top Tier: shall not deny renewal if either of the following apply for two consecutive years immediately preceding the renewal decision:

- The charter school has received the two highest performance levels schoolwide on **all state indicators** included on the Dashboard **for which it receives performance levels.**
 - To **qualify** for renewal under top tier, the charter school shall have received schoolwide performance levels on at least **two measurements of academic performance, per year, in each of the two consecutive years immediately preceding the renewal decision.**
- Alternative: for all **measurements of academic performance**, the charter school has received performance levels schoolwide that are the **same or higher** than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are higher than the state average.


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Renewal Criteria: New Law (Con't.)



Alternative Qualification (top and bottom tiers):

- “Measurements of academic performance” means indicators included in the Dashboard that are based on statewide assessments in the CAASPP, ELPAC, and college and career readiness indicators.
- To qualify for renewal, the charter school shall have performance levels on at least **two measurements of academic performance for at least two subgroups.**
- A charter school without sufficient performance levels to meet these criteria shall be considered under [middle tier].


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

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Renewal Criteria: New Law



Top Tier:

Chronic Absenteeism  Blue	Suspension Rate  Blue	English Learner Progress  No Performance Color	English Language Arts  Blue
Mathematics  Blue	Basics: Teachers, Instructional Materials, Facilities  STANDARD MET	Implementation of Academic Standards  STANDARD MET	Parent and Family Engagement  STANDARD MET
Chronic Absenteeism  Blue	Suspension Rate  Blue	English Learner Progress  No Performance Color	English Language Arts  Green
Mathematics  Green	Basics: Teachers, Instructional Materials, Facilities  STANDARD MET	Implementation of Academic Standards  STANDARD MET	Parent and Family Engagement  STANDARD MET


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**Renewal Criteria:
New Law**




Top Tier:

- The chartering authority that granted the charter **may** renew a charter pursuant to this paragraph for a period of between five and seven years.
- “Only” required to update the petition to include a reasonably comprehensive description of any new legal requirement of charter schools after the charter was originally granted or last renewed and as necessary to reflect the current program.

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**Renewal Criteria:
New Law (Con't.)**



- If the Dashboard indicators are not yet available for the most recently completed academic year before renewal, the chartering authority **shall** consider **verifiable data provided by the charter school related to the dashboard indicators**, such as data from the CAASPP, for the most recent academic year.
- “**Verified data**” means data derived from nationally recognized, valid, peer-reviewed, and reliable sources that are externally produced.
- Verified data shall include measures of postsecondary outcomes.
- By January 1, 2021, the SBE shall establish criteria to define verified data and identify an approved list of valid and reliable assessments that shall be used for this purpose; no data sources other than those adopted by the SBE shall be used as verified data.

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**Renewal Criteria:
New Law (Con't.)**




Middle tier:

- The chartering authority shall consider the charter school’s **schoolwide** and **student subgroup performance** on the **state and local indicators** on the Dashboard.
 - The chartering authority shall provide **greater weight** to performance on **measurements of academic performance** in determining whether to grant a charter renewal.
- In addition to the state and local indicators, the chartering authority **shall consider** clear and convincing evidence [**of verified data**] showing **either** of the following:
 - The school achieved measurable increases in academic achievement, as defined by at least **one year’s progress for each year in school**
 - Strong **postsecondary outcomes**, as defined by college enrollment, persistence, and completion rates equal to similar peers
- For a charter renewed through the middle tier, the chartering authority **shall** grant a renewal for a period of five years.

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Renewal Criteria: New Law (Con't.)



Bottom tier:

- The chartering authority **shall not renew** a charter if **either** of the following apply for **two consecutive years immediately preceding** the renewal decision:
 - The charter school has received the two lowest performance levels schoolwide on all the state indicators on the Dashboard for which it receives performance levels; **OR**
 - [Alternative] For all measurements of academic performance, the charter school has received performance levels schoolwide that are the **same or lower** than the state average and, for a majority of subgroups performing statewide below the state average in each respective year, received performance levels that are lower than the state average.
- If the charter school's second look is based on the "same" performance levels under second look, the charter school only qualifies for renewal under bottom tier, not top tier.
- For a charter renewed through the bottom tier, the chartering authority **may** grant a renewal for a period of two years.


