California State Auditor

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California's Charter Schools:

Oversight at All Levels Could Be Stronger to Ensure Charter Schools' Accountability

November 2002
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November 7, 2002 2002-104

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning California's charter schools.

This report concludes that oversight at all levels could be stronger to ensure charter schools' accountability. The chartering entities are not effectively monitoring their charter schools and ensuring that these schools meet the agreed-upon student outcomes listed in their charters. The chartering entities' fiscal monitoring of their charter schools is also weak. Without academic or fiscal oversight by the chartering entities, charter schools are not held accountable for improving student learning, meeting their agreed-upon academic goals, or the taxpayer funds that support their operations. Moreover, the chartering entities could not justify the oversight fees they charge their charter schools because they do not track their actual costs of oversight and risk double-charging the State for their oversight costs through mandated cost reimbursement claims.

The Department of Education (department) plays a role in holding the charter schools accountable. However, it does not systematically review the charter schools information that it receives to raise questions with the chartering entities regarding certain charter schools' fiscal or academic practices. Furthermore, to apportion funds to charter schools, the department relies primarily on the certifying signatures of school districts and county offices of education, both of which lack the necessary procedures to ensure that charter schools comply with apportionment requirements. Thus, the department cannot be certain that the schools receive only the public funds to which they are legally entitled. Finally, although two recently enacted laws, Senate Bill 1709 and Assembly Bill 1994 (Chapters 209 and 1058, Statutes of 2002), attempt to add accountability to the existing charter schools environment, without an increased monitoring commitment on the part of chartering entities and the department, these new laws may not be as effective as they could be.

Respectfully submitted,

Elaine M. Howle

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State Auditor

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SUMMARY

Audit Highlights . . .

Oversight of charter schools at all levels could be stronger to ensure schools' accountability. Specifically:

- ☑ ***The four chartering entities we reviewed do not ensure that their charter schools operate in a manner consistent with their charters.***
- ☑ ***These chartering entities' fiscal monitoring of their charter schools is also weak.***
- ☑ ***Some charter schools assess their educational programs against their charters' measurable student outcomes, but others do not.***
- ☑ ***The Department of Education (department) could, but does not target its resources toward identifying and addressing charter schools' potential academic and fiscal deficiencies.***
- ☑ ***Finally, although two new statutes attempt to add accountability, without the chartering entities and department increasing their commitment to monitoring, these new laws may not be as effective as they could be.***

RESULTS IN BRIEF

The California Legislature passed the Charter Schools Act of 1992 (Act) to provide opportunities for teachers, parents, students, and community members to establish and operate schools independently of the existing school district structure, including many of the laws that school districts are subject to. The Legislature intended charter schools to increase innovation and learning opportunities while being accountable for achieving measurable student outcomes. Before a charter school can open, a chartering entity must approve a petition from those seeking to establish the school. Under the Act, three types of entities—a school district, a county board of education, and the State Board of Education (state board)—have the authority to approve petitions for charter schools. As of March 2002, there were 360 charter schools serving approximately 131,000 students throughout California. More than 70 percent of the agencies chartering those schools have only 1 charter school.

Chartering entities play a role in overseeing the schools they charter to determine if the schools operate in a manner consistent with their charters and follow all applicable laws. These responsibilities are not explicitly stated; rather, they are implied through the Act and its amendments, which authorize the chartering entities to approve charters, inspect or observe a school at any time, collect fees for oversight costs, and revoke charters under certain conditions. As such, we expected to find that the chartering entities had established policies and procedures for assessing the academic achievements of students in their charter schools, in accordance with the measurable student outcomes required in each charter. We had similar expectations for the chartering entities' assessment of their charter schools' financial operations. Without academic and fiscal monitoring, the charter schools are not held accountable for achieving their measurable student outcomes or for prudent use of the taxpayer funds they receive.

Despite our expectations for academic monitoring, the four entities we reviewed—Fresno Unified School District, Los Angeles Unified School District, Oakland Unified School District, and San Diego City Unified School District—do not monitor to determine if their charter schools are achieving

their student outcomes. Although each charter agreement contains standards for gauging the academic performance of the school, chartering entities typically do not have guidelines in place to effectively monitor their charter schools, nor do the chartering entities adequately monitor their charter schools against the agreed-upon student outcomes. Without periodically monitoring their schools for compliance with the charter terms, the chartering entities cannot ensure that their schools are making progress in improving student learning in accordance with their charters, nor are they in a position to identify necessary corrective action or revocation.

Because the chartering entities were not effectively monitoring their charter schools for compliance with the measurable academic outcomes listed in their charters, we visited a sample of schools. Although some schools assess their educational programs against their charter's measurable student outcomes, others do not. By not assessing student performance against the charter terms, the schools are not demonstrating their accountability for meeting their agreed-upon academic goals.

Further, although charter schools are exempt from much of the Education Code that governs public schools, they are still subject to at least three legal requirements as conditions for receiving state funds, including hiring teachers who hold a Commission on Teacher Credentialing permit, offering a minimum number of instructional minutes, and certifying that their students have participated in state testing programs. However, we found that chartering entities are not always ensuring compliance with these legal requirements at each of their charter schools.

Like the chartering entities' academic monitoring, their fiscal monitoring also had weaknesses. Some schools rely on their chartering entity for operational support. Other schools manage their own operations; these schools we consider to be fiscally independent. Because the chartering entities do not control the financial activities of their fiscally independent charter schools, the risk that these schools will develop financial problems is greater. Thus, we targeted the chartering entities' oversight of fiscally independent charter schools. We found that the chartering entities lacked necessary policies and procedures for effective fiscal monitoring and have not adequately monitored their charter schools. Although all four entities

outlined the types of financial data they wanted their charter schools to submit and how often this data should be submitted, and all asserted that they have data review procedures to identify and resolve problems, none could provide evidence of these procedures. Further, even though all four chartering entities recently adopted new policies and procedures for charter schools, only two address fiscal monitoring and appear to provide for improved monitoring of their charter schools' fiscal health. Without adequate monitoring, schools that develop fiscal problems and other reported deficiencies might fail to meet the terms of their charter or deteriorate financially to the point of having to close, disrupting their students' education.

Moreover, some charter schools are fiscally unhealthy. Based on fiscal year 2001–02 financial data, 6 of the 11 charter schools showed year-to-date expenditures in excess of revenues, and 4 of the 6 schools did not have prior year-end fund balances sufficient to cover their deficits. If these schools' problems go uncorrected, the schools may have to close and displace their students. In addition, the schools' closures may result in a loss of taxpayer money.

The chartering entities are authorized to charge up to 1 percent of a charter school's revenues for the actual costs of providing supervisorial oversight, or up to 3 percent if they provide the charter school with substantially rent-free facilities. For fiscal years 1999–2000 and 2000–01—the latest years for which data was available during our review—the four chartering entities charged their charter schools more than $2 million in oversight fees. Nevertheless, none of the four chartering entities could document that the fees they charged corresponded to their actual costs, in accordance with statute, because the entities failed to track their actual oversight costs. Rather, the entities automatically charged a percentage of charter schools' revenues, assuming that their oversight costs exceeded the revenues they charged. As a result, the entities may be charging their charter schools more than permitted by law.

Moreover, these chartering entities participated in the State's mandated-costs reimbursement process, which reimburses organizations for the costs of implementing state legislation. The chartering entities claimed more than $1.2 million in costs related to charter schools for the two fiscal years. However, because the chartering entities did not track the actual costs associated with overseeing their charter schools, they risk

double-charging the State. Finally, although the statute is clear that the entities' oversight fee is capped at a certain percentage, the statute is unclear regarding which types of revenues are subject to the oversight fee. Consequently, the chartering entities are interpreting the law differently and may be applying their oversight fee to too much or too little of their charter schools' revenue.

The Department of Education (department) plays a role in holding charter schools accountable for their fiscal and academic practices. The department has the authority to recommend that the state board take action, including, but not limited to, charter revocation. Although the chartering entity is the primary monitor of a charter school's financial and academic health, the department has the authority to make reasonable inquiries and requests for information. It currently uses this authority to contact chartering entities if it has received complaints about charter schools. If the department reviewed the information that it receives related to charter schools and raised questions with the chartering entities regarding fiscal or academic practices when appropriate, the department could target its resources toward identifying and addressing charter schools' potential academic and fiscal deficiencies. In this way, the department would provide a safety net for certain types of risks related to charter schools. The concept of the State as a safety net is consistent with the California Constitution, which the courts have construed to place on the State the ultimate responsibility to maintain the public school system and to ensure that students are provided equal educational opportunities.

Although we found that the accountability system at the chartering entity level is weak, our work does not demonstrate the need for the department to play a greatly expanded and possibly duplicative role in overseeing charter schools, or any function beyond that of a safety net. Moreover, when we asked the department to provide any data it had to demonstrate pervasive academic concerns or fiscal malfeasance that may support the need to expand its oversight role beyond that of a safety net, it did not provide any.

To apportion funds to charter schools, the department relies primarily on the certifying signatures of school districts and county offices of education—both of which lack the necessary procedures to ensure that charter schools comply with apportionment requirements. As a result, the department

cannot be sure that charter schools have met the apportionment conditions the Legislature has established and that they receive only the public funds to which they are legally entitled. In addition, there appears to be a policy gap regarding a chartering entity's authority following a charter revocation—an authority that statutes do not clearly address, as Fresno Unified School District's recent revocation of Gateway Charter Academy's charter demonstrates. Finally, although two recently enacted laws, Senate Bill 1709 and Assembly Bill 1994 (Chapters 209 and 1058, Statutes of 2002), attempt to add accountability to the existing charter schools environment, without an increased monitoring commitment on the part of chartering entities and the department, these new laws may not be as effective as they could be.

RECOMMENDATIONS

The Legislature should consider amending the statute to make the chartering entities' oversight role and responsibilities explicit so that the chartering entities hold their charter schools accountable through oversight.

To ensure that charter schools are held accountable for the taxpayer funds they receive and demonstrate accountability for the measurable outcomes set forth in their charters, the chartering entities should consider developing and implementing policies and procedures for academic and fiscal monitoring.

To ensure that chartering entities can justify the oversight fee they charge their charter schools and to minimize the risk of double-charging the State for the costs of charter school oversight, they should:

- Establish a process to analyze their actual costs of charter school oversight.
- Compare the actual costs of oversight to the fees charged and, if necessary, return any excess fees charged.
- Use the mandated-costs reimbursement process as appropriate to recover their unreimbursed costs of overseeing charter schools.

The Legislature should consider clarifying the law to define the types of charter school revenue that are subject to the chartering entities' oversight fees.

To fulfill its role as a safety net, the department should review available financial and academic information and identify charter schools that are struggling, then raise questions with the schools' chartering entities as a way of ensuring that the schools' problems do not go uncorrected.

So that it does not improperly fund charter schools, the department should work with the appropriate organizations to ensure that charter schools' reported ADA is verified through an independent audit or other appropriate means and that charter schools have met other statutory conditions of apportionment.

The Legislature may wish to consider establishing a method for disposing of a charter school's assets and liabilities and requiring the department to adopt regulations regarding this process, in this way, ensuring that a charter school's assets and liabilities are disposed of properly when it closes or has its charter revoked.

AGENCY COMMENTS

The four chartering entities: Fresno, Los Angeles, Oakland, and San Diego, strongly disagreed with our conclusions related to chartering entity oversight and stated that we misinterpreted the law and held them to a standard of charter schools oversight that the Act does not contain. They object to being evaluated based on sound oversight criteria unless that criteria is explicitly in statute. Each chartering entity noted repeatedly that the legislation regarding charter school oversight is unclear and several stated that chartering entities have little or no grounds to deny a charter or enforce a charter.

The department also disagreed with our audit as it relates to its oversight role. The department stated that it had strong concerns about our interpretation of the Act and our interpretation that the department has the authority and responsibility to monitor the fiscal and academic performance of charter schools. The department also stated that our recommendations do not account for its limited staffing resources.

Although not rendering a legal opinion on the issue of oversight, our view that the Act places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system. We believe that the

statutes, although not explicit, do envision a monitoring role for chartering entities and that a monitoring process is absolutely essential to identifying key issues, providing charter schools the opportunity to take corrective action, and determining whether a chartering entity should exercise its authority to revoke a charter. Finally, we carefully analyzed each of the chartering entity's responses and we stand by our interpretation of the law and our audit conclusions. ■

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INTRODUCTION

BACKGROUND

The California Legislature passed the Charter Schools Act of 1992 (Act) to provide opportunities for teachers, parents, students, and community members to establish and operate schools independently of the existing school district structure. Charter schools were given wide latitude to explore the following new educational opportunities:

- Increase learning opportunities for all students, but especially low achievers.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers.
- Provide parents and students with expanded educational choices.
- Create vigorous competition within the public school system in order to improve all public schools.

In addition to this increased flexibility, the Legislature intended for charter schools to improve student learning and to be accountable for achieving measurable student outcomes. Statute defines measurable student outcomes as the extent to which all students demonstrate they have attained the skills, knowledge, and attitudes specified in the school's educational program.

Charter schools are public schools serving any grade from kindergarten through grade 12. They are publicly funded, serve diverse populations, and employ a variety of educational philosophies. For example, the Oakland Charter Academy serves a predominantly Latino population and is focused on addressing the academic and social needs of language minority students, whereas High Tech High Charter School in San Diego is focused on providing students with academic and workplace skills for our increasingly technological society. Even though the Act exempts these schools from many state laws governing school districts, it requires charter schools to comply with select statutes, such as those establishing a minimum age for public school attendance, and to meet certain conditions for funding, such as participation in statewide testing of pupils.

The Act as amended in 1998 allowed for the creation of 250 charter schools throughout the State and authorized an additional 100 schools each successive school year. As of March 2002, there were 360 charter schools serving approximately 131,000 students throughout California. As Table 1 shows, more than 70 percent of the entities chartering schools have only one charter school. A chartering entity is an organization, such as a school district, that approves a charter petition, thus creating a school. We discuss chartering entities in more detail in the next section. However, the five chartering entities with more than 8 schools chartered 85 of California's 360 charter schools. These entities are Fresno Unified School District (Fresno), Oakland Unified School District (Oakland), Twin Ridges Elementary School District, San Diego City Unified School District (San Diego), and Los Angeles Unified School District (Los Angeles). (See Appendix A for a list of active charter schools as of March 2002, their chartering entities, and selected information about the schools.)

TABLE 1

Number of Charter Schools at Chartering Entities

Number of Charter Schools	Chartering Entities With That Number of Schools	Percentage of Total Chartering Entities
1	128	70.3%
2 to 3	36	19.8
4 to 5	10	5.5
6 to 7	3	1.7
8 or more	5	2.7
Total	**182**	**100.0%**

Chartering a School

Typically, a group of parents, teachers, and/or community members develops a charter petition, which they then submit to a chartering entity for approval. Under the Act, a chartering entity can be one of three types of entities: a school district, a county board of education, or the State Board of Education (state board). Once a chartering entity has approved the charter petition, the charter goes into effect for up to five years.

