

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 1477 (Ashby) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: School accountability: independent study, educational enrichment activities, oversight, and audit requirements

SUMMARY: Requires the governing board of a charter school to review, at a public meeting, the annual audit of the charter school for the prior fiscal year; requires auditors of nonclassroom-based (NCB) charter schools to perform specified activities; and requires all local educational agencies (LEAs) to only enter into an agreement for educational enrichment activities with a vendor that is vetted and approved pursuant to specified criteria. Specifically, **this bill:**

- 1) Requires, beginning on January 31, 2025, the governing body of a charter school to annually review, at a public meeting as an item on the agenda, the annual audit of the charter school for the prior fiscal year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or management letter issues.
- 2) Requires an auditor of a NCB charter school, when performing an independent financial audit, to do the following:
 - a) Ensure that all documents necessary for the audit are independently selected by the auditor;
 - b) Contact a random sample, to be selected by the auditor, of parents or guardians of pupils enrolled in the charter school to verify their enrollment;
 - c) As part of the random sample of documents selected and reviewed, sample credit card statements, debit card statements, other electronic payment methods and media, and bank statements of the charter school are subject to an enhanced materiality standard, as specified;
 - d) Identify in the audit report any transfers of funds or assets to other individuals or organizations that exceed one million dollars or 10% of the charter school's budget, with a written explanation from the school regarding the purpose of the expenditures;
 - e) Identify any other transactions out of compliance with the audit guide;
 - f) Review compliance by the charter school with any policy adopted regarding educational enrichment activities; and
 - g) Include a letter with the audit report discussing any concerns or findings, along with a response by the school, if the school elects.

- 3) Defines a “nonclassroom-based charter school” as a charter school that offers NCB instruction for more than 20% of the instructional time offered.
- 4) Requires all LEAs to only enter into an agreement for the provision or arrangement of nonsectarian educational enrichment activities with a vendor that is vetted and approved pursuant to prescribed criteria, beginning July 1, 2025.
- 5) Requires the governing board of any LEA, in approving any contract for vendor services for educational enrichment activities, to establish specified policies and procedures to ensure educational value, evidence of instructor qualification, pupil safety, and fiscal reasonableness, and requires the LEA to certify that vendor services for educational enrichment activities meet designated criteria.

EXISTING LAW:

- 1) Establishes the Charter Schools Act of 1992, which authorizes a school district governing board or county board of education to approve or deny a petition for a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning, increased learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving, holding charter schools accountable for meeting measurable pupil outcomes, and providing the schools with a method to change from rule-based to performance-based accountability systems. (Education Code (EC) 47605)
- 2) Establishes a process for the submission of a petition for the establishment of a charter school. Authorizes a petition identifying a single charter school to operate within the geographical boundaries of the school district to be submitted to the school district. Authorizes, if the governing board of a school district denies a petition for the establishment of a charter school, the petitioner to elect to submit the petition to the county board of education. Authorizes, if the county board of education denies the charter, the petitioner to submit the petition to the State Board of Education (SBE) only if the petitioner demonstrates that the school district governing board or county board of education abused its discretion in denying the charter school. Authorizes a school that serves a countywide purpose to submit the charter petition directly to the county office of education (COE).
- 3) Requires, upon renewal, a charter school to be identified as either low performing, middle performing or high performing based on CA School Dashboard accountability data. Requires that low performing charter schools be denied, however, the school may be renewed for a two year period if the authorizer is presented with verified data that meets specified criteria and the authorizer finds it compelling. Authorizes middle performing charter schools to be renewed for 5 years. Authorizes high performing charter schools to be renewed for 5-7 years.
- 4) Prohibits the authorization and establishment of new NCB charter schools between January 1, 2020, and January 1, 2026.
- 5) Prohibits a charter school from receiving any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. Prohibits a charter from being granted that authorizes the conversion of any private school to a charter school. (EC 47602)

- 6) Prohibits, notwithstanding any other law, a LEA, including, but not limited to, a charter school, from claiming state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the LEA has provided any funds or other thing of value to the pupil or his or her parent or guardian that the LEA does not provide to pupils who attend regular classes or to their parents or guardians. (EC 51747.3)
- 7) Authorizes a charter school to receive funding for NCB instruction only if a determination for funding is made by the SBE. Requires the determination for funding to be subject to any conditions or limitations the SBE may prescribe. Requires the SBE to adopt regulations that define and establish general rules governing NCB instruction that apply to all charter schools and to the process for determining funding of NCB instruction by charter schools offering NCB instruction. Defines NCB instruction to include, but not be limited to, independent study, home study, work study, and distance and computer-based education. (EC 47612.5)
- 8) Requires the SBE to adopt regulations setting forth criteria for the determination of funding for NCB instruction, at a minimum the regulation to specify that the NCB instruction is conducted for the instructional benefit of the pupil and is substantially dedicated to that function. Requires the SBE to consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, and the teacher-to-pupil ratio in the school. Requires, for the 2003–04 fiscal year and each fiscal year thereafter, the amount of funding determined by the SBE to not be more than 70% of the unadjusted amount to which a charter school would otherwise be entitled unless the SBE determines that a greater or lesser amount is appropriate. (EC 47634.2)
- 9) Requires a charter school to transmit a copy of its annual independent financial audit report for the preceding fiscal year to its chartering entity, the State Controller's Office (SCO), the county superintendent of schools of the county in which the charter school is sited, (unless the county board of education of the county in which the charter school is sited is the chartering entity) and the CDE, by December 15 of each year. (EC 47605)
- 10) Requires a charter school that operates a multitrack year round calendar to comply with all of the following:
 - a) Calculate attendance separately for each track. The divisor in the calculation must be the calendar days in which school was taught for pupils in each track;
 - b) Operate no more than five tracks;
 - c) Operate each track for a minimum of 175 days. If the charter school is a conversion school, the charter school may continue its previous schedule as long as it provides no fewer than 163 days of instruction in each track;
 - d) For each track, provide the total number of instructional minutes, as specified in Section 47612.5; and
 - e) No track may have less than 55% of its schooldays before April 15. (EC 47612)
- 11) Authorizes a school district to operate a program of multitrack year-round scheduling at one or more schools within the district. Authorizes a program of multitrack year-round

