



Avoiding the Break-up: Preparing for Renewal and Avoiding Revocation

Presented by:

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Objectives

- Gain an understanding of the legal standards (or lack thereof) for revocation and non-renewal
- Consider the practical application of lessons learned from the past
- Review of tips to avoid revocation and non-renewal
- Quick review of submitting the renewal petition



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Revocation

Education Code Section 47607

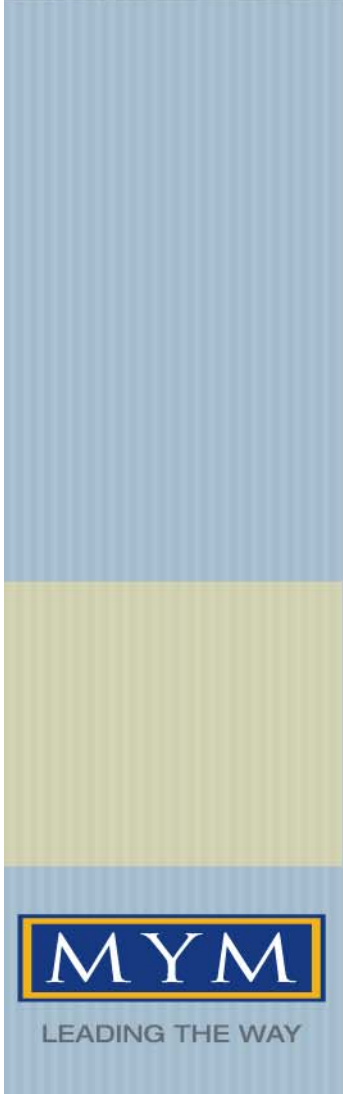
- Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
- Failed to meet or pursue any of the pupil outcomes identified in the charter
- Failed to meet Generally Accepted Accounting Principals, or engaged in fiscal mismanagement
- Violated any provision of law



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State Board of Education Revocation

- Education Code Section 47604.5



Notice and Opportunity to Cure

- Prior to revocation, the district must:
 - Make a finding, with substantial evidence; and
 - Notify the Charter School of any violation and give the school a reasonable opportunity to cure the violation (sometimes referred to as a Notice to Remedy)
- Unless the District Board determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of pupils.



Written Notice of Intent to Revoke and Facts in Support of Revocation

- After expiration of time to cure without successful remedy-Board meets again to issue Notice of Intent to Revoke (should make findings of fact of failure to cure)(nothing should be added)
- No later than 30 days after notice of intent there will be a Public Hearing on whether evidence exists to revoke



Final Decision

- No later than 30 days after public hearing unless chartering authority and charter school agree to extend by 30 days
- Authorizer must adopt written factual findings supported by substantial evidence, specific to the charter school, that supports its findings



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Appeal of Revocation?

- Yes, within 30 days to County Board of Education
- County Board may reverse if not supported by substantial evidence



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Appeal of Revocation?

(cont'd)

- If County Board does not act within 90 days of receipt or upholds revocation, the charter school may appeal the revocation to the State Board of Education
- State Board may reverse if it determines the findings are not supported by substantial evidence
- If the appeal is granted by County or State Board, oversight is maintained by the original authorizer



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During Appeal

- Continue to operate and receive funding if revoked for violation of charter or failure to meet or pursue any pupil outcomes
- Charter school denied funding, facilities, grants etc. if revoked for fiscal mismanagement or violations of law



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Top 15 Reasons for Revocation/Non-Renewal

1. School size not economically viable
2. Audit apportionment findings
3. Sponsor district hostility, local politics
4. Lack of communications, failure to report in timely fashion
5. Lack of economies of scale
6. Failed executive director/principal leadership
7. Unable to locate suitable site/facilities
8. Lack of financial management expertise by school administration



Top 15 Reasons for Revocation/Non-Renewal (cont.)