By law, each petition must contain certain components, including parent and/or teacher signatures; proposed budgets and financial projections; and a reasonably comprehensive description of 15 required elements, such as the method for measuring student

progress and the qualifications that teachers and other staff must have. In addition, the petitioners must affirm that the school will remain nonsectarian in all respects, will not charge tuition, and will not discriminate against any student based on ethnicity, national origin, gender, or disability.

The 15 Elements Required in Each Charter Petition

- Description of the school's educational program.
- Measurable student outcomes the school plans to use.
- Method for measuring student progress in achieving those outcomes.
- School governance structure, including how parents will be involved.
- Qualifications that individuals the school employs must meet.
- Procedures to ensure the health and safety of students and staff.
- How the school will achieve a student racial and ethnic balance reflective of the general population residing in the district.
- Admission requirements, if applicable.
- How annual financial audits will be conducted, and how problems uncovered by the audits will be resolved.
- Procedures for suspending or expelling students.
- Provisions to cover employees under the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
- Public school alternatives for students residing within the district who choose not to attend charter schools.
- Description of the rights of any employee of the school district who leaves the employ of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
- Dispute resolution process.
- Declaration of whether the charter school will be the exclusive public school employer of the charter school employees.

Source: Education Code, Section 47605(b)(5)

The Act requires the chartering entity to review the charter petition and hold a public hearing to consider the level of community support for the charter school. A chartering entity cannot deny a petition unless it makes written factual findings, specific to the particular petition, that one or more of the following deficiencies exist:

- The charter school presents an unsound educational program.
- The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
- The petition does not contain the required number of signatures.
- The petition does not contain a declaration that the school will remain nonsectarian, not charge tuition, and not discriminate.
- The petition does not contain reasonably comprehensive descriptions for all 15 statutorily required elements.

Once approved, the petition becomes the founding agreement or charter for a school. A chartering entity and a charter school may also enter into a Memorandum of Understanding (MOU) to further define their responsibilities and legal relationship. For example, an MOU may outline a charter school's insurance requirements or fee-for-service arrangements.

Chartering Entity's Role in Charter Schools

The chartering entity is responsible for overseeing the school to ensure that it operates in a manner consistent with the charter and all applicable laws. To compensate the chartering entity

for its oversight functions, the Education Code, Section 47613, authorizes the chartering entity to charge for the actual costs of supervisorial oversight, not to exceed 1 percent of a charter school's revenue or 3 percent of its revenue if the chartering entity provides substantially rent-free facilities. These oversight fees do not include the costs of administrative or other services that the charter school may purchase from the chartering entity. Some chartering entities have categorized their charter schools as independent or dependent, based on whether the school contracts with them for fiscal services. Dependent charter schools may rely on the chartering entity for operational support, including reviewing and approving expenditures, recording revenues, and reporting student attendance. In contrast, fiscally independent charter schools do not receive such operational support from their chartering entity.

A chartering entity also has the authority to revoke a charter it has granted if the school materially violates its charter, fails to achieve or pursue any of its student outcomes, engages in fiscal mismanagement, or violates any provision of law. Before revoking a charter, the entity must notify the charter school of the violation and give it a reasonable opportunity to remedy the violation, unless the violation constitutes a severe and imminent threat to the students' health and safety. A chartering entity also has authority to make reasonable inquiries and to inspect any part of the charter school at any time.

State Board's Role in Charter Schools

The state board has the authority to approve a charter petition; however, a school district or county board of education must first have denied the petitioner's charter proposal. If the state board approves a charter petition, it becomes the chartering entity and is responsible for oversight of the school or delegating this responsibility to a local education agency in the county in which the charter school is located or to the school district that first denied the charter petition. When the time comes for the charter school to renew its charter, it submits the renewal petition to the school district that initially denied the charter. If the renewal petition is denied, the charter school may then petition the state board for renewal. As of March 2002, three schools chartered by the state board were operating in the State. Finally, the state board is responsible for adopting regulations to implement certain sections of the Act, including criteria to review and approve petitions addressed to the state board and requirements that charter schools must follow when they provide nonclassroom-based instruction.

Department of Education's Role in Charter Schools

Although the Department of Education (department) does not have the authority to approve a charter petition and act as a chartering entity, it plays a role in the charter school community. The department has established a charter schools unit that, among other things, is responsible for helping groups prepare charter proposals and for assisting charter schools and chartering entities with fiscal, legal, and administrative issues. The department also has the authority to recommend to the state board that a charter be revoked for certain statutorily defined reasons. To carry out its responsibilities, the department may make reasonable inquiries of the charter schools for information. Finally, as it does with other public schools, the department apportions funds to the charter schools based on their average daily attendance (ADA) reports. This type of funding is known as apportionment funding. Table 2 describes each entity and its role in the operation and monitoring of charter schools.

TABLE 2

Division of Responsibilities for Charter Schools

Charter School	School District	County Office of Education	State Board of Education	Department of Education
Prepare petition	Review petition and hold public hearing	Review petition and hold public hearings for new charter petitions and those the local district denied	Review petition and hold public hearings for charter petitions denied at school district or county level	Allocate school funding
Implement charter's academic program	Deny charter petition or approve petition and become a chartering entity	Deny charter petition or approve petition and become a chartering entity	Deny charter petition or approve petition and become a chartering entity	Collect annual audit reports
Comply with Education Code and other applicable statutes	Oversee charter schools	Oversee charter schools	Oversee charter schools	Operate charter schools unit
Request approval for amendments when charter is materially revised	Certify charter school ADA	Certify charter school ADA	Assign a unique tracking number to all approved charters	Recommend to the State Board of Education charter revocation when appropriate
Assess itself against its charter	Receive annual audit reports of charter schools	Receive annual audit reports of charter schools	Receive annual audit reports of charter schools	
Prepare renewal petition	Approve or deny renewal petition	Approve or deny renewal petition	Approve or deny renewal petition for charter petitions denied at school district or county level	
	Revoke charters of schools when necessary	Revoke charters of schools when necessary	Revoke charters of any schools when necessary	

Recent Changes to the Charter School Act

The Act has been revised throughout its first decade of existence. One of the more recent modifications is Senate Bill 740 (Chapter 892, Statutes of 2001). Effective January 2002, Senate Bill 740 requires, among other things, that charter schools offer a certain number of instructional minutes and document student attendance as conditions of receiving apportionment funding from the department. We discuss these requirements further in Chapter 1. In addition, under Senate Bill 740, charter schools must submit copies of their audited financial statements to their chartering entities and the department. We discuss this issue further in Chapters 2 and 3 of this report.

In addition to Senate Bill 740, the Legislature recently passed and the governor signed two bills addressing charter schools: Assembly Bill 1994 (Chapter 1058, Statutes of 2002) and Senate Bill 1709 (Chapter 209, Statutes of 2002). In Chapter 3, we describe these bills and their effect on certain issues we raise in this report.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits conduct a comprehensive audit of California's charter schools. Specifically, the audit committee asked us to review and assess the chartering entities' processes for reviewing and approving charters to determine if the processes are consistent with the law. In addition, we were to evaluate the chartering entities' policies and procedures for enforcing charters, including revocations. Further, we were to examine the policies and practices for monitoring the charter schools' compliance with the conditions, standards, and procedures specified in their charters. Lastly, the audit committee asked us to review and evaluate the academic and fiscal accountability structure and practices of charter schools, including, but not limited to, student assessment, student enrollment and attendance, instructor credentials, and curriculum content.

To conduct our audit, we selected a sample of four chartering entities—Fresno, Los Angeles, Oakland, and San Diego—based on the number of active charter schools these entities have chartered. We chose this sample because we believed that chartering entities with a number of charter schools were more likely to have implemented policies and procedures for monitoring their charter schools than those chartering entities with just one or two charter schools. Within each of the four chartering entities, we then selected three charter schools, at which we conducted site visits. We selected 11 of these 12 charter schools because they are fiscally independent, meaning that they do not receive fiscal or operational support from their chartering entities, as we discussed previously.

As part of our audit, we reviewed documents prepared by the department, selected chartering entities, and selected charter schools, as well as these entities' applicable policies and procedures. Additionally, we reviewed relevant laws and regulations and interviewed department, chartering entity, and charter school staff. We reviewed how the chartering entities have monitored to ensure that the 12 selected charter schools have implemented 4 of the 15 required elements for a charter school petition, including the measurable student outcomes the charter school plans to use, the method for measuring student progress in achieving those outcomes, the qualifications to be met by individuals the school employs, and how annual financial audits will be conducted and problems identified by the audits resolved. We selected these elements because we believe they represent the most relevant indicators of the academic and fiscal health of the State's charter schools and because, if not met, they provide justifications to revoke a charter, thus providing accountability.

To assess the chartering entities' processes for reviewing and approving charters to determine if the processes are consistent with the law, we reviewed the approved charter school agreements for the 12 selected charter schools.

To examine the policies and practices for monitoring the charter schools' compliance with the conditions, standards, and procedures specified by their charters, we reviewed the chartering entities' efforts to monitor their charter schools. Further, we reviewed the interim and annual financial reports submitted by the charter schools to determine reviews and actions taken by the chartering entities.

To review and evaluate the academic and fiscal accountability structure and practices of charter schools, we conducted site visits at 12 selected charter schools and reviewed information those charter schools provided regarding their actual student outcomes and financial condition. Specifically, because each charter agreement must contain measurable student outcomes, we reviewed the schools' documentation intended to prove that they were achieving those outcomes. Further, we reviewed financial information at the 12 charter schools for fiscal year 2001–02 to determine whether the chartering entities took appropriate action when potential financial problems were noted.

In January 2002, Fresno revoked the charter of Gateway Charter Academy (Gateway). We did not review Fresno's oversight of Gateway. Our report should not be construed as an evaluation of Fresno's oversight specifically of Gateway or Fresno's revocation process. Our comments in Chapter 3, under the heading 'Statutory Guidance for Disposing of a Revoked Charter School's Assets and Liabilities Is Unclear,' reflect a policy gap needing the Legislature's and the department's attention. Our comments do not reflect an evaluation of Fresno's revocation process or oversight specific to Gateway.

Per the Education Code, Section 47616.5, the Legislative Analyst is required to contract for an evaluation of the effectiveness of the charter school approach. The evaluation is to include:

- Pre- and post-charter school test scores of pupils attending charter schools.
- Fiscal structures and practices of charter schools and the relationship of these structures and practices to school districts.
- Whether or not there is an increased focus on low-achieving and gifted pupils.
- Pupil dropout rates in the charter schools compared to non-charter schools.

We designed our audit to avoid duplicating, whenever possible, the Legislative Analyst's areas of inquiry. The Legislative Analyst's evaluation has a statutory deadline of July 1, 2003. ■

CHAPTER 1

Chartering Entities Do Not Adequately Monitor the Academic Health of Their Charter Schools

CHAPTER SUMMARY

Charter schools operate in a unique environment, in which they are given freedom from many provisions of the Education Code. However, the Legislature created a system whereby the schools are required to be accountable to their chartering entity for the academic performance of the students enrolled. Although the chartering entity's role is not clearly defined in the statutes, the statutes imply certain oversight responsibilities. To facilitate their oversight, we expected to find chartering entities with established policies and procedures guiding their charter oversight activities. However, our review of California's charter schools revealed that chartering entities do not adequately oversee their schools to determine whether the program described in the charter agreement is implemented successfully.

Specifically, chartering entities do not ensure that their charter schools are achieving the student outcomes that each school sets forth in its charter agreement. Although the charter agreement for each school specifies measurable student outcomes for gauging the academic performance of the school, chartering entities typically do not have guidelines in place to effectively monitor their charter schools, nor do the chartering entities adequately monitor their charter schools against the agreed-upon student outcomes. To see what the charter schools themselves are doing to fulfill this aspect of their charter agreement, we visited a sample of schools and found that although some charter schools assess their educational programs against their charter's measurable student outcomes, others do not.

Furthermore, charter schools must comply with various state laws, including teacher credentials, instructional minutes, and participation in statewide tests. Each of these legal provisions is what is known as a condition of apportionment. In other words, if a school does not comply with the provisions, it risks losing a portion of its state funding. However, we found that chartering entities do not always ensure that charter schools comply with legal requirements.

CHARTERING ENTITIES HAVE CERTAIN RESPONSIBILITIES FOR OVERSEEING CHARTER SCHOOLS' ACADEMIC OUTCOMES

In authorizing charter schools, the Legislature intended to provide opportunities for teachers, parents, students, and community members to establish and operate schools independently of the existing school district structure. The Legislature freed the schools from the programmatic and fiscal constraints that exist in the public school system. However, the statutes do not overlook accountability. Specifically, the Education Code, Section 47601(f), speaks to the Legislature's intent that charter schools be held accountable for meeting certain outcomes and for moving from rule-based to performance-based accountability systems. Thus, each school must create a founding document, or charter, which by law must contain certain elements. For example, the charter must contain measurable student outcomes and the methods the schools will use to measure their outcomes. As such, the schools' creators are outlining the instructional goals they agree to be held accountable for.

An approved charter represents an agreement between the school and its chartering entity and therefore makes the school accountable to its chartering entity. Although the chartering entity's role is not clearly defined in the statutes, the statutes imply certain oversight responsibilities, as they allow the entities to:

Although a chartering entity's role is not clearly defined in the statutes, the statutes imply that it has certain oversight responsibilities.

- Inspect or observe any part of the charter school at any time.
- Charge the charter schools fees for oversight.
- Make reasonable inquiries, including for financial data.
- Revoke a charter for material violations of any charter condition, standard, or procedure; failure to meet or pursue the charter's student outcomes; engaging in fiscal mismanagement; and any violation of law.

We expected that, to facilitate their oversight, chartering entities would have established policies and procedures guiding these activities. Typically, sound oversight systems define the types and frequency of data to be submitted, the manner in which the entity will review the data, and the steps it will take to resolve any concerns resulting from its oversight activities. Therefore, we assessed the charter oversight activities of the selected chartering entities against what a sound oversight system would include.

CHARTERING ENTITIES DO NOT ENSURE THAT CHARTER SCHOOLS MEET TARGETED STUDENT OUTCOMES

The chartering entities were not consistently assessing the schools' performance against their charter terms.

The Charter Schools Act of 1992 (Act) gave charter schools a much greater level of freedom to operate their educational programs than noncharter schools have. School districts and county boards of education act as chartering entities, with oversight responsibilities implied through their power to revoke charters and to charge the schools a supervisorial oversight fee. In order to hold the charter schools accountable, the Legislature required that each charter petition contain certain elements, including measurable student outcomes proposed by the school to accomplish its educational program. Typical outcomes a school might list in the charter petition include increased performance on standardized tests or higher student attendance rates. These outcomes give the chartering entity criteria against which it can measure the school's academic performance and hold it accountable. However, the chartering entities we reviewed did not always assess their charter schools against the agreed-upon measurable outcomes.