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Renewal Criteria: New Law (Con't.)



Dashboard Alternative Status Schools:

- Top, middle, and bottom tiers shall not apply to a DASS charter school.
- The chartering authority shall consider, in addition to the charter school's performance on the **state and local indicators on the Dashboard**, the charter school's performance on **alternative metrics** applicable to the charter school based on the **pupil population served**.
- The chartering authority shall meet with the charter school during the first year of the charter school's term to **mutually agree to discuss alternative metrics** to be considered pursuant to this paragraph and shall **notify the charter school of the alternative metrics** to be used within 30 days of this meeting.
- The chartering authority **may deny** a charter renewal pursuant to this paragraph only upon making written findings, setting forth specific facts to support the findings, that the **closure of the charter school is in the best interest of pupils**.
- No legal requirement on charter term.

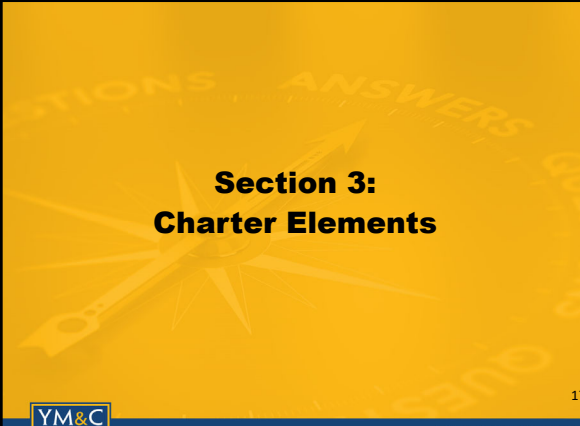
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Section 3: Charter Elements



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Charter Elements: Current and New Law



“Renewals and material revisions of charters are governed by the standards and criteria described in Section 47605, and **shall include**, but not be limited to, a **reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.**”



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Charter Elements: Current Law



Element 7/G:

“The means by which the charter school will achieve a **racial and ethnic balance** among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”



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Charter Elements: New Law



Element 7/G:

“The means by which the charter school will achieve a balance of **racial and ethnic pupils, special education pupils, and English learner pupils**, including redesignated fluent English proficient pupils, as defined by the evaluation rubrics in Section 52064.5, that is reflective of the **general population** residing within the territorial jurisdiction of the school district to which the charter petition is submitted.”



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**Charter Elements:
Current Law**

Miscellaneous Provisions:

Additional charter requirements include: facilities, administrative services, civil liability impact, and budget documents.

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**Charter Elements:
New Law**

Also provide **names and relevant qualifications** of all persons whom the **petitioner nominates to serve on the governing body** of the charter school.

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**Section 4:
Approval/Denial Standards**

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**Standard for Approval:
Current Law**

- The chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an **integral part** of the California educational system and that the **establishment of charter schools should be encouraged**.
- The governing board of the school district **shall grant** a charter for the operation of a school under this part if it is satisfied that granting the charter is **consistent with sound educational practice**.
- A charter granted by a school district governing board, a county board of education, or the state board may be granted **one or more subsequent renewals** by that entity.
- Renewals of charters are governed by the **standards and criteria** in Section 47605.

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**Standard for Approval:
New Law**

- Identical Legislative intent.
- The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice **and with the interests of the community in which the school is proposing to locate**.
- The governing board of the school district **shall consider the academic needs** of the pupils the school proposes to serve.
- A chartering authority may grant one or more subsequent renewals pursuant to [middle tier and bottom tier].
- Renewals of charters are governed by the **standards and criteria** described in Section 47605.

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**Standard for Denial:
Current Law**

Authorizer **shall not deny** a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

- Unsound educational program
- Demonstrably unlikely to successfully implement
- Insufficient signatures (*new charters only*)
- Missing affirmations
- Not reasonably comprehensive
- No declaration of public school employer


+ Academic threshold criteria for renewal

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Standard for Denial: New Law



Adds reasons #7 and 8 to deny a new charter petition:

- Demonstrably unlikely to **serve the interests of the entire community**
 - Shall include consideration of the **fiscal impact** of the proposed charter school + shall analyze 2 factors:
 1. Extent to which charter school would **substantially undermine** existing services, academic offerings, or programmatic offerings
 2. Whether the charter school would **duplicate a program** currently offered within the District, and the existing program has sufficient capacity to serve proposed charter school students in reasonable geographic proximity
- District is **not positioned to absorb the fiscal impact** of the proposed charter school
 - District has qualified interim certification and County Superintendent, in consultation with FCMAT, that would move to negative interim certification
 - **OR** District has negative interim certification
 - **OR** District is under state receivership
 - Shall be subject to a rebuttable presumption of denial of charter


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Standard for Denial: New Law (Con't.)