scheduling to operate at a schoolsite for as few as 163 days in each fiscal year if the governing board of the school district adopts a resolution at a regularly scheduled board meeting certifying that both of the following criteria are met at the schoolsite:

- a) The number of annual instructional minutes is not less than that of schools of the same grade levels utilizing the traditional school calendar; and
 - b) It is not possible for the school to maintain a multitrack schedule containing the same number of instructional days as are provided in schools of the district utilizing the traditional school calendar, given the facilities, program, class sizes, and projected number of pupils enrolled at the schoolsite. (EC 37670)
- 12) Requires financial and compliance audits to be performed in accordance with General Accounting Office standards for financial and compliance audits. Requires that the audit guide prepared by the SCO be used in the performance of these audits until an audit guide is adopted by the Education Audits Appeal Panel. When an audit guide is adopted by that panel, the adopted audit guide be used in the performance of these audits, and every audit report specifically and separately address each of the state program compliance requirements included in the audit guide, stating whether or not the district is in compliance with those requirements. (EC 14503)
- 13) Authorizes the independent study (IS) program for school districts, COEs, and charter schools. Requires LEAs that offer IS to adopt written policies that include the length of time that may elapse between the time an independent study assignment is made and the date the pupil must complete the assigned work, missed work assignments, and there be a written agreement between the pupil and the IS program. Requires that the written agreement include processes for submitting pupil work, objectives and methods of study for the pupil's work, resources that will be made available to the pupil, duration of the agreement, and number of credits to be earned upon completion. A pupil with an Individualized Education Program (IEP) is not authorized to participate in an IS program unless their IEP specifically provides for that participation. Requires that the IS of each pupil be coordinated, and evaluated under the general supervision of an employee of the LEA who possesses a valid certification document or an emergency credential. Establishes certificated employee-to-pupil ratios as specified. (EC 51745–51749.3)
- 14) Requires each chartering authority to do all of the following with respect to each charter school under its authority:
- a) Identify at least one staff member as a contact person for the charter school;
 - b) Visit each charter school at least annually;
 - c) Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the local control and accountability plan (LCAP) and annual update to the LCAP required, pursuant to Section 47606.5;
 - d) Monitor the fiscal condition of each charter school under its authority; and
 - e) Provide timely notification to the CDE if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:

- i) A renewal of the charter is granted or denied;
- ii) The charter is revoked; or
- iii) The charter school will cease operation for any reason. (EC 47604.32)

15) Authorizes a chartering authority to charge for the actual costs of supervisory oversight of a charter school, not to exceed 1% of the revenue of the charter school. Authorizes a chartering authority to charge for the actual costs of supervisory oversight of a charter school, not to exceed 3% of the revenue of the charter school, if the charter school is able to obtain substantially rent free facilities from the chartering authority. Authorizes an LEA that is given the responsibility for supervisory oversight of a charter school by the SBE to charge for the actual costs of supervisory oversight and administrative costs necessary to secure charter school funding. (EC 47613)

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would likely result in increased local costs for NCB charter schools to comply with the expanded audit requirements. This increase could be in the thousands of dollars for each audit and would be charged by auditors as part of the charter's annual audit. Any administrative costs to the California Department of Education (CDE) are expected to be minor and absorbable within existing resources.

COMMENTS:

Need for the bill. According to the author, "A recent joint report by the Legislative Analyst's Office (LAO) and the Fiscal Crisis Management Assistance Team (FCMAT) identified concerns with the independent audits and other issues relating to charter school oversight. Many of these concerns center on the actions of bad actors. SB 1477 would implement a number of recommendations by strengthening auditing, contracting, and enrollment policies for charter schools to prevent fraud, improve charter school governance and transparency, and hold bad actors accountable."

Concerns with this bill. There are several concerns with the requirements established by this bill, and many concerns with the lack of alignment between this bill and the recommendations made by the LAO and FCMAT in their 2024 report on NCB charters.

- This bill requires all vendors providing educational enrichment activities to provide evidence of their qualification for the instruction they are providing. Under existing law, all teachers providing instruction to public school students in California are required to hold a credential from the Commission on Teacher Credentialing (CTC). The bill does not specify what kind of evidence is necessary to demonstrate their qualifications, or whether that includes a teaching credential. This bill sets up a lower secondary standard for people providing instruction to pupils deemed educational enrichment activities. ***The Committee may wish to consider*** whether it's appropriate to establish a lower standard for teacher qualifications in these programs.
- This bill establishes procedures for educational enrichment vendors. Many concerns have been raised about NCB charters giving parents up to \$3,000 to spend on vendors for Disneyland tickets, horseback riding lessons, tie-dying, religious theater camps, etc. This bill prohibits religious vendors but does not prohibit any of the other types of vendors. ***The***

Committee may wish to consider whether establishing a process to validate these vendors, also legitimizes the practice as a whole.