Since the chartering entities were not adequately holding their charter schools accountable, we visited a sample of schools to determine what actions the schools were taking to demonstrate that they had achieved the outcomes defined in their charters. We found that the schools were not always assessing their academic programs against the terms of their charters.

Chartering Entities Lack Oversight Guidelines and Do Not Periodically Monitor Their Charter Schools' Performance Against the Agreed-Upon Measurable Outcomes

A school's charter represents an agreement between it and the chartering entity. The charter agreement is critical for accountability, as it outlines the standards the school is agreeing to be held to; therefore, we expected to find that chartering entities had established monitoring guidelines and activities to ensure that their charter schools were complying with their agreements. Although three of the four chartering entities we visited have chartered schools since 1993, and each has chartered at least eight schools, none had developed and implemented an adequate process to monitor their schools' academic performance. Without periodically monitoring their schools for compliance with the charter terms, the chartering entities cannot determine whether their schools are making progress in improving student learning as identified in their charters, nor are the chartering entities in a position to identify necessary corrective action or revocation.

Without periodically monitoring their schools for compliance with charter terms, the chartering entities will not know if their charter schools are making progress in improving student learning.

Under the Act, the Legislature required that each charter petition include 15 statutorily defined elements, one of which is a description of the measurable student outcomes its educational program will accomplish. The petitioners develop the outcomes that are relevant to their educational vision, and thus these outcomes vary from school to school, depending on the educational program and target population. To ensure compliance, the Legislature granted the chartering entity the authority to revoke a school's charter if, among other things, the school committed a material violation of any of the charter's conditions, standards, or procedures or the school failed to achieve or pursue the identified student outcomes. Included in a chartering entity's authority is the right to inspect or observe any part of its charter schools at any time and the responsibility to permit charter schools an opportunity to cure the identified problems prior to revocation.

Furthermore, the Legislature allowed the chartering entities to charge up to 1 percent of a charter school's revenue for supervisorial oversight, which implies that the chartering entity has an obligation to oversee its charter schools.[1] It appears that the chartering entities are aware of their oversight obligation inherent in their role as chartering entities. For example, in its fiscal year 2000–01 Memorandum of Understanding (MOU) with the Explorer Elementary Charter School, San Diego City Unified School District (San Diego) included a clause outlining fees the school would pay for the chartering entity's cost of overseeing the school. Similarly, in its standard charter school MOU for fiscal year 2001–02, Oakland Unified School District (Oakland) included two sections referring to oversight. The first contained a statement that the school agrees to an annual evaluation in accordance with the instructional and academic goals established in its charter school petition. The second section mirrors the law and states that Oakland has the right to inspect or observe any part of the school at any time. Despite the fact that the chartering entities have the authority to revoke schools' charters, are being paid fees for oversight, and have acknowledged in writing their intent to perform oversight activities, they typically have not established monitoring guidelines or engaged in these activities.

Table 3 gives an overview of the practices of the four chartering entities in monitoring their charter schools' academic health.

[1] A chartering entity may charge up to 3 percent of a charter school's revenue if the chartering entity provides substantially rent-free facilities to the charter school. Otherwise, the chartering entity is limited to an oversight fee of up to 1 percent of revenues.

TABLE 3

Academic Monitoring of Charter Schools by Chartering Entities in Fiscal Year 2001–02

Chartering Entity	Year First Chartered Schools	Total Number of Charter Schools Authorized	Written Guidelines?	Engaged in Periodic Academic Monitoring?	Future Plans for Academic Monitoring?
Fresno Unified School District	1998	9*	No	Some	Pending
Los Angeles Unified School District	1993	39	No	Some	Some
Oakland Unified School District	1993	9	No	No	Pending
San Diego City Unified School District	1993	17	No	No	Yes

* Although the Fresno County Office of Education chartered one of the schools described here, the Fresno Unified School District is partially responsible for overseeing the school.

Each chartering entity we reviewed has interpreted its oversight responsibilities differently, typically developing some practices for overseeing charter schools. However, none of the chartering entities has adequately ensured that their charter schools are achieving the measurable student outcomes set forth in their charter agreements. As Table 3 shows, three of the four chartering entities we reviewed have chartered schools since 1993. Nevertheless, Oakland lacks academic monitoring guidelines and has not engaged in oversight but is developing plans to implement policies. Likewise, Fresno Unified School District (Fresno) does not have guidelines to monitor its charter schools and does not always periodically monitor the schools' academic performance relative to their charter agreements. Los Angeles Unified School District (Los Angeles), as the chartering entity with the greatest number of charter schools, lacks in its recently developed guidelines a process to continually monitor academic performance, but it engages in a formal independent review of each school during its fourth year of operation. Finally, San Diego lacked monitoring guidelines for student performance and did not periodically review its charter schools at the time of our review. However, San Diego has developed a new charter schools policy that it plans to implement in fiscal year 2002–03.

Responding to complaints is an appropriate activity for chartering entities, but this activity alone does not constitute adequate charter school oversight.

As of March 2002, Oakland had nine charter schools subject to its oversight. However, it did not have a process in place to monitor to determine if these schools complied with their charter agreements and did not assess whether its charter schools were achieving the measurable outcomes agreed to in their charters. Although Oakland staff visited several of Oakland's charter schools during fiscal year 2001–02, they made these visits to establish relationships and in response to parental and community complaints, rather than to verify that the schools were measuring student progress towards educational goals consistent with their charters. Even though responding to complaints is a reasonable activity, this activity alone does not constitute adequate monitoring. By merely responding to complaints, Oakland loses the opportunity to identify where a charter school's program is deficient and to help ensure that the school is maximizing its students' educational opportunities by achieving the measurable outcomes in its charter and making sound use of taxpayer funds in accordance with its charter.

Fresno chartered its first school in 1998, and as of March 2002 it had oversight of nine charter schools. Despite being a chartering entity for four years, Fresno still lacks a written monitoring plan and an adequate process to monitor to determine if its charter schools achieve the academic outcomes they set forth in their charter agreements. Although Fresno had six of its nine charter schools participate in a Review of Compliance with Charter Provisions (compliance review) beginning in November 2001, these actions do not reflect adequate academic oversight. For example, as part of its compliance review, Fresno required the six schools to describe how they had measured student outcomes. However, Fresno did not associate the schools' responses with the measurement criteria described in their charters, nor did Fresno verify the accuracy of the schools' responses.

For four of the six schools completing the review, we found that the schools' responses describing how they were measuring student outcomes differed from the measurement criteria listed in the charter agreements. For example, in its compliance review for Renaissance Charter School (Renaissance), Fresno listed that the school administers proficiency tests, comprehensive tests of basic skills, and the Stanford 9. However, in the charter agreement, we found references to three other methods of measurement, including grade point averages, graduation rates, and portfolios, none of which Fresno included in its compliance review of Renaissance. Even though these agreed-upon measures were not included in the compliance review, Fresno deemed the school "compliant."

Additionally, Fresno required six of its schools to complete an annual report. Each charter school developed its annual report and presented it to the Fresno Board of Education in March 2002. One of the purposes of this report was to ensure that each charter school has clear, concrete, and measurable performance objectives. Upon reviewing a sample of these annual reports, we found that one report did not address the measurable student outcomes described in its charter. For example, in its annual report, Fresno Prep Academy (Fresno Prep) described the school's overall goals but did not address the measurable student outcomes listed in its charter. Although Fresno's compliance review and annual reports may have provided some valuable information, they were insufficient to completely and accurately assess its charter schools' academic health. Fresno also did not require all of its charter schools to participate, and thus its insight was limited to the participating schools. Moreover, Fresno merely collected and summarized the schools' responses without verifying that the schools were responding based on the charters' student outcomes and demonstrating how they are meeting those outcomes.

Los Angeles has implemented a slightly different monitoring approach than either Oakland or Fresno; however, its approach is not adequate to determine if its 39 charter schools are making progress against their measurable student outcomes. Instead of performing an ongoing assessment of its charter schools' academic health, Los Angeles relies on an external evaluation during the latter part of each school's fourth year of operation under its charter agreement. Los Angeles does not use this evaluation as a monitoring tool. Rather, its purpose is to assess each school's program so that Los Angeles can decide whether to renew the charter. This fourth-year evaluation meets Los Angeles' objective as a tool to obtain additional data to make an informed renewal decision. However, Los Angeles' evaluation does not serve as an adequate ongoing assessment of its charter schools, because the evaluation takes place far too infrequently, allowing the schools four years of operation without having to demonstrate to Los Angeles that they are meeting their goals and objectives. By not monitoring its charter schools effectively, Los Angeles, as a chartering entity, may not ensure that its schools are providing students with suitable curriculum and educational opportunities in accordance with their charters and cannot identify when corrective action is necessary.

Finally, although San Diego has not in the past adequately assessed its charter schools for compliance with their agreed-upon measurable student outcomes, San Diego has developed guidelines that, if implemented, may constitute an adequate process to

monitor its charter schools. These guidelines, in part, require San Diego to conduct annual charter school site visits as well as programmatic audits in the first and third years of each school's operations. The programmatic audit will document the school's progress in student achievement, as well as whether the school has implemented the instructional program called for in the charter. To accomplish this increased level of oversight, San Diego plans to create a charter schools office during fiscal year 2002–03 to coordinate oversight activities and act as the charter schools' district contact point. These guidelines will help San Diego monitor to determine if its charter schools are providing the agreed-upon student educational opportunities and will help give it the information it needs to take necessary corrective action when schools are not following their charters.

Some Charter Schools Assess Their Students' Performance Against the Measurable Outcomes in Their Charters, but Other Schools Do Not

Since the chartering entities we reviewed did not effectively monitor their charter schools for compliance with the provisions regarding measurable student outcomes listed in their charter agreements, we visited a sample of schools from those chartering entities. We expected to find charter schools assessing student performance against the measurable outcomes defined in their charter. Although the schools' charters typically contained student outcomes and outlined the methods the schools were to use to measure the outcomes, 10 of the 12 charter schools we reviewed were not assessing themselves against all of the outcomes contained in their charters.

Ten of the 12 charter schools we reviewed were not assessing themselves against all of the student outcomes their charters contained.

Moreover, the student outcomes the schools wrote into their charters were not always objective indicators of the schools' academic success. For example, the Oakland Charter Academy, in its charter, stated as a component of its student outcomes that students would develop four traits: a sense of personal competence, self-worth, and personal and social responsibility. Although laudable goals, these outcomes are difficult, if not impossible, to measure by any objective standard. By not assessing their students' performance using measurable, objective standards defined in their charters that are relevant to academic performance, the charter schools will not be able to demonstrate to their chartering entities the success of their academic programs. Furthermore, by not assessing student performance against the charter terms, the schools are not demonstrating their accountability for meeting their agreed-upon academic goals.

In the Act, the Legislature established certain requirements for charter petitions, one of which was a description of the measurable student outcomes that the school would be expected to attain. If a school fails to achieve or pursue the charter's student outcomes, the chartering entity has the authority to revoke the charter. For the schools in our sample, each charter contained an element describing measurable student outcomes. These outcomes varied depending on the school's educational program. Nevertheless, we found that not every charter school was assessing its program in accordance with its charter terms. Table 4 shows which of the 12 schools we reviewed are assessing their students using the measurable outcomes defined in their charters.

TABLE 4

Charter School Compliance With Agreed-Upon Measurable Outcomes
Fiscal Year 2001–02

School Name	Chartering Entity Charged With Oversight	Assessment Methods in Practice as Described in the Charter Agreement?	Number of Measurable Outcomes of Academic Performance Included in Charter Agreement	Number of Objectively Measurable Outcomes
Center for Advanced Research and Technology (CART)	Fresno Unified School District	Some	5	3
Edison-Bethune Charter Academy	Fresno Unified School District/Fresno County Office of Education	Some	2	2
Fresno Prep Academy	Fresno Unified School District	Few	6	3
Accelerated School	Los Angeles Unified School District	Some	6	5
Valley Community Charter School	Los Angeles Unified School District	Some	8	5
View Park Preparatory Accelerated Charter School	Los Angeles Unified School District	Some	5	5
Ernestine C. Reems Academy of Technology and Art	Oakland Unified School District	None	7	5
North Oakland Community Charter School	Oakland Unified School District	All	3	3
Oakland Charter Academy	Oakland Unified School District	Few	9	4
Explorer Elementary Charter School	San Diego City Unified School District	All	18	11
High Tech High Charter School	San Diego City Unified School District	Some	5	4
King/Chavez Academy of Excellence Charter School	San Diego City Unified School District	Some	5	2

For those measurable student outcomes that schools assess, not all schools fully complete the assessment. For example, Fresno Prep assessed its students' progress for only one of its three measurable outcomes. One reason for this is that Fresno Prep has narrowed the population it serves from all high school grades to primarily students who were required to repeat the eighth grade. However, instead of measuring whether all of its students were making one year's growth for each year in the program, Fresno Prep assessed only its day students for progress toward this goal. Independent study students account for 65 percent of Fresno Prep's students, with day students accounting for the remaining 35 percent. As a result, Fresno Prep is not able to fully demonstrate to its chartering entity that all of its students are making appropriate academic growth. Similarly, the Accelerated School, chartered by Los Angeles, had in its charter three measurable outcomes that related to individual student performance on standardized tests. Although the school has analyzed the test results on a school-wide and grade-level basis, it has not assessed the test results to determine whether the individual students' results have achieved the outcomes agreed to in the charter.

Two-thirds of the student outcomes in the charters of schools we reviewed can be measured objectively and are indicators of student academic performance. Although laudable, the remaining one-third are difficult, if not impossible, to measure by any objective standard.

Some of the schools did prepare full assessments of specific measurable outcomes in accordance with their charters. For instance, North Oakland Community Charter School (North Oakland) has as one of its measurable student outcomes that all students will demonstrate academic mastery in the academic core areas. The primary way North Oakland assesses its students against this outcome is by using a progress report twice a year. This progress report reflects the various attributes the school believes the student should demonstrate in developing mastery in reading, writing, speaking and listening, conceptual math, and applied math. By completing this assessment, the school is able to document each student's progress toward a mastery of these subjects.

Even though a school may not be performing the required assessments, its students may be growing academically. The measurable student outcomes described in the charter agreement are critical for accountability to the chartering entity, but the use of these measurement criteria is not, in and of itself, an indicator of academic growth. For example, one school that does not assess its students against all of the outcomes described in the charter agreement, View Park Preparatory Accelerated Charter School, chartered by Los Angeles, increased student performance on standardized test scores in grades 2 through 5 by 2.02 percent and 1.88 percent for reading and math, respectively,

between academic years 1999–2000 and 2001–02. It appears that these students are growing academically, even though the school is not performing all its agreed-upon assessments. Standardized test data for this and other charter schools is summarized in Appendix C.