Denial of renewal charters (academic criteria):

- Top tier: shall not deny.
- Middle tier: may deny with written findings that the charter school has failed to meet or make sufficient progress toward meeting standards that provide a benefit to the pupils of the school, that closure of the charter school is in the best interest of pupils and, if applicable, that its decision provided greater weight to performance on measurements of academic performance.


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Standard for Denial: New Law (Con't.)




Denial of renewal charters (academic criteria):

Bottom tier: shall not renew; may renew if written factual findings:

- The charter school is taking meaningful steps to address the underlying cause or causes of low performance, and those steps are reflected, or will be reflected, in a written plan adopted by the governing body of the charter school.
- There is clear and convincing evidence showing either of the following:
 - The school achieved measurable increases in academic achievement, as defined by at least one year's progress for each year in school.
 - Strong postsecondary outcomes, as defined by college enrollment, persistence, and completion rates equal to similar peers.

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**Standard for Denial:
New Law (Con't.)**

Denial of renewal charters (academic criteria):

DASS: alternative metrics; may deny with written findings that the closure of the charter school is in the best interest of pupils

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**Standard for Denial:
New Law (Con't.)**

Denial of renewal charters (additional finding):

As part of its determination of whether to grant a charter renewal based on the criterion established pursuant to [top tier, middle tier, or bottom tier], the chartering authority may make a finding that the charter school is **not serving all pupils who wish to attend** and, upon making such a finding, specifically identify the evidence supporting the finding.

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**Standard for Denial:
New Law (Con't.)**

Denial of renewal charters (new reason):


- At the conclusion of the year immediately preceding the final year of the charter school's term, the charter school authorizer **may** request, and the CDE shall provide, the following aggregate data reflecting pupil enrollment patterns at the charter school:
 - The cumulative enrollment for each school year of the charter school's term.
 - For each school year of the charter school's term, the percentage of pupils enrolled at any point between the beginning of the school year and census day who were not enrolled at the conclusion of that year, and the average results on the statewide assessments on the CAASPP, for any such pupils who were enrolled in the charter school the prior school year.
 - For each school year of the charter school's term, the percentage of pupils enrolled the prior school year who were not enrolled as of census day for the school year, except for pupils who completed the grade that is the highest grade served by the charter school, and the average results on CAASPP, for any such pupils.
- When determining whether to grant renewal, the chartering authority **shall** review this specific data from CDE, generalized data from CDE, and any substantiated complaints that the charter school has not complied with [suspension, expulsion, and involuntary removal procedures].

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**Standard for Denial:
New Law (Con't.)** 

Denial of renewal charters (with due process):

- Chartering authority may deny upon a finding:
 - Charter school is demonstrably unlikely to successfully implement the program set forth in the petition due to substantial fiscal or governance factors.
 - Charter school is not serving all pupils who wish to attend.


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**Standard for Denial:
New Law (Con't.)** 

Denial of renewal charters (with due process):

- Chartering authority may deny renewal only after it has provided at least 30 days' notice to the charter school of the alleged violation and provided the charter school with a reasonable opportunity to cure the violation, including a corrective action plan proposed by the charter school.
- Chartering authority may deny renewal only by making either of the following findings:
 - The corrective action proposed by the charter school has been unsuccessful.
 - The violations are sufficiently severe and pervasive as to render a corrective action plan unviable.


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**Standard for Denial:
New Law (Con't.)** 

Denial of renewal charters:


- Section 47605(c)(7) and (8) shall not be used to deny a renewal of an existing charter school, but may be used to deny a proposed expansion constituting a material revision.
- Renewals and material revisions of charters are governed by the standards and criteria described in Section 47605.