- This bill establishes a fingerprinting requirement for vendor personnel who provide educational enrichment activities that is similar, but not identical to, the existing fingerprint requirement in Section 45125.1. Because the fingerprinting requirement in this bill is not identical or as detailed as that in existing law, it could cause confusion in the field. *The Committee may wish to consider* whether this language would adequately protect students.
- This bill requires all educational enrichment activities to be approved and verified by the pupil's assigned teacher as relevant to specific educational assignments and educationally appropriate. Existing law requires teachers in *independent study programs* at districts, COEs, and charters to assign all coursework and grade all coursework. This bill makes this a requirement on teachers in classroom-based instruction as well as independent study. It appears that only NCB charter schools provide parents with money to spend on educational enrichment activities, therefore requiring this of all classroom-based instruction programs is confusing. *The Committee may wish to consider* whether such a requirement should only apply to independent study programs, and more specifically, NCB charter schools.
- This bill creates a new definition of NCB charters to include schools that provide more than 20% of their instruction through NCB instruction. Existing law specifies that NCB instruction occurs when less than 80% of instruction is in person. While these definitions are similar, it is unclear why it is necessary to create a new definition that is different from existing law. *The Committee may wish to consider* what unintended consequences this change could have and whether this may be confusing to the field.

LAO and FCMAT Report. The 2024 report from the LAO and FCMAT, as required by the Budget Act, makes the following recommendations regarding NCB charter schools:

- *Increase Minimum Requirements for Authorizers.* We recommend the Legislature require authorizers to conduct certain activities to review and monitor their charter schools. For example, the Legislature could require authorizers to conduct regular reviews throughout the school year of expenditures, enrollment, and attendance data. It could also require that the authorizer investigate and notify its COE of any significant changes in enrollment or attendance, or discrepancies between enrollment and attendance. We also recommend authorizers be required to attend regular trainings on these topics. Authorizers could confirm their compliance using regular reports they file as part of the typical budget adoption and interim reporting. If authorizers do not comply with the requirements, the state could require that authorization be shifted to the COE (or, if the COE is the current authorizer, a neighboring COE).

This bill does not increase the oversight requirements for charter school authorizers consistent with this recommendation.

- *Set Limits on District Authorizers Based on District Size and Grade.* We recommend setting a cap on the nonclassroom-based charter school attendance that a school district can authorize by using the ratio of total nonclassroom-based charter school attendance to the authorizing district's attendance. For example, the Legislature could specify that the

total nonclassroom-based charter school attendance of a district authorizer cannot exceed the school district's attendance. (The Legislature could choose to set a different threshold. The Legislature may also need to make exceptions for rural counties that have few if any, large school districts.) In cases where a school district exceeds its cap, authorization and oversight could be transferred to the COE or a neighboring COE.

This bill does not limit small school districts from authorizing NCB charter schools consistent with this recommendation.

- *Allow Higher Spending for Authorizing.* We recommend allowing authorizers to charge actual costs up to 3 percent for authorizing and oversight activities, as long as they are meeting new requirements. Failure to adequately oversee a charter school, however, should result in the authorizer remitting the oversight fee collected to the COE or state.

This bill does not propose to increase the percentage charged for charter school oversight and authorization consistent with this recommendation.

- *Consider Alternative Authorizing Structure for Virtual Schools.* Given recent issues that have arisen with virtual charter schools, the Legislature could consider establishing a specific authorizing structure for these programs. For example, the Legislature could establish a separate authorizing agency for all virtual charter schools. Assigning oversight responsibilities to one agency would improve the expertise and quality of oversight provided to virtual charter schools and virtual charter school networks. This approach, however, is at odds with recent state changes to eliminate statewide benefit charter schools. Another option would be to continue to have school districts authorize these schools, but require that they conduct their oversight with a newly established agency that has expertise related to virtual programs.

This bill does not propose an alternative authorizing structure for virtual charter schools consistent with this recommendation.

- *Enhance the Audit Process for Charter Schools.* We recommend the Legislature make several changes to improve the audit process for charter schools. These changes would reduce the likelihood that issues of fraud or misappropriation of funds would occur and would bring issues to the attention of other agencies more quickly.
- *Ensure Conformity of Audit Process to That of School Districts.* Explicitly require all charter schools to be subject to the same audit process as school districts. This should include the timing of auditor selection, disclosure of an auditor's termination or replacement, the granting of extensions for charter school audits, and other matters of parity to school districts.

This bill does not propose ensuring conformity between charter school and school district audit processes consistent with this recommendation.

- *Ensure the Audit Guide Addresses Compliance Sampling.* Direct that the audit guide be specific as to sampling techniques and that the selection of samples be performed personally by the auditor.

This bill implements this recommendation.

- *Develop Materiality Levels for Charter Schools.* Explicitly require that the audit guide include average daily attendance (ADA) materiality levels for compliance testing at charter schools.

This bill does not propose materiality levels for charter schools in the audit guide consistent with this recommendation.