As Table 4 on page 25 shows, all 12 of the sample schools had at least two outcomes in their charter agreement that could be measured objectively and were adequate indicators of student academic performance. Objective measures of student performance are important because they provide clear indicators against which a school can measure itself and demonstrate to others its accountability. However, 34 percent of the outcomes listed in the schools' charters were not related to academic performance. For example, several charters listed student attendance rates as a measurable student outcome. Student attendance rates can be a measure of a charter school's overall success, particularly if the school improves attendance rates for students who had not regularly attended their previous public schools. However, the effects of improved attendance rates on academic performance are of a longer-term nature and cannot be measured objectively. Thus, we did not include them in our determination of how well the charter schools were assessing the academic success of their programs.

CHARTERING ENTITIES DO NOT ENSURE THE SCHOOLS' COMPLIANCE WITH VARIOUS LEGAL REQUIREMENTS THAT ARE CONDITIONS OF APPORTIONMENT

Charter schools are subject to conditions of apportionment, but most chartering entities do not ensure all of their schools have fulfilled these conditions.

Charter schools operate in a unique environment in which they are exempt from much of the Education Code that governs public schools. Although exempt from many statutes, charter schools are still subject to at least three legal requirements as conditions for receiving state funds. These requirements include (1) hiring teachers who hold a Commission on Teacher Credentialing permit, except for teachers of non-core, non-college-prep courses; (2) offering, at minimum, the same number of instructional minutes as noncharter schools; and (3) certifying that students have participated in state testing programs in the same manner as other students attending public schools. Requirements 1 and 2 became conditions of receiving state funds beginning January 2002, whereas requirement 3 became a condition of receiving state funds effective January 2000.

Since these requirements are conditions of apportionment, we expected to find that the chartering entities had established guidelines and activities to ensure compliance with these legal provisions. Most of the chartering entities we reviewed lack policies and sufficient procedures to validate that all of their charter schools have met these conditions of apportionment. For example, Los Angeles does not review the teacher credentials at its independent schools, and San Diego does not ensure that all of its charter schools offer the requisite number of instructional minutes. Moreover, as we discuss further in Chapter 2, although the charter school statute requires an annual audit, these audits do not address all of the conditions set forth in the statute. By not verifying that all of their charter schools comply with these legal requirements, the chartering entities cannot be assured that their charter schools have satisfied the conditions of apportionment.

Table 5 shows the extent to which the chartering entities we reviewed verify their charter schools' compliance with the three legal requirements just described.

TABLE 5

Chartering Entities' Verification of Charter Schools' Compliance With Legal Requirements Fiscal Year 2001–02

Chartering Entity	Verify Teacher Qualifications?	Verify Instructional Minutes?	Verify Standardized Testing?
Fresno Unified School District	Unclear	All	Some
Los Angeles Unified School District	Some	Unclear	Most
Oakland Unified School District	No	No	No
San Diego City Unified School District	Unclear	Some	Most

Chartering entities typically have not verified that all of their charter schools employ credentialed teachers. According to the Education Code, teachers in charter schools are required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. For example, although Los Angeles reviews the teacher credentials for its dependent

schools, it does not review the credentials of the teachers at its 14 independent charter schools, which do not purchase payroll services from the district. In Oakland, the district reviews the charter schools' California Basic Education Data System (CBEDS) data as its way of verifying teacher credentials. However, because the CBEDS data is merely a summary of instructors by credential type, it is not an adequate substitute for reviewing the credentials directly.

Furthermore, according to the Education Code, a charter school shall offer, at a minimum, the same number of minutes of instruction as a noncharter school for the appropriate grade levels. However, it is unclear whether all of the chartering entities verify the instructional minutes at each of the charter schools under their authority. San Diego typically verifies its charter schools' instructional minutes by collecting the schools' class schedules, calculating the number of minutes offered, and requiring the charter school to verify this number for accuracy. In at least one instance, San Diego did not confirm the number of minutes offered by collecting a signature from the school. Because meeting the required number of instructional minutes is an ongoing process, at each apportionment reporting period, it would seem necessary for the chartering entity to certify that the schools have met this condition of apportionment. However, for another school San Diego did not complete the instructional minutes certification for fiscal year 2001–02 until May 23, 2002, several weeks after the May 1, 2002, deadline on which San Diego certified to the Department of Education (department) that all of its charter schools had met the conditions of apportionment for the period July 1, 2001, through April 15, 2002. Thus, San Diego verifies only some of its charter schools' instructional minutes before submitting its certification for the apportionment reporting period.

Finally, the chartering entities do not always verify that each charter school participates in the requisite standardized testing. According to the Education Code, a charter school must certify that its students have participated in state testing programs in the same manner as other students attending public schools. For example, Oakland treats each of its charter schools as independent, and thus each school conducts the state standardized testing on its own. The test scores are not available to Oakland until they are publicly released in late summer following the testing year. Oakland uses these results to verify that each charter school has conducted the requisite

testing. In 2002, this practice meant that Oakland certified to the department by July 15, 2002, that its charter schools had conducted the testing, yet it was not able to verify this until the test results were publicly released on August 29, 2002.

Without monitoring all of its schools for compliance with these various legal requirements, the chartering entity cannot ensure that the reports it sends to the department, wherein it certifies that all of its charter schools meet the conditions of apportionment, are accurate. The department thus has no assurances that the charter schools are legally entitled to the state funding apportioned to them. Moreover, the schools' failure to comply with law is grounds for charter revocation.

RECOMMENDATIONS

To ensure that the chartering entities hold their charter schools accountable through oversight, the Legislature should consider amending the statute to make the chartering entities' oversight role and responsibilities explicit.

To ensure that charter schools are held accountable for the taxpayer funds they receive and demonstrate accountability for the measurable outcomes set forth in their charters, the chartering entities should consider developing and implementing policies and procedures for academic monitoring. At a minimum, the policies and procedures should outline the following:

- Types and frequency of the academic data charter schools should submit.
- Manner in which the chartering entity will review the academic data.
- Steps the chartering entity will take to initiate problem resolution.

To ensure that their charter schools are meeting statutory conditions for receiving state funding, the chartering entities should verify these conditions through the schools' independent financial audits or some other means. ■

CHAPTER 2

Chartering Entities Do Not Exercise Sufficient Oversight of Charter Schools' Fiscal Health

CHAPTER SUMMARY

When chartering entities authorize the creation of a charter school, they accept the responsibility for monitoring its fiscal health. However, chartering entities are not adequately monitoring all of their charter schools even though some appear to have fiscal problems. Specifically, chartering entities do not ensure that they receive the financial information they request from their charter schools and do not thoroughly review the information they do receive. Because chartering entities do not have as much knowledge about the financial activities of the fiscally independent charter schools as they do about those of the fiscally dependent charter schools, it is important that the charter schools' auditors verify the schools' compliance with statutory requirements, and that the chartering entities have policies and procedures to ensure thorough follow-up when fiscal concerns or audit findings are noted at these schools. However, the chartering entities lacked such policies and procedures and, despite fiscal problems at some schools and various audit findings, were unable to provide evidence of actions they took to improve the schools' fiscal condition. Without adequate monitoring, schools that develop fiscal problems and other reported deficiencies might fail to meet the terms of their charters or might deteriorate financially to the point of having to close, disrupting their students' education.

Further, chartering entities are authorized to charge a percentage of a charter school's revenues for the actual costs of providing oversight. However, they cannot support that their actual costs were at least equal to the oversight fees charged because they did not track their actual oversight costs, as required by statute. As a result, the chartering entities may be charging their charter schools more than legally permitted. They also risk double-charging the State through their mandated-costs claims. Finally, although the statute is clear regarding the percentage of revenues that may be charged, the chartering entities are not all

applying the percentage to the same types of revenues and thus may be charging more than they should or not charging enough to cover their oversight costs.

CHARTERING ENTITIES HAVE CERTAIN RESPONSIBILITIES FOR MONITORING CHARTER SCHOOLS' FISCAL HEALTH

In authorizing charter schools, the Legislature intended to provide opportunities for teachers, parents, students, and community members to establish and operate schools independently of the existing school district structure. The Legislature freed the schools from the programmatic and fiscal constraints that exist in the public school system. However, the statutes do not overlook accountability. Specifically, the Education Code, Section 47601(f), speaks to the Legislature's intent that charter schools be held accountable for meeting certain outcomes and for moving from rule-based to performance-based accountability systems. Thus, each school must create a founding document, or charter, which by law must contain certain elements. For example, all charter schools, as public schools, are eligible for state funds, and each school's charter must specify how an annual audit will be conducted and how audit exceptions will be satisfactorily resolved. As such, they are accountable for the taxpayer funds the State provides for the schools' operations.

An approved charter represents an agreement between the school and its chartering entity and therefore makes the charter school accountable to its entity. Although the chartering entity's role is not clearly defined in the statutes, they imply certain oversight responsibilities, as they allow the entities to:

- Inspect or observe any part of the charter school at any time.
- Charge the charter schools fees for oversight.
- Make reasonable inquiries, including for financial data.
- Revoke a charter for material violations of any charter condition, standard, or procedure; failure to meet or pursue the charter's pupil outcomes; engaging in fiscal mismanagement; and any violation of law.

We expected that, to facilitate their oversight, chartering entities would have established formal policies and procedures guiding these oversight activities. Typically, sound oversight

systems define the types and frequency of data to be submitted, the manner in which the entity will review the data, and the steps it will take to resolve any concerns resulting from its oversight activities. Therefore, we assessed the charter oversight activities of the selected chartering entities against what a sound oversight system would include.

The charter schools reviewed in this chapter are all fiscally independent of their chartering entities. Although the statutes authorizing charter schools imply that chartering entities are responsible for providing oversight, the degree of oversight may vary depending upon whether the charter school is fiscally dependent or fiscally independent. As we discussed in the Introduction, fiscally dependent schools rely on their chartering entities for operational support. In contrast, fiscally independent schools do not rely on their chartering entity for fiscal or operational support. Although chartering entities have sufficient information to monitor the fiscal health of their dependent charter schools, they do not maintain financial information for the fiscally independent charter schools. Consequently, oversight of these types of charter schools is essential.

CHARTERING ENTITIES LACK POLICIES AND PROCEDURES FOR SUFFICIENT FISCAL MONITORING AND HAVE NOT ADEQUATELY MONITORED THEIR CHARTER SCHOOLS

Despite the crucial need for consistent fiscal monitoring, the chartering entities have not adequately monitored their charter schools' fiscal health, even though some charter schools appear to have fiscal problems.

When chartering entities authorize the creation of a charter school, they accept the responsibility for monitoring its fiscal health. Without fiscal monitoring, charter schools are not held accountable for the taxpayer funds they receive nor will chartering entities always know when they should revoke a charter. Moreover, students are affected should a school close because of financial problems. Despite the crucial need for consistent fiscal monitoring, we found that the chartering entities lacked policies and procedures for such monitoring and have not adequately monitored their charter schools' fiscal health, even though some charter schools appear to have fiscal problems. The four chartering entities we reviewed could not demonstrate that they always receive the financial information they request, such as year-end audited financial statements. Moreover, although all four chartering entities asserted that they have procedures for reviewing fiscal data and identifying and resolving problems, none could provide evidence of such. Further, even though all four chartering entities recently developed or adopted new policies and

procedures regarding charter schools, only two of those policies address fiscal monitoring and appear to provide for improved monitoring of the chartering entities' charter schools' fiscal health.

Even though all four chartering entities recently developed or adopted new charter schools policies and procedures, only two policies address fiscal monitoring.

Oakland Unified School District (Oakland) signs a Memorandum of Understanding (MOU) with each of its charter schools—all of which are fiscally independent—that outlines the fiscal data it needs to receive and the timing for submittal. However, not all of the charter schools were submitting the reports on time or submitting all of the required reports.[2] For example, between July 1, 2001, and April 30, 2002, three of Oakland's nine charter schools submitted their monthly reports only quarterly, and eight failed to submit all of the required reports. Additionally, two charter schools were between one and six months late in submitting any of their monthly reports. Although Oakland asserted that it had contacted the charter schools regarding the missing reports, it could not provide evidence of the steps it took, nor could it provide us with all of the reports.

Although Oakland receives some of the charter schools' financial reports on time, it could not provide evidence that it had reviewed the reports that it received. At various times between December 2001 and April 2002, six of Oakland's nine charter schools reported expenditures in excess of revenues. The schools' level of excess spending ranged from $23,000 to $217,000, with some schools reporting expenditures in excess of revenues for as many as six months in a row. For example, as of February 28, 2002, West Oakland Community School (West Oakland) reported year-to-date spending of $217,000 more than its revenues. The school had reported expenditures in excess of revenues for at least two months between July and February during fiscal year 2001–02. However, Oakland could not provide evidence that it had reviewed West Oakland's financial reports or that it had worked with the school to correct its financial condition. For some schools, reported deficits are simply a timing issue, as the schools spend in anticipation of funding. However, without reviewing the schools' fiscal data and resolving questions, the chartering entities may not be aware of this, potentially leaving a serious financial problem to grow unchecked.

Oakland's recently developed fiscal policies and procedures cover three stages of fiscal monitoring: receiving financial data, reviewing the data, and taking necessary corrective action.

[2] The monthly financial information that Oakland requests includes both budget and year-to-date actual revenue and expenditures, as well as bank statements, bank reconciliations, and average daily attendance reports.

Specifically, the policies and procedures do the following:

- Reiterate the types of monthly and annual financial information the schools are to provide.
- State that Oakland will withhold funds from schools that fail to submit complete monthly and annual financial information.
- Outline Oakland's process for reviewing the charter schools' budget and actual information to determine their fiscal health.
- Require Oakland to document conclusions and corrective actions.

Without reviewing fiscal data and resolving their questions, chartering entities potentially leave serious financial problems to grow unchecked.

If implemented, these policies and procedures appear to provide for more complete monitoring of its charter schools, giving Oakland a better understanding of the schools' fiscal conditions and increasing its opportunity to help schools avert fiscal problems.

In fiscal year 2001–02, Fresno Unified School District (Fresno) twice required its charter schools to submit budget and actual information for its review at December 2001 and March 2002. Fresno provided some information indicating that it had reviewed the March financial reports, but it had not established formal policies and procedures for conducting the review and resolving any fiscal problems the reports may reveal. As a result, Fresno's review was not as effective as it could be.

For example, based on reports that Fresno Prep Academy (Fresno Prep) submitted, it appeared to be fiscally insolvent; the school had reported year-to-date expenditures of $46,000 in excess of revenues. When combined with its fiscal year 2000–01 net deficit of $87,000, the school's cumulative net deficit was $133,000, approximately 28 percent of its total revenues for fiscal year 2000–01. Although Fresno noticed that Fresno Prep had financial problems and contacted the school for additional information, it did not follow through with the school to obtain data Fresno claimed the school did not provide. As this school's chartering entity, Fresno is not adequately holding Fresno Prep accountable for the taxpayer funds the school receives. In addition, Fresno's failure to follow up with the charter school may result in continued financial problems, which could lead to the school's closure.