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**Section 5:
Material Revisions**




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**Material Revisions:
Current Law**



- After receiving approval of its petition, a charter school that proposes to establish operations at **one or more additional sites** shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations.
- Material revisions of charters are governed by the standards and criteria described in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.




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**Material Revisions:
New Law**



- After receiving approval of its petition, a charter school that proposes to expand operations to one or more additional sites or **grade levels** shall request a material revision to its charter and shall notify the chartering authority of those additional locations or grade levels.
- ... shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.




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**Material Revisions:
New Law (Con't.)**

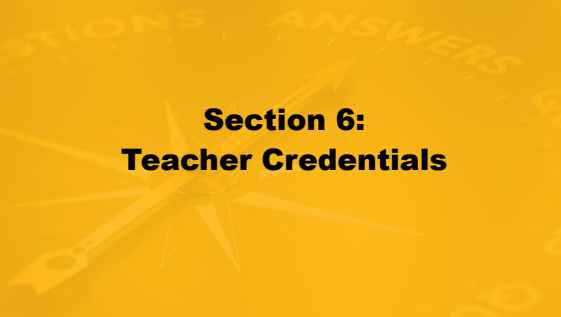


Section 47605(c)(7) and (8) shall not be used to deny a renewal of an existing charter school, but **may be used** to deny a proposed expansion constituting a material revision.

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**Section 6:
Teacher Credentials**



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**Teacher Credentials:
Current Law**



- Teachers must hold a CTC certificate, permit, or other document equivalent to that to which teachers in other public schools would be required to hold.
- Flexibility is given to teachers of noncore, noncollege prep courses.

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**Teacher Credentials:
New Law**

- Teachers must hold a CTC certificate, permit, or other document required for the teacher's certificated assignment.
- No flexibility for teachers of noncore, noncollege prep courses.
- Teachers employed at charter schools in the 2019-20 school year have until July 1, 2025 to obtain a certificate for the certificated assignment.

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**Teacher Credentials:
New Law (Con't.)**

- By July 1, 2020, all teachers in charter schools must obtain a certificate of clearance and satisfy the requirements for professional fitness.
- Direct-funded charter schools may use local assignment options authorized in law for the purpose of assigning teachers, in the same manner as a school district.
- Charter schools shall have the authority to request an emergency permit or waiver from the CTC, in the same manner as a school district.

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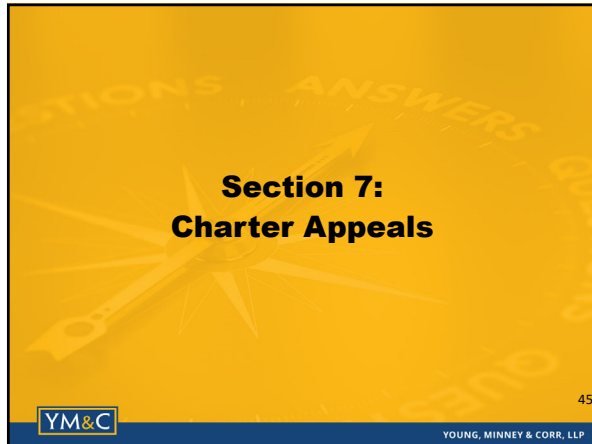
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**Teacher Credentials:
New Law (Con't.)**

- The COC is a document issued by the Commission to an individual who has completed the Commission's fingerprint character and identification process, whose moral and professional fitness has been shown to meet the standards as established by law.
- The COC is not related to obtaining a clear credential. The COC provides no authorization to provide instruction or services in schools; its sole purpose is to provide verification that the holder has completed a professional fitness review.
- Detailed information on the requirements for the COC can be found in Commission Leaflet CL-900.