- *Require Supplemental Schedules of Enrollment and ADA by Track.* Direct that the audit guide require supplemental information and schedules be included in an audit of a charter school, such as a schedule of student enrollment and attendance that includes student enrollment and attendance by month and track (if applicable). This should include reconciliation of enrollment/attendance changes from the beginning of the year to the end of the year, including details on additions, subtractions, and transfers. In addition, this information should be separated by category of attendance (classroom-based, nonclassroom-based, summer schedule, enrichment, and others).

This bill does not propose supplemental schedules of enrollment and ADA in the audit guide consistent with this recommendation.

- *Require Disclosure of Changes Related to Enrollment and ADA.* Direct that the audit guide require auditors to specifically disclose in the audit of a charter school, and separately to CDE, any instance where either or both enrollment and attendance increase or decrease by more than 5 percent during any month as compared to the prior month.

This bill does not propose disclosure of changes related to enrollment and ADA in the audit guide consistent with this recommendation.

- *Improve the Quality of Audits Through Specific Auditor Training.* To improve auditors' knowledge of issues related to K-12 education, we recommend the Legislature require certified public accountants or public accountants licensed in California to complete additional training to remain on the State Controller's directory of qualified auditors. The Legislature could consider requiring an additional 24 hours of training every two years in topics specific to financial reporting and compliance testing related to schools, charter schools, and nonclassroom-based charter schools.

This bill does not propose training for K-12 school auditors consistent with this recommendation.

- *Require Charter School Audits to Publicly Disclose Similar Information Collected on Funding Determination Form.* Including this information in the audit would provide

greater awareness to authorizers and the public. Specifically, we recommend requiring charter school audits to include the following supplemental information:

- A schedule of payments or transfers of (1) the largest 25 payments or transfers of assets to organizations, determined by value accumulated over the fiscal year, including to individuals, corporations, partnerships, nonprofit organizations, and other organizations, but excluding governmental entities; and (2) all payments and transfers of assets of \$50,000 or more to organizations, determined by value accumulated over the fiscal year, including to individuals, corporations, partnerships, nonprofit organizations, and other organizations, but excluding governmental entities.
- For nonclassroom-based charter schools, include a schedule denoting the computation of the 40 percent threshold for certificated staff, 80 percent threshold for instruction and related services, and student-to-teacher ratio as required in the funding determination. (These components would need to be modified if the Legislature enacted changes to the funding determination process.)
- Composition of the charter school's governing board.

This bill implements a requirement for NCB charter school auditors to look at payment transfers greater than \$1 million, or 10% of the charter school budget.

This bill does not propose requiring charter schools to disclose the largest 25 payments or transfers and all payments or transfers over \$50,000 or the school's funding determination calculations consistent with this recommendation.

- *Require Disclosure of Related Organizations.* We recommend the audit guide include a procedure to determine if the charter school has a relationship with a related entity, such as an entity managing a charter school or a similar third party with financial, economic, or controlling membership interests. If such a relationship exists, the auditor should evaluate the level of the relationship to determine if it is material. For material relationships, the audit guide should ensure compliance of the related party disclosure rules of the Financial Accounting Standards Board Accounting Standards Codification and other generally accepted accounting principles. The audit guide should also ensure the charter school complies with constraints regarding when financial statement consolidation is required, permitted, and prohibited.”

This bill does not propose disclosure of related organizations consistent with this recommendation.

Background on charter schools. According to the CDE, as of May 2024, there are 1,283 charter schools in California, with an enrollment of over 700,000 pupils. Some charter schools are new, while others are conversions from existing public schools. Charter schools are part of the state's public education system and are funded by public dollars. A charter school is usually created or organized by a group of teachers, parents, community leaders, a community-based organization, or an education management organization. Charter schools are authorized by school district boards and county boards of education. A charter school is generally exempt from most laws

governing school districts, except where specifically noted in the law. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the authorizing board and charter organizers.

What is nonclassroom-based instruction? NCB instruction includes computer-based instruction using software modules, teacher-directed independent study, and traditional home school parents who enroll their children in independent study charter school programs.

A NCB charter school is defined as a school that provides less than 80% of its total ADA in a classroom setting. As of April 2021, there were 304 charter schools considered to be NCB. Of that number, 105 charter schools self-identified as providing exclusively virtual or primarily virtual instruction.

Existing law defines charter school NCB instruction as instruction that does **not** meet the requirements of classroom-based instruction. Those requirements are:

- Charter school pupils are engaged in required educational activities and are under the immediate supervision and control of a certificated teacher;
- At least 80% of the instructional time offered by the charter school is at the schoolsite (defined as a facility that is used primarily for classroom instruction); and
- Pupil attendance at the schoolsite is required for at least 80% of the minimum instructional time.

Pupil academic achievement at NCB charter schools and virtual schools is alarming. Research indicates that students at NCB charters and virtual schools achieve lower rates of academic achievement compared to students at classroom-based schools. One report notes, “By any measure, online charter schools perform significantly worse than traditional public schools, and this negative impact carries across every demographic of pupils. So while online schools are indeed needed for pupils whose requirements cannot be met by brick-and-mortar schools, it’s clear that the quality of education offered by online charter schools is significantly below the state average. As public policy, legislators should be looking to limit the number of students in online charter schools and should resist calls to expand this sector.” (Lafer, 2021)

A 2015 national analysis of NCB charter schools found, “The differences were much larger between classroom-based and nonclassroom-based charter schools, with the nonclassroom-based charter schools having lower achievement. This result is consistent with a study of Ohio charter schools that found virtual schools performing poorly relative to traditional public schools (TPSs) and other charter schools (Zimmer, et al., 2009). It is consistent with findings for Pennsylvania, which has among the highest proportion of online charter pupils. The CREDO (2011) report on Pennsylvania charter schools found that all eight cyber schools then operating performed significantly and substantially worse on both mathematics and reading than TPSs.” (Epple, et al., 2015)

The following chart shows the California statewide average student achievement at traditional classroom-based schools versus the average pupil performance at online charter schools. This data excludes all schools that mainly serve pupils who are credit deficient (known as DASS alternative schools) however, when DASS schools are included, the difference in pupil

performance between classroom-based schools and online charter schools is even more significant.