Fresno's recently developed fiscal policies and procedures, if implemented, appear to provide for improved fiscal monitoring of its charter schools' fiscal health. The new

policies and procedures restate the types and frequency of financial information the schools are to provide and outline Fresno's process for reviewing the information. However, the new policies and procedures do not address Fresno's basis for determining a school's fiscal health or the steps it will take when corrective action is necessary; these additional steps are necessary to create a sound fiscal monitoring system.

The Los Angeles Unified School District (Los Angeles) bases its fiscal review of charter schools on interim budget and year-to-date actual revenue and expenditure reports, as well as audited annual financial statements.[3] However, during fiscal year 2001–02, Los Angeles' charter schools did not always submit all of the required reports, and following its review Los Angeles lacks formal policies to appropriately follow up when a school experiences fiscal problems. For example, of the 10 schools that submitted fiscal year 2000–01 audited financial statements, only 2 included all of the required components. Los Angeles did not follow up with the other charter schools to obtain the missing components.

Los Angeles provided a spreadsheet that it prepared to facilitate a review of its charter schools' financial information. Staff asserted that if its review reveals a school with a net deficit, staff contacts the school to determine the reason and asks how the charter school will correct the problem by the end of the fiscal year. Los Angeles could not provide any documentation to support that it had contacted the schools, and thus it is difficult to assess whether the steps described actually occurred.

We reviewed the financial information for five of Los Angeles' fiscally independent charter schools as of October 31, 2001, and January 31, 2002, and found that three of the charter schools reported expenditures in excess of revenues at both time periods. However, Los Angeles could not provide evidence that it had worked with these schools to determine the reason for the potential fiscal problem or to correct the imbalance. Specifically, we found that the Accelerated School reported year-to-date spending of $32,000 in excess of revenues as of October 31, 2001, and year-to-date spending of $147,000 in excess of revenues as of January 31, 2002. Although the school reported a $689,000 ending fund balance in fiscal year 2000–01, at a minimum, we would expect that the January 2002 figures

[3] For Los Angeles' charter schools, the annual audited financial statements are to include the auditor's opinion regarding the balance sheet; statement of revenues, expenditures, and changes in fund balances; statement of cash flows; and statement of compliance with state and federal guidelines.

would have warranted a phone call to determine the reason for the large excess of expenditures over revenues and to find out the school's plans to correct the financial problem. However, Los Angeles could not provide evidence of its efforts to follow up with the school. As of June 30, 2002, the charter school reported revenues of $43,000 in excess of expenditures.

Although Los Angeles recently developed policies and procedures for its charter schools, they do not address its fiscal monitoring. As a result, Los Angeles' fiscal review was incomplete, as it lacked complete data from all the schools and has no process to ensure that the schools resolve identified problems. Without complete financial information and the necessary processes to hold its charter schools accountable for the taxpayer funds they operate with, these schools may be at greater risk for closure due to fiscal failure.

Even if San Diego City Unified School District (San Diego) had policies and procedures to guide its fiscal review and follow-up, it does not request and receive sufficient data to adequately monitor its charter schools. San Diego receives annual financial information from its schools in the form of audited financial statements; it typically does not request or receive other financial information. However, only 5 of San Diego's 15 charter schools submitted the requested annual reports for fiscal year 2000–01. Although San Diego asserted that it followed up on the missing reports, the charter schools did not all comply, and San Diego made no further attempts to obtain the reports.

In addition, San Diego compiles financial data for its charter schools periodically during the fiscal year, but this data is not adequate to assess the schools' fiscal health. San Diego's reports include budgeted revenues and expenditures and year-to-date actual revenues, but they reflect year-to-date actual expenditures only if San Diego provides the schools with financial services. Because San Diego does not provide financial services for all of its charter schools, it does not have actual expenditure information for those schools for which it does not provide financial services. Further, San Diego's recently adopted policies for its charter schools do not address its review of the data, indicators of fiscal problems, or steps to be taken to resolve fiscal problems. Without requiring and receiving necessary financial information from its charter schools, San Diego cannot provide sufficient oversight of its charter schools' fiscal health, potentially allowing fiscal problems to grow unchecked.

San Diego agrees that audited financial statements are not sufficient to monitor its charter schools. Nevertheless, the senior financial accountant told us that San Diego lacks the authority to require regular financial reporting from schools that do not purchase its financial services. We disagree with San Diego's assessment. Each of the three chartering entities discussed earlier—Fresno, Oakland, and Los Angeles—requests and receives some sort of financial information from its charter schools in addition to audited financial statements. Moreover, the Education Code, Section 47604.3, requires charter schools to promptly respond to their chartering entity regarding all reasonable inquiries, including those related to its financial records. Despite weaknesses in their data review and problem resolution activities, it seems that chartering entities are successfully requesting and receiving interim financial data and that the Education Code gives San Diego explicit authority to do so. Without fiscal monitoring, charter schools are not held fully accountable for the taxpayer funds they receive.

Some Charter Schools Are Fiscally Unhealthy

Despite some charter schools reporting negative fund balances, the chartering entities were unable to provide evidence of actions they had taken to help the charter schools improve their fiscal condition.

Because the four chartering entities were not sufficiently monitoring their charter schools, we used high-level indicators to review the fiscal health of 11 independent charter schools. We found that, during fiscal year 2001–02, some of the charter schools appeared to have fiscal problems. For reporting periods ending between March 31, 2002, and June 30, 2002, 6 of the 11 charter schools reported year-to-date expenditures in excess of revenues. Moreover, as Appendix B shows, 5 of the 25 charter schools that submitted audited financial statements for fiscal year 2000–01 reported negative fund balances as of June 30, 2001, and others failed to meet the reserve requirement the Department of Education (department) has established for school districts.[4] Although we recognize that charter schools are not legally obligated to meet this reserve requirement, we used it as a benchmark for assessing schools' fiscal health.

Despite reported negative fund balances, which represent the accumulation of net expenditures in excess of net revenues, and net deficits, the chartering entities were unable to provide evidence of actions they had taken to work with these charter schools to improve their fiscal condition. It is important for

[4] The department established a fund balance reserve requirement for school districts to cover cash requirements in succeeding fiscal years. The ratio is between 1 percent and 5 percent of the fund balance to expenditures, depending on a district's average daily attendance level.

chartering entities to monitor charter schools that consistently report expenditures in excess of revenues during a fiscal year or that report negative fund balances to ensure the schools take appropriate corrective actions and progress toward regaining fiscal health. Otherwise, the schools may deteriorate to the point of having to close and displace their students.

Table 6 on the following page summarizes the fiscal status of the 11 charter schools we reviewed for reporting periods ending between March 31, 2002, and June 30, 2002. For fiscal year 2001–02, 6 of the 11 charter schools showed year-to-date expenditures in excess of revenues; further, at least 4 of these 6 schools did not have prior year-end fund balances sufficient to cover their deficits. Even though the chartering entities asserted they took action, none could provide sufficient evidence to support their claims, and thus the chartering entities could not assure that their charter schools were accountable for the taxpayer funds they received. For example, as of June 30, 2002, Valley Community Charter School (Valley), chartered by Los Angeles, reported a cumulative negative fund balance. Valley has operated for only two years; in this short time, the school's expenditures have exceeded its revenues by almost $189,000. Of additional concern is that Valley reported a $200,000 loan outstanding from the department as of June 30, 2002. The loan terms call for the department to withhold $50,000 each year from the school's apportionment until the loan principal is repaid. Because the school has spent in excess of its revenues, notwithstanding its loan obligation, this illustrates a school that may need technical assistance from its chartering entity. However, Los Angeles did not assess the school in this manner and could not demonstrate that it was working with Valley to shore up the school's finances. If Valley's fiscal health deteriorates further, the school may close and the department may not be reimbursed for the outstanding loan, resulting in a loss of taxpayer money.

CHARTER SCHOOL AUDITS DO NOT PROVIDE ALL NECESSARY INFORMATION, AND CHARTERING ENTITIES DO NOT SUFFICIENTLY REVIEW REPORTS OR ENSURE THAT AUDIT FINDINGS ARE RESOLVED

Having an audit and correcting noted deficiencies are ways charter schools demonstrate accountability for the taxpayer funds they are entrusted with. Although each charter must specify the manner in which annual independent financial audits shall be conducted, not all audit reports contain all

TABLE 6

Fiscal Health of the Independent Charter Schools We Reviewed
Fiscal Year 2001–02

Chartering Entity/Charter School	Period Ending (Unaudited Financial Statements)	Revenues in Excess of Expenditures?	Prior-Year Fund Balance Sufficient to Cover Expenditures in Excess of Revenues?
Fresno Unified School District			
Edison-Bethune Charter Academy	4/30/2002	No	Unknown*
Fresno Prep Academy	6/30/2002	No	No
Los Angeles Unified School District			
Accelerated School	6/30/2002	Yes	N/A
Valley Community Charter School	6/30/2002	No	No
View Park Preparatory Accelerated Charter School	6/30/2002	Yes	N/A
Oakland Unified School District			
Ernestine C. Reems Academy of Technology and Art	3/31/2002	No	No
North Oakland Community Charter School	4/30/2002	No	No
Oakland Charter Academy	4/30/2002	Yes	N/A
San Diego City Unified School District			
Explorer Elementary Charter School	6/30/2002	Yes	N/A
High Tech High Charter School	6/30/2002	No	Unknown*
King/Chavez Academy of Excellence Charter School	6/30/2002	Yes	N/A

* Edison-Bethune's financial information was included as part of its parent company and no separate audited financial information was available for fiscal year 2000–01. High Tech High did not have audited financial information for fiscal year 2000–01.

N/A - Not applicable because the school reported revenues in excess of expenditures for the period reviewed.

the information relevant to school operations. For example, not all the audit reports we reviewed reflected tests of average daily attendance (ADA), the primary basis for school funding. Nor did the auditors always assess the schools' compliance with standardized testing. As of January 2002, conditions of apportionment included standardized testing and other statutory requirements—a charter school must meet these statutory conditions to be eligible for State funding.

When they approve charters, chartering entities become responsible for monitoring to determine if their schools meet their charter terms. As such, we expected the chartering entities to have policies and procedures in place for reviewing the audit reports of their charter schools to determine the significance of any audit findings and for ensuring that the schools resolved reported problems. However, none of the chartering entities we reviewed had these necessary policies and procedures. Moreover, some entities did not adequately review the reports and ensure that reported problems were resolved.

Charter Schools' Audit Reports Do Not Always Provide Assurance on All Aspects of School Operations

The Education Code, Section 47605, states that each charter must reasonably describe the manner in which:

- Annual, independent, financial audits shall be conducted.
- Audit exceptions and deficiencies shall be resolved to the chartering entity's satisfaction.

Although the charter school statute requires an annual audit, some of these audits do not address all of the conditions set forth in the statute. As Table 7 on the following page shows, for the 25 independent charter schools that submitted audited financial statements for fiscal year 2000–01, less than one-half indicated that the auditors had verified the schools' reported ADA. Because ADA is the primary basis for state funding, it is important for the auditors to assess the schools' attendance systems for accuracy. Similarly, in January 2000, as a condition of apportionment, the Legislature began requiring charter schools to participate in state testing programs. However, as the table shows, only 1 of the 25 audit reports we reviewed indicated whether the school had met this condition. Effective January 2002, the Legislature imposed on charter schools three additional conditions of apportionment: meeting minimum instructional minute requirements, maintaining written contemporaneous pupil attendance records, and using credentialed teachers in certain instances.

TABLE 7

Number of Charter Schools' Auditors That Performed Various Compliance Testing Procedures Fiscal Year 2000–01 Audit Reports

Chartering Entity	Number of Charter Schools That Submitted Audited Financial Statements	Number of charter schools' auditors that:			
		Verified* Instructional Minutes	Verified* Reported ADA	Verified* Teacher Credentials	Verified Standardized Testing
Fresno Unified School District	5	2	3	1	1
Los Angeles Unified School District	10	0	1	0	0
Oakland Unified School District	6	0	4	0	0
San Diego City Unified School District	4	2	3	1	0
Totals	**25**	**4**	**11**	**2**	**1**

* Charter school law requires the schools to meet certain specified standards. As of January 2002, all of these three requirements became conditions of apportionment.

The State Controller's Office standards and procedures for California K-12 local educational agency audits offers general insight into the nature, scope, and administration of such audits and identifies the minimum audit and reporting requirements necessary to comply with statutory requirements. Although we recognize that charter school audits are not required to conform to these guidelines, if they were used, the resulting audits would provide a more complete picture of charter schools' financial positions. In addition, this level of review would provide the chartering entities with a greater indication of the charter schools' accountability.

Chartering Entities Do Not Sufficiently Review Audit Reports or Ensure That Audit Findings Are Resolved

At the time of our review, Fresno lacked policies and procedures for reviewing and following up on reported findings. The administrator of Fresno's fiscal services division described Fresno's process for reviewing the fiscal year 2000–01 audit reports as assessing the fiscal impact of any negative audit findings and determining whether the corrective action plan was adequate. In addition, the administrator asserted that Fresno staff compared the audited figures to unaudited information and looked for any ongoing concerns, fund balance issues, and differences in debt issuances.

As described, Fresno's audit review practices sound thorough; however, Fresno could not provide evidence that it actually employs these practices. For example, Fresno's administrator asserted that the problems found during an audit of Fresno Prep were immaterial and that the school's stated corrective actions were sufficient to address the problems. However, we believe that, taken as a whole, the 10 problems identified in the audit report are in fact material to the charter school's fiscal health and that Fresno's response was insufficient. Fresno Prep's audit report contained numerous findings, including weak internal controls and over reported student attendance figures, and the audit report revealed the school had an $87,000 net deficit. In the report, the auditor also expressed substantial doubts as to the school's ability to continue as a going concern.

When asked to justify her reasons for accepting Fresno Prep's corrective action plan, Fresno's administrator stated that she believed the school's responses to the external auditor's recommendations appeared appropriate. In addition, that:

- Fresno received the school's audit report in mid-March 2002, more than three months after the deadline, and thus was unable to review Fresno Prep's audit findings at the same time as it reviewed its other charter schools' audit reports.

- In January 2002, Fresno visited Fresno Prep to review the school's attendance procedures. Although it noted exceptions with the school's attendance accounting, Fresno concluded that the process was functioning as intended.

The fact that Fresno Prep submitted the report late, after Fresno was done reviewing the other audits it had received, is not an appropriate reason for accepting the school's corrective action plan without further inquiry. Moreover, Fresno's January 2002 attendance review should have caused it to take a closer look at Fresno Prep, as the attendance review revealed at least two of the same deficiencies reported in the school's audit—namely, certificated staff not signing the school's attendance sheets and the attendance sheets lacking a legend explaining the various attendance marks. By not sufficiently following up on Fresno Prep's numerous audit findings, Fresno is not suitably holding the charter school accountable for its financial management. Although Fresno's new policies and procedures state that it will review the charter schools' audit reports and determine if any audit findings require follow-up, the policies do

not address the basis Fresno will use to determine the significance of the audit findings or how Fresno will ensure that reported audit problems are resolved.