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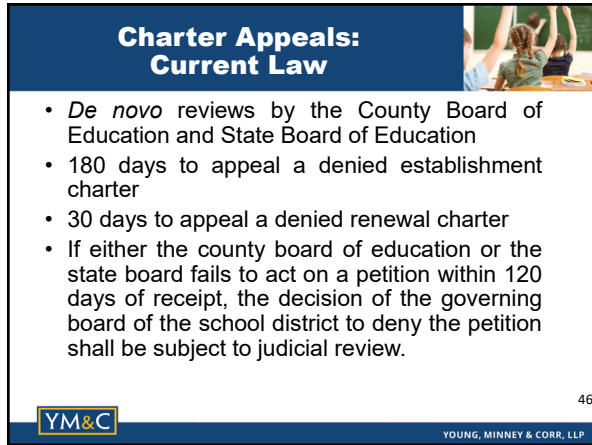


**Section 7:
Charter Appeals**

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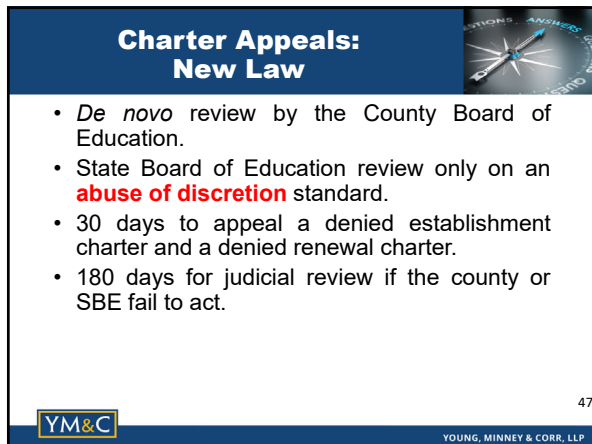
**Charter Appeals:
Current Law**

- *De novo* reviews by the County Board of Education and State Board of Education
- 180 days to appeal a denied establishment charter
- 30 days to appeal a denied renewal charter
- If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny the petition shall be subject to judicial review.

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**Charter Appeals:
New Law**

- *De novo* review by the County Board of Education.
- State Board of Education review only on an **abuse of discretion** standard.
- 30 days to appeal a denied establishment charter and a denied renewal charter.
- 180 days for judicial review if the county or SBE fail to act.

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**Charter Appeals:
New Law (Con't.)** 

Appeal to the County:

- At the same time the petition is submitted to the county board of education, the petitioner shall also provide a copy of the petition to the school district.
- The county board of education shall review the petition pursuant to Section 47605(b) and (c).
- If the denial of the petition was made pursuant to finding for denial #8, the county board of education shall also review the school district's findings.
- If in San Francisco, Modoc, Lassen, or Amador, SBE reviews with county standards.


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**Charter Appeals:
New Law (Con't.)** 

New or Different Material Terms:

- If the appeal contains new or different material terms, the county board of education shall immediately remand the petition to the district board for reconsideration, which shall grant or deny the petition within 30 days.
- "Material terms" of the petition means the **signatures, affirmations, disclosures, documents, and descriptions** described in Section 47605 (a), (b), (c), and (h), but shall not include minor administrative updates to the petition or related documents due to changes in circumstances based on the passage of time related to fiscal affairs, facilities arrangements, or state law, or to reflect the county board of education as the chartering authority.
- If the district board denies a petition after reconsideration, the petitioner may elect to resubmit the petition for the establishment of a charter school to the county board of education.


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**Charter Appeals:
New Law (Con't.)** 


Appeal to the State Board of Education:

- Must include findings and documentary record from the district **and** county.
- Written submission must detail specific citations to the documentary record regarding how the district, **or** county, **or** both abused their discretion.
- Board of district and county must prepare the documentary record, including transcripts, no later than 10 business days after request.
- Provide a copy of the appeal to the district and county.
- If new or different material terms, State Board shall immediately remand to **district** for reconsideration (30 days).

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**Charter Appeals:
New Law (Con't.)**



Appeal to the State Board of Education:

- District or county may submit written opposition within 30 days of appeal with specific citations to the documentary record explaining how the entity did not abuse its discretion.
- ACCS shall hold a public hearing to review appeal and documentary record; ACCS shall submit a recommendation to the SBE whether there is sufficient evidence to hear the appeal or to summarily deny.
- If no ACCS recommendation, the SBE shall either hear the appeal or summarily deny review based on the documentary record.
- SBE may reverse district and county action only upon determination that there was an abuse of discretion.
- If SBE reverses denial, it will designate, in consultation with petitioner, authorization to the district or county.


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**QUESTIONS AND
RESPONSES**

**THANKS FOR
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SUITE 910
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WALNUT CREEK OFFICE:
500 YGNACIO VALLEY ROAD
SUITE 190
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