9. Lack of financial reporting expertise by both district and charter school
10. Alleged violations of law (e.g., Brown Act, conflict laws)
11. Academic performance
12. Incompetent and not helpful business services provider
13. Flawed business plan
14. Difficulty in providing/receiving appropriate special education services
15. Funding held up by District/County



Legal Authority for Renewal

- Ed Code § 47607
 - May grant one or more renewals
 - Renewals governed by “Standards and Criteria” of Section 47605
 - Each renewal must be five years
 - Renewals shall include a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.



AB 1137 – Ed. Code 47607

To be renewed, once a charter school has been in operation for four years, a charter school shall meet at least one of the following criteria prior to receiving renewal:

- **(1)** Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
- **(2)** Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.
- **(3)** Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.



AB 1137 (cont.)

- (4) (A)** The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.
- (B)** The determination made pursuant to this paragraph shall be based upon all of the following:
- (i)** Documented and clear and convincing data.
 - (ii)** Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.
 - (iii)** Information submitted by the charter school.
-- must submit to SPI for recommendation and wait 30 days.
- (5)** Has qualified as an ASAM School.

Timing

START EARLY!!

Submitting To:	Public Hearing	Action	Possible Extension
District	30 days from submission	60 days from submission	30 days
County	30 days from submission	60 days from submission	30 days
State Board of Education	60 days from submission	90 days from submission	30 days



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Important Note

- * The Charter Submitted at the District Level Will be the Same Charter Submitted on Appeal to the County Board and State Board (no substantive changes)



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Non-Renewal

- Renewals are Judged by the same standards and criteria as the original charter
- Can't deny a renewal request unless the Board makes written factual findings specific to the petition:
 - Charter School presents an unsound educational program
 - Petitioners are demonstrably unlikely to successfully implement the program
 - Signatures (not usually required)
 - Affirmations (see attached)
 - Petition does not contain a reasonably comprehensive description of the 16 elements



Elements of a Charter

The petition must contain reasonable comprehensive descriptions of the following 16 elements:

1. Educational Program
2. Measurable Pupil Outcomes
3. Outcome Measurement
4. Governance Structure
5. Employee Qualifications
6. Health and Safety
7. Racial and Ethnic Balance
8. Admission Requirements
9. Independent Financial Audits
10. Student Suspension/Expulsion
11. Employee Retirement Systems
12. Student Attendance Alternatives
13. Return Rights of District Employees
14. Dispute Resolution
15. Collective Bargaining (EERA)
16. Procedures for Closure



Appeal Rights for Non-Renewal?

- Non-renewal may be “appealed” in the same manner as a charter denial in the first instance
 - To the County Board of Education and then to the State Board of Education



Top Ten Ways to Avoid Revocation/Non-Renewal

- Communication!
- Build Your Relationship
- Align Practices to Charter and MOU
- Seek Charter Amendments to Reflect New Practices
- Focus on Legal Compliance
- Document Outcome Accomplishment
- Respond to Notices to Cure and Document Compliance
- Know Your Data
- Focus on Smart Budget Management
- Treat All Correspondence Like a Public Record (“If You Can’t Show it to Your Mom, it Shouldn’t Go Out”)
- Stay Current on New Laws
- Seek a Win/Win
- Don’t Personalize the Issues
- Never Rely on Your Attorneys to do Math



Renewal Strategies

- Make your best play
- Quarterbacking Tips
- Read your playbook
- Don't forget your equipment



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Make Your Best Play

(Drafting Tips for a Strong Renewal Charter)

- Try to meet with the District ahead of time to define the process
- Define and tell your own story: this is what we said we would do, this is what we did, this is what we've learned, and goals for the next 5 years
- Show multiple pieces of evidence of success, such as standardized tests, authentic assessments, parent engagement, parent surveys, teacher retention, student attendance, graduations rates, growth rates, waiting lists
- Check the charter for anything you said that you would do and confirm that it has been done (examples policy development, parent surveys, performance audits). If not, get it done prior to submission
- Revise the charter to reflect major changes in practice (unless the granting agency dictates otherwise)



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Make Your Best Play

(Drafting Tips for a Strong Renewal Charter Contd.)