During the course of our work, Oakland's controller, who provided us with initial information regarding Oakland's policies and procedures, left the district. As a result, Oakland's current financial services officer asserted that she could not verify whether Oakland had formal policies and procedures for reviewing audit reports and following up on audit findings or that it had applied these policies and procedures to its charter schools' audit reports for fiscal year 2000–01. It seems likely that Oakland did not review its charter schools' fiscal year 2000–01 audit reports or follow up with the schools to ensure that reported problems were corrected, as it could not provide any evidence of such actions. During the audit, Oakland's financial services officer provided a document she stated was a work product resulting from meetings among staff currently responsible for charter schools. The document represents new formal monitoring procedures to be used by Oakland's staff. The new policies require the accounting supervisor and the charter schools coordinator to meet with the charter schools to review the audit reports. This step in the new policies, if implemented, appears reasonable; however, the policies do not specify how Oakland will ensure that negative audit findings are resolved. For fiscal year 2000–01, the charter schools' audit findings did not appear to be significant. Nevertheless, on an ongoing basis, audit review and resolution of findings are important elements in the chartering entities' overall monitoring responsibilities, allowing them to determine whether charter schools are appropriately using the taxpayer funds they are entrusted with.

Audit review and resolution of findings are important elements in the chartering entities' overall monitoring responsibilities, allowing them to determine whether charter schools are appropriately using the taxpayer funds they are entrusted with.

In Los Angeles, according to the director of the charter schools office, only fiscally independent charter schools must submit an audit, and to date, there have been no negative audit findings. However, the director asserted that if there were audit findings, the staff responsible would immediately inform her. In addition, all pertinent charter school and chartering entity stakeholders would meet to resolve the audit issues to Los Angeles' satisfaction. We reviewed 10 audit reports for Los Angeles' independent charter schools and confirmed that for fiscal year 2000–01, none of these schools' reports contained negative findings. This lack of findings does not negate Los Angeles' need for audit review policies and procedures, however. Although the process the director described seems reasonable, it is not documented so

that staff can acknowledge responsibility for these activities. Nor do staff have a point of reference to ensure that they are taking appropriate measures in holding the charter schools accountable for their fiscal management. Thus, it is difficult for Los Angeles to guarantee that the steps outlined would occur.

Like the three other chartering entities, San Diego lacks policies and procedures for reviewing audit reports or for ensuring that problems were resolved. However, for this chartering entity, audit review and follow up are significant activities, as they represent San Diego's primary method of charter school oversight. As we mentioned earlier in this chapter, the charter schools' audited financial statements are typically the only information San Diego requests and receives from its charter schools. However, San Diego was unable to provide evidence documenting its review or the conclusions reached. Further, because San Diego did not receive audit reports for 10 of its charter schools in operation during fiscal year 2000–01, it cannot ensure that any deficiencies that those audits may have revealed have been corrected.

CHARTERING ENTITIES CANNOT JUSTIFY THE OVERSIGHT FEES THEY CHARGE AND RISK DOUBLE-CHARGING THE STATE THROUGH MANDATED-COSTS CLAIMS

Over two fiscal years, the four chartering entities charged more than $2 million in oversight fees, but none could document that these fees corresponded to their actual costs in accordance with statute.

The Education Code, Section 47613, authorizes chartering entities to charge up to 1 percent of a charter school's revenues for the actual costs of providing supervisorial oversight, or up to 3 percent if providing the charter school with substantially rent-free facilities. For fiscal years 1999–2000 and 2000–01—the most recent data available at the time of our review—the four chartering entities charged their charter schools more than $2 million in oversight fees. Nevertheless, none of the four chartering entities could document that the fees they charged corresponded to their actual costs in accordance with statute, because they failed to track their actual oversight costs. Rather, the chartering entities automatically charged a percentage of charter schools' revenues, assuming that their oversight costs exceeded the fees they charged. As a result, the chartering entities may be charging their charter schools more than permitted by law.

Moreover, these chartering entities also participated in the State's mandated-costs reimbursement process, which reimburses entities for the costs of implementing state legislation. The chartering

entities claimed costs in excess of $1.2 million related to charter schools for the two fiscal years we reviewed. However, because the chartering entities did not track the actual costs associated with overseeing their charter schools, they risk double-charging the State.

Finally, although the statute is clear that the entities' oversight fee is capped at a certain percentage of a school's revenue based on actual costs, it is unclear regarding which revenues are subject to the oversight fee. Consequently, the chartering entities are interpreting the law differently and may be applying the percentage to more revenues than permitted or to fewer revenues than they could be to cover their oversight costs.

Chartering Entities Have Failed to Tie Oversight Fees to Actual Oversight Costs

During fiscal years 1999–2000 and 2000–01—the most recent data available at the time of our review—we found that the four chartering entities we reviewed did not track the actual costs of providing charter schools oversight. Although the law limits the oversight fee that the chartering entity charges to actual costs, with a ceiling of 1 percent of a charter school's revenues, or 3 percent if the chartering entity provides substantially rent-free facilities, three of the four chartering entities we reviewed charged oversight fees of precisely 1 percent or 3 percent. However, none of these three chartering entities tracked their actual oversight costs.

For fiscal year 2000–01, Fresno charged five of its charter schools roughly $27,000 for oversight. We asked Fresno to share its cost analysis supporting the fees it charged, but it could not. Fresno's administrator asserted that for fiscal year 2000–01, Fresno's oversight costs exceeded the $27,000 in collected fees, yet had no data to support this claim. Similarly, Oakland charged its charter schools 1 percent for oversight during fiscal years 1999–2000 and 2000–01; these fees totaled approximately $43,600 and $51,200, respectively. Oakland's financial services officer was unable to provide evidence to support the fees.

Like the other three entities, Los Angeles failed to track its oversight costs to demonstrate that the fees it charged its charter schools were justified. Unlike the other chartering entities, however, Los Angeles charged two of its charter schools a 1.5 percent oversight fee. Los Angeles asserted that the 1.5 percent oversight

fee was based on negotiations between it and the charter schools and that it was providing the schools with rent-free facilities. Although we found that Los Angeles did provide these schools with rent-free facilities, it was unable to account for its oversight costs to justify the 1.5 percent fee. By failing to track actual costs related to oversight, chartering entities may be charging a charter school more for oversight than permitted by law.

Chartering Entities Risk Double-Charging the State for Charter School Oversight Costs

In July 1994 the Commission on State Mandates determined that the Charter Schools Act of 1992 (Act) resulted in reimbursable state-mandated costs because the Act established specific responsibilities for chartering entities. The State Controller's Office, in its School Mandated Cost Manual (manual), lists reimbursable charter school activities as:

- Providing information on the Act and the chartering entities' charter policies and procedures.
- Reviewing and evaluating new charter petitions.
- Preparing for public hearings for charter adoption, reconsideration, renewal, revision, revocation, or appeal.
- Reviewing, analyzing, and reporting on a charter school's performance for the purpose of charter reconsideration, renewal, revision, evaluation, or revocation.
- Carrying out the petition appeals process.

In addition, the manual states that only net local costs may be claimed; the claimant must offset its costs with any savings or reimbursements received.

Chartering entities risk double-charging the State for some costs by charging the charter schools an oversight fee and claiming mandated-costs reimbursements.

Chartering entities risk double-charging the State for some costs related to charter schools by charging the charter schools the oversight fee and then claiming mandated-costs reimbursements. As Table 8 on the following page shows, for fiscal years 1999–2000 and 2000–01, the four entities charged their charter schools $2 million in oversight fees and claimed mandated-costs reimbursements of $1.2 million from the State.

TABLE 8

Chartering Entities' Oversight Fees Charged and Mandated-Costs Reimbursements Claimed for Fiscal Years 1999–2000 and 2000–01

Chartering Entity	Oversight Fee Charged		Mandated-Costs Reimbursements Claimed	
	1999–2000	2000–01	1999–2000	2000–01
Fresno Unified School District	$ 0	$ 27,117	$ 45,599	$ 64,592
Los Angeles Unified School District	242,555	301,821	411,484	484,520
Oakland Unified School District	43,571	51,199	18,829	18,194
San Diego City Unified School District	547,850	786,998	45,886	113,104
Fiscal Year Totals	**$833,976**	**$1,167,135**	**$521,798**	**$ 680,410**
Combined amount for fiscal years 1999–2000 and 2000–01		**$2,001,111**		**$1,202,208**

As we stated earlier, none of the four chartering entities was able to demonstrate that their oversight costs justified the fees they charged their charter schools. Nevertheless, each chartering entity submitted a mandated-costs reimbursement claim to the State, which implies that it incurred costs that were not otherwise paid for. Because the chartering entities we reviewed failed to adequately track their actual costs of providing oversight, they are unable to demonstrate that charter schools have not already paid for some or all of these oversight activities through the oversight fee. Thus, as Table 9 shows, for fiscal years 1999–2000 and 2000–01 combined, the four chartering entities we reviewed risk double-charging the State for costs related to monitoring activities that they had already charged their charter schools for.

TABLE 9

The Risk of Double-Charge for Fiscal Years 1999–2000 and 2000–01

Chartering Entity	Charter Petition Process and Miscellaneous Costs*		Potential Double-Charge for Monitoring Activities	
	1999–2000	2000–01	1999–2000	2000–01
Fresno Unified School District	$ 45,599	$ 38,472	$ 0	$ 26,120
Los Angeles Unified School District	305,570	316,774	105,914	167,746
Oakland Unified School District	5,618	823	13,211	17,371
San Diego City Unified School District	14,236	27,867	31,650	85,237
Fiscal Year Totals	**$371,023**	**$383,936**	**$150,775**	**$296,474**
Combined amount of potential double-charge for monitoring activities for fiscal years 1999–2000 and 2000–01				**$447,249**

* This includes charter petition review and evaluation, preparing for and conducting public hearings on charter petitions, providing information regarding the Act and charter petitions, and indirect costs. For San Diego, these costs also include clerical support, developing policies/training, and charter school committee meetings. For Los Angeles, these costs also include prorated equipment, materials, and supplies.

The chartering entities' mandated-costs claims indicate that the reimbursable activities relate only to the charter petition process. It seems reasonable for the chartering entities to claim these costs, as the schools do not yet exist or receive public funds during the petition process, and thus the chartering entity cannot recover the costs through oversight fees. Although Oakland, San Diego, and Los Angeles provided staff time logs to support their mandated-costs claim forms, none of the chartering entities were able to show that the activities claimed through the mandated-costs claims process had not already been covered by the oversight fees charged to the charter schools. Moreover, not all of the chartering entities could demonstrate that they had instructed their staff to record time for only certain specified charter school functions. For example, Oakland circulated a memo and time log form on August 31, 2001, to various district staff. The memo instructed the staff to complete the log sheet for fiscal years 1999–2000 and 2000–01, but it did not specify that the time recorded needed to be limited to the charter petition process.

Chartering Entities' Interpretations of the Revenue Subject to the Oversight Charge Vary

Charter schools receive funding from a variety of sources, including federal and state grants, lottery funds, start-up loans, and private donations. For fiscal years 1999–2000 and 2000–01, the four chartering entities varied in the categories of revenue against which they charged the oversight fee because their interpretation of applicable revenue differed. For example, Fresno and Los Angeles consider most state funds to be applicable revenue, whereas San Diego charges its oversight fees against all charter school funds deposited in the county treasury. In contrast, Oakland narrowed its definition of revenues beginning in fiscal year 2000–01 to include only state general-purpose entitlements and lottery funds, instead of all state funds, as it had done in fiscal year 1999–2000. Because the law does not define the term "revenue," the chartering entities apply the oversight fee differently and may be applying their oversight fee to too much or too little of their charter schools' revenues.

RECOMMENDATIONS

To ensure that charter schools are held accountable for the taxpayer funds they receive and that they operate in a fiscally sound manner, the chartering entities should consider developing and implementing policies and procedures for fiscal monitoring. At a minimum, the policies and procedures should outline the following:

- Types and frequency of fiscal data charter schools should submit, including audited financial statements, along with consequences if the schools fail to comply.
- Manner in which the chartering entity will review the financial data, including the schools' audited financial statements.
- Financial indicators of a school with fiscal problems.
- Steps the chartering entity will take to initiate problem resolution or to ensure that reported audit findings are adequately resolved.

To ensure that chartering entities can justify the oversight fee they charge their charter schools and to minimize the risk of double-charging the State for the costs of charter school oversight, they should:

- Establish a process to analyze their actual costs of charter school oversight.
- Compare the actual costs of oversight to the fees charged and, if necessary, return any excess fees charged.
- Use the mandated-costs reimbursement process as appropriate to recover the costs of overseeing charter schools.

To ensure that the chartering entities charge their oversight fees appropriately, the Legislature should consider clarifying the law to define the types of charter school revenues that are subject to the chartering entities' oversight fees. ■

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CHAPTER 3

The Department of Education Could Do More to Ensure That Charter School Students Receive Equal Educational Opportunities and Taxpayer Funds Are Spent Appropriately

CHAPTER SUMMARY

The Department of Education (department) plays a role in the accountability of charter schools. The department has the authority to recommend that the State Board of Education (state board) take action, including but not limited to charter revocation, if the department finds, for example, evidence of the charter school committing gross financial mismanagement, or substantial and sustained departure from measurably successful academic practices. Although the chartering entity is the primary monitor of a charter school's financial and academic health, the department has the authority to make reasonable inquiries and requests for information. It currently uses this authority to contact a chartering entity if it has received complaints about a charter school.

If the department reviewed the information that it receives regarding charter schools and raised questions with the chartering entities regarding charter schools' fiscal or academic practices, the department could target its resources toward identifying and addressing potential academic and fiscal deficiencies. In this way, it would provide a safety net for certain types of risks related to charter schools. The concept of the State as a safety net is consistent with the California Constitution, which the courts have found places on the State the ultimate responsibility to maintain the public school system and to ensure that students are provided equal educational opportunities. However, the department does not target its resources toward identifying and addressing charter schools' potential academic and fiscal deficiencies. In addition, beginning December 2002, the department will receive charter schools' annual independent financial audits; however, the department plans to collect the information, but not review it because it asserts it does not have staff to do so. Therefore,

the department will be missing an opportunity to help hold charter schools accountable and to avert financial instability or academic failure.

Furthermore, the department apportions funds to the charter schools in the same manner as other public schools, using reported average daily attendance (ADA). However, it relies primarily on the certifying signatures of school districts and county offices of education—both of which lack the necessary procedures to ensure that charter schools comply with apportionment requirements. As a result, the department cannot be assured that charter schools have met the apportionment conditions the Legislature has established and receive only the public funds to which they are legally entitled.

As Fresno Unified School District's recent revocation of Gateway Charter Academy's charter demonstrates, there is a policy gap regarding a chartering entity's authority following a charter revocation—authority that the statutes do not address.[5] Finally, the recent enactment of two charter schools laws, Senate Bill 1709 and Assembly Bill 1994 (Chapters 209 and 1058, Statutes of 2002) may not improve charter school accountability. Although this legislation attempts to add accountability to the existing charter schools environment, without an increased monitoring commitment on the part of chartering entities and the department, these new laws may not be as effective as they could be. Senate Bill 1709 expands the number of entities to which charter schools must submit a copy of their annual independent audit reports. Assembly Bill 1994, among other things, requires charter schools to report on their annual receipts and expenditures and limits the geographic boundaries for most charter schools to the county boundaries within which their chartering entity is located.