Academic Performance, Online Charter Schools, and Statewide Average, Except Alternative Schools

	California statewide average (excluding DASS alternative schools)	Online charter schools (excluding DASS alternative schools)
Distance from Standard, English Language Arts/Literacy	-2	-17.3
<i>ELA Percentile Rank</i>		43.5%
Distance from Standard, Math	-30.4	-78.4
<i>Math Percentile Rank</i>		20.9%
Career & College Readiness	45.5	18.2
<i>Career/College Percentile Rank</i>		37.7%
Graduation Rate	88.5	73.1
<i>Graduation Rate Percentile Rank</i>		23.2%

(Source: In the Public Interest (Lafer, 2021))

Numerous studies indicate online instruction is not as effective as regular classroom instruction:

- A 2011 study of charter school performance in Pennsylvania by the Center for Research on Education Outcomes (CREDO) at Stanford University found that each of that state's 8 online charter schools ("cyber schools") significantly underperformed brick and mortar schools and regular (non-virtual) charter schools in reading and math.
- A CREDO study in 2015 concluded that the learning deficit of virtual schools is equivalent to receiving 180 fewer days of math instruction and 72 fewer days of reading instruction. The study's author said that the learning in math was so small that it was "literally as though the student did not go to school for the entire year."
- A year review of virtual schools in Wisconsin by the Gannett Wisconsin Media Investigative Team found that pupils receiving online instruction "often struggle to complete their degrees and repeat grades four times as often as their brick-and-mortar counterparts," and they "trail traditional students in every subject but reading."
- A 2011 report from the Office of the Legislative Auditor in Minnesota reported that full-time online pupils were more likely to completely drop out of school and made less progress on state standardized math tests than pupils in traditional schools.
- A 2011 report from the Ohio Department of Education rated only three of Ohio's 27 virtual schools as "effective" or "excellent."
- A 2006 performance audit by the Colorado Department of Education of that state's virtual schools found that "in the aggregate, online students performed poorly on the CSAP

(Colorado State Assessment Program) exams and had higher repeater, attrition, and dropout rates."

A report by In the Public Interest (*Virtual Public Education in California*, 2015) focused specifically on California Virtual Academy (CAVA) schools, and concluded that "students at CAVA are at risk of low quality educational outcomes, and some are falling through the cracks entirely, in a poorly resourced and troubled educational environment." Among the concerns identified by the report are the following:

- In every year since it began graduating pupils, except in 2013, CAVA has had more dropouts than graduates.
- Pupils are eligible to be counted as having attended with as little as one minute of log-in time each day.
- K12 California (the California subsidiary of K-12, Inc.) pays itself for services out of the CAVA school bank accounts that it (K12 California) manages.
- Competitive bidding is prohibited: K12 California contractually prohibits CAVA schools from seeking another vendor for services that K12 California is willing and able to perform.
- CAVA teachers report that the "vast majority" of the work they do is clerical, preventing them from spending sufficient time teaching.
- Limited local control: individual CAVA location governing boards operate under contract to K12 California and do not "have much leeway in terms of budget, program and contracting decisions independent from K12 California."
- K12, Inc. charges CAVA schools more than they can reasonably pay for administrative and technology services. The shortfall is covered by "budget credits" that are extended by K12, Inc., which results in a "perpetual debt" relationship between CAVA schools and K12, Inc.
- CAVA pupils have lower academic achievement, higher dropout rates, and higher turnover than pupils enrolled in brick-and-mortar schools.

Virtual schools have consistently been shown to underperform brick-and-mortar schools by wide margins. At the same time, California has invested heavily in policies to improve pupil outcomes, including the adoption of rigorous academic content standards, assessments aligned to those standards, and the use of the California School Dashboard to monitor school and district performance and identify districts for targeted assistance.

A3 Charter Schools fraud case reveals significant weaknesses in NCB charter school law. In *People v. McManus*, the San Diego County District Attorney's Office indicted 11 defendants in a fraud scheme involving nineteen charter schools (A3 Charter Schools). The case revealed many weaknesses in state public charter school law in the areas of pupil data tracking, auditing, school

finance, and oversight, which resulted in A3 schools repaying more than \$210 million, 13 houses, and numerous shares in third-party companies.