- Review pupil outcomes to determine whether they need to be adjusted
- Consider whether any MOU's (or other agreements) also come up for renewal
- Attention to detail (consistency is key)
- Help the reader (use headers – often)
- Support conclusions with empirical evidence
- Avoid the patchwork quilt effect (don't rely on other charters without fully incorporating)
- Appearance matters (color graphics, presentation, font, consistency)
- Don't put off till tomorrow what you can do today (policy development)
- Keep the reader interested



Make Your Best Play

(Drafting Tips for a Strong Renewal Charter Contd.)

- Build the reader's confidence (consistently show them that you know what you are talking about)
- Don't lose control of the document (version control, page numbers)
- Include legal citations to show reader the section of law to which you are responding
- Include table of contents to allow reader to find legally required elements
- Don't make promises you can't keep
- Don't obligate third parties or the granting agency without actual agreement
- Draft with an eye toward appeal



Quarter Backing Tips

(How to Aggressively Manage the Renewal Process)

- Meet with granting agency ahead of time
- Invite the granting agency to school events, or a special event to highlight schools success in preparation for renewal
- Understand charter law
- Be prepared to offer contingent operation (approval with contingencies) – less common with renewals, but often necessary if situation is not positive
- Lobby your board members
- Demonstrate strong public support (crowd the board room) – feed your parents to get them there.
- Create a strong visual effect (T-shirts, ribbons)
- Script and control communications with granting agency administration and board
- Involve stakeholders early



Quarter Backing Tips

(How to Aggressively Manage the Renewal Process Contd.)

- Identify the strengths of your school
- Identify the weaknesses of your school and fill weaknesses with solutions, experts (curriculum, legal, fiscal), etc.
- Maintain courteous, non-adversarial relations with granting agency
- Engage In strategic planning in the early stages of renewal so that your mission and vision is fresh and at the forefront of your School
- Act as a unit – assign a strong leader to lead the renewal discussions
- Represent the community of your district during public meetings
- Be sensitive and understand your impact upon the district
- Don't assume the granting agency knows the law OR your charter (use every moment to educate)
- Don't get lulled into a false sense of security – seek to confirm in writing



Read Your Play Book

(Required Reading List)

- State Board model application
- Title 5 California Code of Regulations 11967.5.1
(Charters on Appeal to the State Board of Education)
- Charter Schools Act
- Granting agency assessments of other charters on renewal
- Granting agency charter school policy; county charter school policy
- CDE website (Q&A)
- Other reliable websites (MYMCHARTERLAW.COM ☺, CCSA)
- CDE or county assessments of charters on appeal



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Don't Forget Your Equipment

(List of Supplemental Information to Consider for Attachment to Renewal Charter)

- Curriculum samples
- Instructional materials list
- Additional details regarding English learners, GATE, section 504, special education
- Day in the life summary (describe typical day for a student) – include pictures
- Content and performance standards (to extent different than State)
- Resumes or brief bios of administrative team (or renewal committee) and/or consultants
- Letters of support
- Bylaws/Articles of Incorporation/Conflicts Code
- Description of the facilities
- Lease
- Current MOU (include special education agreement)
- Facilities Use Agreement
- First year (of renewal) operational budget
- Cash flow and financial projections for the next 3 years



Don't Forget Your Equipment

(Recommended List of Supplemental Information to Consider for Attachment to Renewal Charter Cont.)

- Health and Safety Policies
- Emergency Plan
- Suspension and Expulsion Policy
- Parent, Student, Staff Handbooks
- Job Descriptions
- Employment Contracts
- Other School Adopted Policies (i.e. Enrollment)
- Supporting Research
- Organizational Chart
- Affirmations/Assurances
- Data to Support Academic Success
- Marketing Material (website)
- Outreach Plan (timeline, specific locations)
- Enrollment/Registration Forms
- Proof of Insurance
- Parent/Teacher Contract (if applicable)



**QUESTIONS
&
ANSWERS**