THE DEPARTMENT PLAYS A ROLE IN CHARTER SCHOOLS' FISCAL AND ACADEMIC ACCOUNTABILITY

In authorizing charter schools, the Legislature intended to provide opportunities for teachers, parents, students, and community members to establish and operate schools independently of the existing school district structure. The Legislature freed the schools from the programmatic and fiscal constraints that exist in the public school system. However,

[5] We did not review Fresno's oversight of Gateway. Our report should not be construed as an evaluation of Fresno's oversight specifically of Gateway or Fresno's revocation process.

the statues do not overlook accountability. Specifically, the Education Code, Section 47601(f), speaks to the Legislature's intent that charter schools be held accountable for meeting certain outcomes and for moving from rule-based to performance-based accountability systems. Thus, each school must create a founding document, or charter, which by law must contain certain elements. For example, all charter schools, as public schools, are eligible for state funds. To ensure that charter schools are accountable for the taxpayer funds that the State provides for their operations, each school's charter must specify how an annual audit will be conducted and how audit exceptions will be satisfactorily resolved. In addition, each charter must contain measurable student outcomes and the methods that each school will use to measure these outcomes. In this way, the schools' creators are outlining the instructional goals for which they agree to be held accountable.

The department could be a safety net for ensuring charter schools are held accountable; the chartering entities play the primary role.

We believe that the department plays a role in the charter schools' accountability. The department has the authority to recommend that the state board take action, including but not limited to charter revocation, if the department finds evidence of the charter school committing one or any combination of the following: gross financial mismanagement, illegal or substantially improper use of charter school funds, or substantial and sustained departure from measurably successful practices. Moreover, the department has the authority to make reasonable inquiries and requests for information from charter schools, and the courts have found that the California Constitution gives the State ultimate responsibility for maintaining the public schools system and ensuring that students have equal educational opportunities.

Because an approved charter represents an agreement between the school and its chartering entity, making the schools primarily accountable to their chartering entities, we equate the department's role to that of a safety net. As such, we expected to find the department assessing the charter school data it receives and drawing the responsible chartering entities' attention to any concerns so that they could resolve issues regarding the charter schools' fiscal or academic performance. Therefore, we assessed the department's activities against the level of oversight we would expect it to have.

In fact, the department already has positioned itself in somewhat of a safety net role. It appears that the department is exercising its authority to make requests for information in its telephone contact and correspondence with chartering entities and charter

Through its everyday activities the department has already positioned itself in somewhat of a safety net role.

schools. For example, the manager of district organization and charter schools asserts that she and her staff receive 250 to 350 calls related to charter schools per week, of which she estimated 10 percent are complaints. The manager asserted that staff ask callers reporting more serious allegations of wrongdoing at or by the charter schools to put their complaints into writing and stated that the department follows up on credible written complaints. Through its everyday activities, it appears that the department has the necessary authority to act as a safety net. As we established in Chapters 1 and 2 of this report, although the accountability system at the chartering entity level is weak, our work does not demonstrate the need for the department to play a greatly expanded and possibly duplicative role in charter schools oversight, or any function beyond that of a safety net. Moreover, when we asked the department to provide any data it had demonstrating pervasive academic concerns or fiscal malfeasance that may support the need to expand its oversight role beyond that of a safety net, it did not provide any.

THE DEPARTMENT RECEIVES CERTAIN CHARTER SCHOOL DATA BUT DOES NOT SYSTEMATICALLY REVIEW IT TO IDENTIFY POTENTIAL FISCAL AND ACADEMIC PROBLEMS

Although the chartering entity is the primary monitor of a charter school's financial and academic health, we expected to find the department acting as a safety net, reviewing the charter school information it receives and raising questions with the responsible chartering entities regarding charter schools' fiscal or academic practices. Despite receiving two additional positions and funding for fiscal year 2001–02 for its charter schools unit—in part to carry out fiscal and academic monitoring activities—the department does not target its resources toward identifying and addressing potential academic and fiscal deficiencies in charter schools. In addition, as of January 2002, the department is authorized to receive charter schools' annual independent financial audits; the department plans to collect the information but not review it because it has not received staff to do so. By not reviewing the data available to it regarding the State's charter schools, the department is missing an opportunity to help hold charter schools accountable and avert financial instability or academic failure.

The Department Could Use Existing Data to Identify Fiscally or Academically Struggling Charter Schools and Then Question the Responsible Chartering Entities

Although it has sufficient information, the department does not analyze charter schools' funding or academic data or draw the responsible entity's attention to possible problems.

We expected to find the department systematically reviewing charter school funding and academic data to identify fiscal and academic concerns and drawing the responsible chartering entity's attention to these issues. The department's charter schools unit seems like the appropriate vehicle to exercise the department's safety net role. For example, in an August 17, 2000, budget request, the department portrayed its responsibilities as including monitoring the effectiveness of charter schools' academic and assessment programs as well as monitoring their fiscal reporting to ensure fiscal accountability. Subsequently, the department received two of the seven positions it requested, as well as funding for these and other activities. In October 2001, the charter schools unit reorganized its operations, assigning each of its five consultants to a region of between 5 and 20 counties, with the intention of better supporting charter schools and allowing the charter schools unit's staff to develop relationships that could help uncover fiscal or academic issues.

Given the description of its monitoring responsibilities, the resulting increase in staffing, and the reorganization, we expected to find that the charter schools unit was conducting basic analyses of charter schools' funding and academic data as a way of identifying schools that may require assistance. Although the charter schools unit appears to have access to types and amounts of data sufficient for it to function in this capacity, it does not review this data to identify potentially struggling charter schools and raise questions with chartering entities. It appears that communication between the charter schools unit and the chartering entities about charter school operations typically results from individual complaints rather than a systematic data review. For example, the manager of district organization and charter schools, who oversees the charter schools unit, provided copies of correspondence that the department sent to parents of charter school students, chartering entities, and others during fiscal year 2001–02. These letters address issues, such as testing, school curriculum, and facilities concerns, that complainants raised about the operation of 13 separate charter schools. The department typically either referred the complaints back to the chartering entity or requested that the chartering entity provide some additional information. In one letter, the department wrote that it is "more effective in ensuring that charter-authorizing entities provide oversight of particular charter schools when we are able to communicate specific issues

to the district." It is apparent that when notified in the form of a complaint, the department communicates with the chartering entities and questions the charter schools' performance.

Test data by itself is not a sufficient basis for the department to recommend revocation, but simple assessments may reveal charter schools needing their chartering entities' assistance.

We acknowledge that the data available to the charter schools unit, such as periodic ADA reports and the Academic Performance Index (API) derived from the annual Stanford 9 achievement test scores, is not sufficient for the department to make a revocation recommendation. Nevertheless, the charter schools unit could systematically assess the data or devise simple comparisons revealing those charter schools that may need assistance from their chartering entity. This type of assessment is simply a form of internal information to identify a potential concern, similar to an external complaint, leading the department to communicate with a chartering entity about a school's operations, either fiscal or academic. We see little difference in the authority needed to respond to external concerns and addressing internal ones.

In order to gauge a charter school's fiscal stability, for example, the charter schools unit could review ADA forms, which existing charter schools submit three times a year for funding purposes. As the primary component of school funding, ADA drives the amount of money the State apportions to each charter school for its overall operations. Fluctuations in ADA, such as continual drops, might indicate a school needing assistance or intervention to ensure that it considers ways to address its decreasing revenue, such as fund-raising, cost-cutting, or outreach to attract more students. For example, the department could review ADA data two times each year by comparing the reported ADA to the schools' prior year reports. Further, by targeting its review to identify those schools with ADA changes that exceed a certain percentage, the department could focus its review on those schools that exhibit the greatest potential for developing fiscal problems. Having identified the schools most likely to be struggling, the charter schools unit could question the responsible chartering entities about the schools' viability.

According to the director of the school fiscal services division, the department is not responsible for reviewing financial and academic data; rather, such activities are the responsibility of the charter school's chartering entity. Further, the department believes that the State's legal authority to revoke a charter exists only in the most egregious and extreme cases of inappropriate or illegal charter school behavior. Specific to fiscal monitoring, the director said that the department could assess the fiscal health of charter schools, but that the courts have ruled the department

The department believes that monitoring the charter schools is workload that was not envisioned for it.

does not have the authority to collect charter schools' financial information. In addition, she asserts that ADA is not an indication of fiscal health; it is simply a reporting of how many students are attending school. Further, without knowing what other funds the charter schools receive from non-state sources or how those funds are spent, the department has no basis for identifying potential fiscal concerns. Moreover, the director stated that monitoring the charter schools represents a major workload that was not envisioned for the department.

Because of its authority to recommend charter revocation, we do not believe the department can entirely absolve itself from a responsibility to review, identify, and question chartering entities regarding potential fiscal deficiencies at charter schools. Moreover, in two budget requests that the director provided us, the department acknowledges an oversight role: to provide measures of fiscal and programmatic accountability to the State and to examine and resolve charter schools' audit findings. In addition, we are suggesting that the department use data at hand to conduct its monitoring, not collect additional information. As we noted previously, the charter schools report ADA three times each year. Because this information is the basis for apportionment funding, it directly relates to the schools' revenue. The department's lack of complete knowledge regarding all of a charter school's revenue sources is not reason alone to assume that fluctuations in apportionment funding do not significantly affect a school's financial position.

Finally, we do not believe that acting as a safety net entails the workload that the department suggests. As we noted previously, the chartering entity is the first line of defense against a charter school's financial instability. As a safety net, we would expect the department to draw the chartering entities' attention to those schools that raise fiscal concerns, not to intervene with the schools immediately or directly. The charter schools unit received two positions and necessary funding for monitoring and other activities. In addition, according to the department, the unit is organized on a regional basis to allow staff to become more familiar with the charter schools and chartering entities in the regions and any particular regional issues, and to provide a single, consistent point of contact for schools and chartering entities in the region. Thus, it does not appear that by communicating with the chartering entities about fiscal concerns, the charter schools unit would be engaged in activities it was not organized for or communicating with entities it was not already intending to be in contact with.

To ascertain a charter school's academic health, the charter schools unit could develop a tool, such as Table 10, to compare charter schools' annual API results or other test data that may be required for low-enrollment charter schools. As the table shows, of those charter schools statewide that earned an API score for each of the three academic years 1998–99, 1999–2000, and 2000–01, 90 percent either remained the same between 1998–99 and 2000–01 or showed an improvement. However, the data also reveals that API scores decreased 10 percent for charter schools statewide with API scores for the three years. This simple analysis could help the charter schools unit identify schools that may need their chartering entities' assistance in delivering a sound educational program.

TABLE 10

Comparison of API Scores at Charter Schools and Noncharter Schools Between Academic Years 1998–99 and 2000–01

Growth in API Score Between 1998–99 and 2000–01	Sample Chartering Entities' Charter Schools		Charter Schools Statewide		All Noncharter Schools*	
	Number of Schools	Percentage of Total	Number of Schools	Percentage of Total	Number of Schools	Percentage of Total
Greater than 20.0%	10	28.6%	16	16.0%	650	10.0%
10.0 to 20.0%	7	20.0	20	20.0	1,668	25.6
5.0 to 9.9%	4	11.4	27	27.0	1,764	27.1
0.0 to 4.9%	9	25.7	27	27.0	1,916	29.4
(5.0) to (0.1)%	4	11.4	9	9.0	462	7.1
Less than (5.0)%	1	2.9	1	1.0	56	0.8
Totals	**35**	**100.0%**	**100**	**100.0%**	**6,516**	**100.0%**

* This column excludes all charter schools statewide.

The department's policy and evaluation division reviews schools' API scores, including the scores of charter schools, to identify schools eligible to participate in the Immediate Intervention/Underperforming Schools Program (II/USP)—a grant program intended to help schools improve student achievement. However, this program's impact on charter schools is limited because of the low number of charter schools participating. Among the four districts we reviewed, only 1 charter school participated in the II/USP in fiscal year 1999–2000, 4 joined in 2000–01, and 8 joined in 2001–02. The 13 charter schools

participating in the II/USP are not necessarily the same as the 10 charter schools with decreasing API scores as shown in Table 10 because the table reflects the relative growth or decline in a school's score, not its absolute score. Thus, a charter school with an API of 300 for academic year 1998–99 and 360 for 2000–01 would show 20 percent growth as indicated in Table 10. Nevertheless, because the school's API score is low overall, this school may be eligible for the II/USP.

Similar to its position on financial monitoring, the department does not believe it is responsible for reviewing academic data related to charter schools, maintaining that such activities are the responsibility of the local entity that authorized the charter school. The department acknowledged that the Stanford 9 scores and API data contain sufficient information to trigger a conversation with a chartering entity about a charter school's academic health. However, it claims that, because some charter schools are too small to produce a reliable API score and because many parents with students in charter schools choose to excuse their children from the statewide Stanford 9 test from which the API score is derived, many charter schools lack an API score.

The need for the department to act as a safety net is heightened because not all chartering entities have adequate oversight processes in place.

As we discussed in Chapter 1, not all chartering entities have adequate processes in place to receive and review charter schools' academic data, thus heightening the importance of the department's role as a safety net. In addition, as we noted earlier, in an August 2000 budget request, the department acknowledged that it plays a role in charter schools' academic accountability. In a January 2001 presentation to the state board, the department acknowledged that 70 percent of charter schools had API data, which, we believe, represents a sizable population of schools that could be systematically reviewed. This API analysis, combined with systematic tracking and review of charter schools' ADA data—which the department already receives—would go a long way toward fulfilling the department's role as safety net.

We considered the department's concerns regarding the workload that the analyses and follow-up we are recommending would add and found no merit in their concerns at this time. For example, the ADA data for charter schools already exists in electronic form at the department. Running a computer program to identify the 20 or 30 charter schools with the largest increases or decreases in ADA and making inquiries to their chartering entities does not appear excessive considering the volume of inquiries the department already asserts that it makes. Similarly,

Table 10 on page 60 shows that about 10 percent of charter schools may have declining API scores, thus, the total number of charter schools with declining scores would be about 36. Contacting the chartering entities for those charter schools with the greatest declining API scores should thus not be a substantial additional workload.

The Department Does Not Plan to Review Audits Submitted Under Senate Bill 740 to Identify Fiscally Deficient Charter Schools

Senate Bill 740 (Chapter 892, Statutes of 2001) requires each charter school to submit to its chartering entity and the department, by December 15 of each year, an independent financial audit following generally accepted accounting principles. An independent audit report typically contains financial statements and an opinion as to the accuracy with which the statements present a school's financial position—information illustrating the charter schools' accountability for the taxpayer funds they receive. Although not specifically required by the law, we expected the department to plan to review the audits required by Senate Bill 740 in order to raise questions with chartering entities about how they were working with charter schools to resolve the schools' fiscal deficiencies. In fact, our expectations appear in line with the activities the department described itself doing in its October 24, 2001, budget request. However, the department does not plan to systematically review the charter schools' audits for this purpose.