- *Lack of pupil data tracking.* Currently, charter schools submit aggregate attendance data for each school without any information about individual pupils. Oversight agencies do not maintain individual pupil data about enrollments in charter schools they oversee for state funding purposes. One A3 charter school was found to be paying a private company to recruit and collect personal information from student athletes. The school then enrolled the athletes in the charter school without their knowledge—thereby fraudulently generating ADA—and paid the recruiting company a portion of the public funds generated as a finder’s fee.
- *Multi-track calendar abuses.* The A3 schools were found to have deceived the state into paying them significantly more funds by manipulating the “multi-track year-round calendar,” which charter schools are currently authorized to use. The A3 schools would (1) run a fake summer school to collect funding for pupils that never knowingly enrolled, (2) inflate their fraudulent summer school attendance numbers—to the tune of about 60%—by offering fewer days of fake summer school instruction, and (3) transfer pupils between different A3 schools, increasing attendance fraudulently by another roughly 40%.
- *Lack of meaningful audit requirements.* The annual audits required by law found little to no malpractice by A3 schools. First, auditors are not required to complete any specialized up-front or ongoing training in school finance or law to audit a charter school. Second, charter schools can choose their auditors—A3 schools were shown to have fired their auditing firms and hired less experienced firms in the rare event that audit findings were made. Third, NCB charter schools are allowed to pick their own samples of pupil documentation showing compliance with independent study laws—enabling A3 to hide the fraudulent aspects of their operation from auditors. Fourth, auditors are not required to audit the education program received by pupils, only compliance with documentation. In the A3 schools, many children were enrolled from sports teams believing they were participating in a fundraiser and had no knowledge they were enrolled in a charter school at all.
- *Flawed funding determination process.* While existing law requires that NCB charter schools only receive full funding in exceptional circumstances—when at least 80% of funding is spent directly serving pupils—the current funding determination process essentially funds all schools at 100%. This is because existing regulations define “instructional and related services” very broadly, and charter schools can meet these spending benchmarks without necessarily spending money on pupils. Further, NCB charter schools are only required to request a funding determination and provide compliance documentation to the SBE, every five years.
- *Perverse financial incentives for charter school authorizers.* Existing law allows charter authorizers to collect oversight fees from charter schools under their authority but does not require authorizers to demonstrate that the fees are spent on meaningful school oversight. Small school districts that approve NCB charter schools serving pupils not located in the district can earn significant oversight fees—creating a built-in incentive to overlook poor charter school practices. For example, Dehesa Elementary School District approved over ten

charter schools all providing NCB programs. The district’s oversight fees for the 2017-2018 school year, were more than its entire expenditures for all employees hired by the district. When the district learned of improprieties in their charter schools, it took no meaningful action. Ultimately, the district collected the oversight fees and only acted to revoke the A3 Charter Schools under its authority once law enforcement was involved.

The chart below illustrates a sampling of current small school districts that have authorized large numbers of NCB charter schools.

School District Name	School District ADA	Authorized Charter School ADA
New Jerusalem Elementary	22	4,500
Oro Grande	109	3,738
Dehesa Elementary	145	8,532
Maricopa Unified	300	6,067
Julian Union Elementary	311	3,502
Campbell Union	876	6,417
Acton-Agua Dulce Unified	1,080	13,775

(Source: California School Board Association)

Some homeschool charter schools give education dollars to parents. The term homeschool has traditionally been used to describe private homeschool instruction. Some homeschool parents choose to enroll their children in NCB charter schools. When a pupil enrolls in any public charter school, that pupil becomes a public school pupil and is no longer a private school homeschool pupil. Some NCB charter schools cater to these families and offer to share state funding with parents or allow parents to direct how their children’s homeschool funds are spent.

The Horizon Charter Schools website advertises that they offer “More Student Funds for Educational Needs” and states, “Since we’re a public charter school, there are never any tuition fees and most classes, study trips and educational materials can be paid for with your state-provided student funds. To help families get even more from their homeschooling experience, this year we raised the amount of funds you have to spend -- \$2,600 per K-8th grade student and \$2,800 for high school students. That’s \$1,000 more per student than in previous years and more than most other area charter schools provide. In addition, funds can be shared between family members, providing even greater flexibility and choices for parents.”

Feather River Charter School, which is part of the Inspire Public Schools, provides the following description of the instructional funds available to pupils on their website:

	Enrollment Date	Total Fund Amount	Funds upon Enrollment	Funds available December 1, 2019
TK-8 th grade	July 1-October 9, 2019	\$2,600	\$1,500	\$1,100
High School	July 1-October 9, 2019	\$2,800	\$1,700	\$1,100

Inspire describes the appropriate use of these funds to include, but not be limited to, the following:

Product	Service
<ul style="list-style-type: none"> • Academic Enrichment Materials • Curriculum • Technology Items • Educational Field Trips 	<ul style="list-style-type: none"> • Fine Art Lessons & Classes • Performing Art Lessons & Classes • Academic Enrichment Classes • Tutoring Services • Driver’s Education Courses • Cooking Classes • Gardening Classes • Reading and Writing Classes • STEM Classes

Examples of inappropriate use of public school funds through vendor contracts. A 2019 investigation by the San Diego Union Tribune found:

- ***Trips to Disneyland and SeaWorld.*** “In California, there’s a way parents can use money from the government to buy multi-day Disneyland Park Hopper passes, San Diego Zoo family memberships, tickets to Medieval Times, and dolphin encounters at SeaWorld. There are a handful of charter schools that give pupils’ families as much as \$2,800 to \$3,200 — tax dollars sent to the charter schools — every year to spend on anything they want from a list of thousands of home-school vendors approved by the charters, according to the schools’ websites. If you live in California and you’re not taking advantage of this, I don’t know what to say, said Karen Akpan, a home school charter parent of four who lives in Beaumont. She wrote a recent blog article describing how she used the educational funds to pay for a family trip to Disneyland, Chicago CityPASSes, and Legoland tickets, as well as computer coding kits, educational toys, books, and subscription cooking kits for her kids.”
- ***California is the only state paying for these types of services.*** “I don’t know of any states where they’re paying for the kinds of things they’re paying for in California,” said Mike Smith, president of the Home School Legal Defense Association, a national group that advocates for home-schooling families. “Those schools don’t have as many fixed costs as a school that would have a large campus, paying for heat and custodians and all of that. But yet, they get the same amount of money per student from the state,” said Stephanie Hood, a charter school adviser with the Homeschool Association of California. It is relatively easy for home-school charters to recruit pupils, because enrollment happens online and families can request vendors near where they live. Valiant advertised enrollment to families in 34 counties on its website, even though its schools were authorized to operate in only three counties. “As you know, that’s why some of the problems have occurred, because there’s so much money in it,” Smith said. “It’s very easy to do. ... It’s just ripe for the kind of things that are going on.”

- ***Public education dollars spent at private schools.*** Some charter school vendors are businesses or nonprofits that cater to homeschoolers and operate like private schools in that they charge tuition and employ their own teachers, who often are not credentialed by the state. Some vendors provide a wide variety of classes, ranging from electives such as sewing and cooking, to core classes such as traditional English, math and science. Many of these vendors do not call themselves schools, but rather enrichment centers, learning centers, home school co-ops, or tutoring academies. Some larger vendors, such as Homeschool Campus and Discovery of Learning, have several campuses, often at churches. Enrolling in a home school charter can allow the pupil to use the charter school's funds to pay the tuition for these schools if their assigned charter schoolteacher approves it.
- ***Public education dollars spent at religious schools.*** There also are religiously affiliated vendors, like the Christian-owned Eden Learning Academy, which until recently said on its website that it is based on a Christian Worldview, or the Christian Youth Theater, which says on its website that part of its objective is to share the love of Christ in word and deed.

Independent Study. According to the Legislative Analyst's Office (LAO):

“Independent Study Independent study programs provide students an alternative to traditional classroom-based instruction. Rather than generating funding solely based on attendance, independent study programs also generate funding based on the work completed by students. Independent study programs range from fully online virtual academies to hybrid programs that combine on-site and off-site instruction. State law allows local education agencies (LEAs)—school districts, charter schools, and county offices of education (COEs)—to decide whether to provide these programs.

Basic Requirements of Independent Study Programs. Below are some of the basic requirements for all independent study programs.

- **Certificated Teachers.** Students must work under the general supervision of certificated teachers. State law also specifies that only certificated teachers may evaluate the seat-time equivalent of an independent study student's work for the purposes of generating ADA.
- **Individual Written Agreement.** LEAs must maintain a written agreement with each student (and parent or guardian) that specifies the dates of participation, methods of study and evaluation, and other resources to be made available to the student.
- **Synchronous Instruction.** LEAs must offer synchronous instruction—instruction that involves real-time interaction between students and teachers—to independent study students throughout the school year, with frequency varying by grade level. These requirements range from daily instruction for transitional kindergarten through grade three to weekly instruction for high school students.
- **Student Reengagement Strategies.** LEAs must establish procedures for reengaging with independent study students who do not meet certain requirements, such as students who have completed less than 60 percent of their assigned work in one week, participated in less than 60 percent of scheduled synchronous instruction in one month, or violated their independent study agreement. These procedures are to include several elements, such as notification to

parents or guardians regarding lack of participation and a standard for when a student's enrollment in independent study should be reevaluated.

- **Student-to-Teacher Ratios.** Current law limits the average number of students each independent study teacher may supervise, unless an alternative ratio is collectively bargained. These limits vary by LEA. For school districts, the student-to-teacher ratio for independent study programs may not exceed the overall student-to-teacher ratio in the district. For charter schools, the ratio cannot exceed 25 to 1. The limit for COEs is based on the overall student-to-teacher ratio in the high school or unified school district with the largest ADA in the county.

- **Educational Standards.** State law prohibits independent study from using an "alternative curriculum." This restriction implies that independent study students must be held to the same standards as other district students. Current law, however, does not clarify what an alternative curriculum means or provide a means of enforcing the prohibition.

Charter Schools and School Districts Have Different Flexibilities. Unlike school districts, charter schools do not have a daily minimum instructional minute requirement for school days. (The daily minimum instructional minute requirement for school districts varies by grade span, from 180 minutes for kindergarten to 240 minutes for grades 9-12.) Therefore, to claim attendance for funding purposes, charter schools only need to show that a student completed some work during each school day. (However, charter schools must follow the same minimum number of instructional minutes for the school year as school districts.) School districts must show that the work completed by a student satisfies the minimum amount of instruction for the day. However, school districts may have agreements in place where students submit work weekly, and the work submitted does not need to be attributed to specific days to generate funding."

Arguments in support. Visions in Education states, "Over the past several years, California's charter school community has been embarrassed by news of schools whose financial mismanagement has led to closures, criminal investigations, and even jail time for some of those involved. Here are just a few of the most concerning and egregious examples of how bad actors have abused their authority over charter school funds meant to benefit our students:

- A3 charter school network administrators were prosecuted for over \$400 million in fraud by the San Diego County District Attorney's Office.
- A self-described former porn star was hired as a consultant by a charter school.
- Two Ford F-150 Raptors were purchased for the use of a charter school Executive Director's children.
- Weapon parts and tactical gear were purchased by a Northern California charter school.

We would encourage members of the committee to read the entirety of these reports so that you can get a sense of the breadth and depth of the financial issues not being caught through the current auditing process. These highlights only scratch the surface. None of these expenditures were identified by independent auditors during the independent audit process. While the vast majority of charter schools operate in accordance with high levels of fiscal integrity, the actions of bad actors shake the confidence of authorizing school boards and members of the public – making it harder for high quality schools like ours to operate and be renewed."

Arguments in opposition. The California Teachers Association states, “The charter school employers who sponsored SB 1477 continue to nibble around the edges and fight any real reforms in the NCB charter school space. They distance themselves from bad actors like A3 and Inspire, and the 8,000 charter school educators in the classrooms that we represent are fed up. In 2022, we saw one of the largest charter school scams in history, and no one served any jail time as a result. A3 was a network of 19 online charter schools that enrolled thousands of students who never took any classes, raking in \$400 million from the state over four years. They asked private schools to give them their attendance lists and submitted those names to the state, giving the private school a cut of the ADA they received. A3 hired workers to go into public parks and get names from little league players and submit their names to the state as if those students were taking classes. They were not.

Stopping fraud in a learning environment where there is not a brick-and-mortar school that you can walk into and see teachers teaching and students learning, where much of the accountability is based on easily manipulated paperwork and computer files, has been ineffective. As part of the budget last year, the Governor and the Legislature enacted an effort to develop some third-party recommendations about how to fix what is broken. They called on the LAO and FCMAT to produce a report that would address the problems we see over and over at NCB charter schools. Those recommendations were made public in March and should serve as a starting point for conversations. If we want to get serious about improving this area of law, it will need to be a comprehensive approach.”

Related legislation. AB 1316 (O’Donnell) of the 2021-22 Session would have established new requirements for NCB charter schools in the areas of auditing and accounting standards, IS program requirements, the funding determination process, adding requirements to the contracting process, required teacher-to-pupil ratios, limiting authorization of NCB charters by small districts, and adding specificity to the authorizer oversight process, as specified. This bill was placed on the Assembly Floor inactive file.

SB 593 (Glazer) of the 2021-22 Session would have required the FCMAT to offer auditors of NCB charter schools training on the review of charter school financial documents to better identify irregular practices; required the governing body of a charter school to annually review, at a public meeting as an item on the agenda, the annual audit of the charter school for the prior fiscal year; required all independent study by pupils to be coordinated, evaluated, and under the general supervision of an employee of the LEA who possesses a valid certificate, permit, or other document required by law; and required all LEAs to only enter into an agreement for the provision or arrangement of educational enrichment activities with a vendor that is vetted and approved, as specified. This bill was held in the Assembly Education Committee.

AB 2990 (C. Garcia) of the 2019-20 Session would have prohibited a charter school from providing financial incentives to a pupil or a parent of a pupil for educational enrichment activities; required a NCB charter school to enter into an agreement for the provision of an educational enrichment activity only with a vendor that has been properly vetted and approved; required the governing body of a NCB charter school to establish policies and procedures to ensure educational value, pupil safety, and fiscal reasonableness before approving any contract for educational enrichment activities; and prohibited educational enrichment activity funds from being used for tuition at a private school or for activities, materials, and programs that are religious in nature. This bill was held on the Assembly Floor.

AB 1505 (O'Donnell), Chapter 486, Statutes of 2019, established a two year moratorium on the establishment of NCB charter schools until January 1, 2022.

AB 1507 (Smith), Chapter 487, Statutes of 2019, prohibits charter schools from being located outside the boundaries of their authorizer and authorizes NCB charter schools to establish one resource center within the jurisdiction of the school district where the charter school is located.

SB 1362 (Beall) of the 2017-18 Session would have expanded the existing oversight requirements of, and increased the oversight fees that can be charged by charter school authorizers; changed the charter petition review process for school district and COEs governing boards; added special education and fiscal and business operations content to the information that must be included in a charter petition; expanded the authority of a governing board to deny charter petitions; and required the LAO to submit a report to the Legislature on special education services by charter schools. This bill was held in the Senate Education Committee.

SB 329 (Mendoza) of the 2015-16 Session would have required a school district or COE, as part of its review of a charter petition, to consider 1) a report assessing its capacity to conduct oversight of the charter school and 2) a report of the anticipated financial and educational impact on the other schools for which the school district has oversight obligations. This bill was held in the Senate Appropriations Committee.

AB 8 X5 (Brownley) of the 2009-10 Session proposed comprehensive changes to the Education Code consistent with the federal Race to the Top (RTTT) program. This bill would have addressed the four RTTT policy reform areas of standards and assessments, data systems to support instruction, great teachers and leaders, and turning around the lowest-achieving schools. This bill would have deleted the statewide charter school cap and proposed enhanced charter school fiscal and academic accountability standards. This bill was held in the Senate Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Allegiance Steam Academy Thrive
Asa Charter School
Excelsior Charter Schools
Fenton Charter Public Schools
Jcs Family Charter Schools
Julia Lee Performing Arts Academy
LA Verne Elementary Preparatory Academy
Liberty Charter High School
Los Angeles Leadership Academy
Public Safety Academy of San Bernardino
Real Journey Academies
Santa Rosa Academy
Soar Charter Academy
Springs Charter Schools
Sycamore Academy of Science and Cultural Arts

Temecula International Academy
Visions in Education

Oppose

California Federation of Teachers
California School Employees Association
California Teachers Association

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