As part of its budget request related to charter schools dated October 24, 2001, the department described a need for new staff so that it could comply with Senate Bill 740. Specifically, the department wrote that Senate Bill 740, among other things, requires it to review and resolve audit exceptions contained in each charter school's audit report. In response to its request, the department received two limited-term positions for fiscal year 2002–03. According to the department's director of the school fiscal services division, this represents less than half of the requested positions and only 28 percent of the funding. Moreover, the director told us that the positions will not be used to review charter schools' audit data, but rather for staffing the Charter Schools Advisory Commission and administering the Charter Schools Facility Grant Program. Thus, according to the former administrator of the department's fiscal policy office, the department plans only to ensure that all charter schools

submit the required audit reports, without further review. As a result, the department will collect but not review the charter schools' audit reports, data which helps reflect the schools' accountability for taxpayer funds.

Although the department may not engage in the level of review it intended when it proposed positions in its budget request, a more limited review of these reports may prove beneficial. The charter schools' audit reports contain valuable information that could assist the department in carrying out its role as a safety net. For example, the department could review these reports for three to four key points, such as:

- Comments related to the school as a going concern.
- Whether the school is reporting a deficit fund balance.
- Findings related to conditions of apportionment.
- Whether the school's structured debt exceeds the life of the charter agreement.

Assessing the audit reports in this manner would give the department high-level financial data that it could use to initiate discussions with the responsible chartering entities to help ensure that charter schools are held accountable.

THE DEPARTMENT CANNOT ASSURE THAT APPORTIONMENTS TO CHARTER SCHOOLS ARE ACCURATE

School districts and county offices of education that sign charter schools' ADA forms lack the necessary procedures to ensure the schools meet all their conditions of apportionment.

Although the department apportions charter school funds on the basis of ADA, its apportionment process is faulty because it relies primarily on the certifying signatures of school districts and county offices of education—both of which lack the necessary procedures to ensure that charter schools comply with apportionment requirements. As a result, the department cannot be assured that charter schools have met the apportionment conditions the Legislature has established and receive only the public funds to which they are legally entitled.

To calculate apportionments, the department requires each school to submit ADA forms on January 15, May 1, and July 15 of each year. These forms provide attendance counts and are certified by officials of the charter school and the appropriate school district and/or county office of education. At each

interval, the department reviews the forms for the necessary certifying signatures and then uses this data to apportion a certain percentage of schools' funding to them.

Without assurance that ADA is being reported properly, the department risks inaccurately apportioning funds or providing funds the charter schools are not legally entitled to.

One reason that the department's apportionment process is faulty relates to the charter schools' ADA data. As we noted in Chapter 2, the schools' chartering entities have not been verifying ADA, and not all charter schools' financial audits included tests of the accuracy of the ADA being reported. We spoke with staff from four county offices of education—Fresno, Los Angeles, Alameda, and San Diego—and were told that, despite being required to sign the ADA forms of charter schools whose chartering entities were located in their county, these offices did not verify the charter schools' ADA in any way. Without assurance that ADA is being reported properly and that charter schools meet other conditions of apportionment, the department risks inaccurately apportioning funds, and the charter schools may be receiving funds they are not legally entitled to.

As we stated earlier, the charter schools must, beginning December 15, 2002, submit to the department a copy of their audited financial statements. Although in a request for additional staff the department stated that it would use the audited financial statements as a means of independently verifying and resolving problems related to charter schools' ADA and instructional minutes, the department currently lacks plans to review the statements for findings related to these apportionment conditions. Thus, the department is not maximizing the data it has to validate conditions of apportionment.

Statute requires a charter school to certify that its pupils participated in statewide testing as a condition of receiving public funds for its operations. By relying on ADA signatures alone, the department is assuming that the school district and/or county offices of education have verified charter schools' compliance with this requirement. Even though the chartering entities are signing the ADA forms, they do not always monitor their charter schools for compliance with testing requirements. Beginning in January 2002, the Legislature expanded charter schools' apportionment conditions to include maintaining written contemporaneous pupil attendance records, offering the same number of instructional minutes as noncharter schools, and employing teachers with valid certificates for classroom-based activities. Although charter schools were previously responsible for meeting these requirements, the Legislature for the first time has linked them to the schools' funding. However,

the chartering entities are not verifying the charter schools' compliance with these legal requirements; thus, it seems unwise for the department to continue a process that does not ensure these funding conditions are met.

STATUTORY GUIDANCE FOR DISPOSING OF A REVOKED CHARTER SCHOOL'S ASSETS AND LIABILITIES IS UNCLEAR

In January 2002, acting on evidence that the school had materially violated its charter, provisions of the law, and was endangering the health and safety of its students, Fresno Unified School District (Fresno) revoked the charter for Gateway Charter Academy (Gateway). After its revocation action, Fresno sought the department's guidance regarding the disposition of Gateway's assets and liabilities. Fresno's concerns, covering a variety of financial issues, highlight a policy gap regarding a chartering entity's authority following a charter revocation—authority that statutes do not clearly address. For example, Fresno asked for clarification of its role in accounting for and recovering Gateway's assets, particularly since Gateway was no longer a public entity. In addition, Fresno lacked an understanding of how to respond to Gateway's creditors, who were seeking repayment of liabilities. Fresno's concerns, covering a spectrum of financial issues, highlight the chartering entities' ambiguous authority following a charter revocation. Without established procedures for recovering public assets and addressing potential liabilities, including a clearly defined division of responsibilities assigned to the department and the chartering entity, the State may be unable to reclaim taxpayer-funded assets. Although the recent enactment of Assembly Bill 1994 requires a school's charter to specify closeout procedures, a policy gap remains regarding revoked or closed charter schools.

Statutes do not clearly address a chartering entity's authority following a charter revocation.

On January 16, 2002, after repeated requests for corrective action, Fresno revoked Gateway's charter. Fresno had evidence that Gateway had committed material violations of the conditions, standards, and procedures set forth in its charter; had failed to meet generally accepted accounting principles and engaged in fiscal mismanagement; and had violated provisions of the law. Furthermore, Fresno determined that several of Gateway's violations constituted a severe and imminent threat to the health and safety of the pupils, specifically Gateway's failure to provide to Fresno, upon request, evidence of fire marshal approval for its facilities that housed schoolchildren

and criminal background clearances for 88 of its employees. Upon revoking the charter, Fresno directed Gateway to cooperate with it in winding up Gateway's affairs, including refraining from making any expenditures; refraining from making any sales, purchases, or transfers of real or personal property; accounting for all assets and liabilities; surrendering all assets and written records; and notifying pupils, their parents, and adjacent school districts of its revocation to ensure the pupils' continuing education. In addition, because the Fresno County Office of Education was unclear as to who may be entitled to Gateway's funds now that it was no longer a public entity, it instructed Fresno not to release property taxes or other funds to Gateway. Subsequently, Gateway's attorney questioned Fresno's authority in making demands regarding the disposition of its assets, urging Fresno to withdraw its demands and take no further action until Fresno's revocation of Gateway's charter could be resolved in a court of law. To date the courts have not ruled on this matter; Gateway filed a complaint, but it was dismissed on June 10, 2002.

Throughout this process, Fresno kept the department abreast of its activities and intentions. In accordance with the department's post-revocation guidance, Fresno sought to account for Gateway's assets and liabilities and to assume possession of assets. Facing uncertainties, which departmental guidelines do not clarify, Fresno turned to the department for advice with primarily financial questions that still remain unanswered. For example, Fresno sought guidance on issues, including the following:

- Handling creditors' claims to a revoked charter school's expected ADA revenue.
- Recovering state assets from a former public entity.
- Repaying creditors, as Fresno believes it is not financially responsible for a revoked charter school's liabilities.
- Planning to protect state assets while the department determines the disposition of a revoked charter school's assets and liabilities.
- Clarifying Fresno's role in pursuing any court action to reclaim assets.

Although the department strongly suggests that an agreement between a chartering entity and a school contain closeout procedures, its guidance is not enforceable as it lacks the necessary authority to develop regulations for charter schools or chartering entities with regard to closeout procedures and responsibilities. The department recommends that closeout procedures include the following: documenting a closure action, notifying the department and the county office of education, informing parents and students of the closure, arranging for transfer and retention of school records, letting the receiving school districts know of the potential for transferring students, and arranging for an independent audit within six months after closure to determine the charter school's net assets or net liabilities. The department also recommends that a chartering entity and a charter school develop a plan to repay any liabilities or disburse the charter school's assets. If the charter school is a nonprofit corporation without any other functions, the department suggests that the corporation be dissolved and its assets distributed according to its bylaws. Fresno attempted to enforce these guidelines, but Gateway's refusal to comply, compounded by a state Department of Justice investigation that resulted in the confiscation of some of Gateway's financial records, prompted Fresno's request for additional assistance.

Assembly Bill 1994 requires charter petitions to include closeout procedures, but a policy gap remains regarding the disposition of assets and liabilities of revoked charter schools.

Because statute does not define a chartering entity's authority and the department's guidance assumes foresight and the full cooperation of a charter school, chartering entities facing different contingencies, as is the case in the Gateway revocation, are left with ambiguous authority. Although the recent enactment of Assembly Bill 1994 requires charter schools to include closeout procedures in their charter petitions, a policy gap remains with regard to the disposition of assets and liabilities of a revoked or closed charter school. Without a statute clearly defining or requiring the department to develop regulations that define the division of responsibilities between the department and the chartering entity to recover public assets and address potential liabilities, the State may be unable to reclaim taxpayer-funded assets in the event of a charter school closure or revocation.

RECENT CHANGES TO CHARTER SCHOOL LAW MAY NOT COMPLETELY ANSWER EXISTING QUESTIONS ABOUT ACCOUNTABILITY

During its 2001–02 session, the Legislature approved two charter school bills that address some of the issues we raise in this report. Senate Bill 1709, signed into law on August 12, 2002, expands the number of entities to which charter schools—beginning in 2003—must submit by December 15 of each year, copies of their annual independent financial audit reports for the preceding fiscal year. To the list of current recipients—chartering entities and the department—Senate Bill 1709 adds the State Controller and the county superintendent of schools (county superintendent) for the county in which the school is located. A charter school whose audit is encompassed in its chartering entity's annual audit are not required to submit separate audits. As we discussed earlier, the department's recent inclusion as a recipient of charter schools' audit reports may not necessarily lead to greater accountability or awareness of charter schools' fiscal health, unless the department reviews the audit reports.

The level of accountability Assembly Bill 1994 provides for will not be achieved without an increased commitment by chartering entities and the department to monitor charter schools.

Assembly Bill 1994, signed on September 29, 2002, provides both technical and substantive changes to the charter schools law. This legislation includes many provisions, some of which address issues we raise in our report. First, this bill requires charter schools, through the county superintendent, to submit an annual statement of all receipts and expenditures (annual statement) from the preceding fiscal year. The annual statements must follow a format prescribed by the department. Furthermore, the bill requires that each county superintendent verify the mathematical accuracy of the charter schools' annual statements before submitting them to the department.

These annual statements provide both chartering entities and the department with additional financial data to assess the fiscal health of charter schools. However, as we showed in Chapter 2, the chartering entities are not adequately reviewing the financial records and audit reports they already receive. In addition, as we demonstrate in this chapter, the department does not use currently available funding data to identify potentially struggling charter schools in order to raise questions with their chartering entities. As a result, without an increased commitment by chartering entities and the department to monitor charter schools, the level of accountability will not reach its full potential as provided for in the statute.

Second, to increase the chartering entities' monitoring abilities, Assembly Bill 1994 limits the geographic boundaries for most charter schools to the county boundaries within which their chartering entity is located. For the chartering entities we reviewed, this new requirement will not alleviate the weaknesses in their monitoring, as all of their schools were located within their boundaries.

The third change in Assembly Bill 1994 that affects issues in this report is that it grants the county superintendent general authority to monitor the operations of charter schools within that county if prompted by a written complaint. The charter schools must:

- Promptly respond to all reasonable inquiries by the county superintendent with jurisdiction over the school's chartering entity, including, but not limited to, the school's financial records.

- Provide the county superintendent with the location of each school site before commencing operations.

These monitoring functions create an additional level of oversight that, although not directing the county superintendent to periodically monitor charter schools within their county boundaries, gives the county superintendent authority to investigate complaints, which may result in greater school accountability.

Finally, as we noted previously, under Assembly Bill 1994 each charter school's petition must describe procedures for closing the charter school, including a final school audit to determine the disposition of the school's assets and liabilities and a plan for the maintenance and transfer of pupil records. This provision turns some of the department's suggested procedures for charter school closures that we discuss in this chapter into statute. However, it does not delineate the division of authority between the department and the chartering entity with regard to the implementation of closure procedures.

RECOMMENDATIONS

To fulfill its role as a safety net, the department should review available financial and academic information and identify charter schools that are struggling. The department should then raise questions with the schools' chartering entities as a way of ensuring that the schools' problems do not go uncorrected.

The department should take the necessary steps to fully implement Senate Bill 740, including reviewing audit exceptions contained in each charter school's audit report and taking the necessary and appropriate steps to resolve them.

So that it does not improperly fund charter schools, the department should work with the appropriate organizations to ensure that charter schools' reported ADA is verified through an independent audit or other appropriate means and that charter schools have met other statutory conditions of apportionment.

To ensure that a charter school's assets and liabilities are disposed of properly when it closes or its charter is revoked, the Legislature may wish to consider establishing a method for disposing of the school's assets and liabilities and requiring the department to adopt regulations regarding this process.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Date: November 7, 2002

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APPENDIX A

Characteristics of California's Charter Schools

The table in this appendix provides an inventory of the State's charter schools as of March 2002.[6] The Legislature passed the Charter Schools Act of 1992, and by 1993 the State Board of Education (state board) was recognizing charter schools, some of which still operate today. The first two columns list the county in which each school is located as well as the chartering entity that approved the charter petition. The table shows the date that the state board numbered each charter school. Once a school is numbered, it is eligible to receive public funding. Charter schools are free to specify in their petitions the grade configuration their school will serve. As a result, schools may serve just a few grades, such as Oakland Charter Academy, which reported it serves grades 6 through 8, or they may serve all grades, kindergarten through grade 12, such as Crenshaw/Dorsey: Mid-City Charter Magnet School reported. As shown in the table, charter schools also enroll a varied number of students, from 5 to 3,637 students. In addition, they can be developed either through a conversion or as a start-up school. A conversion charter school is one that existed previously as a noncharter public school, but the requisite number of teachers and student families has agreed to develop and implement a charter school at that campus. A start-up charter school is one that came into existence because of the approval of a charter petition, with no prior history as a school. As of March 2002, there were 105 reported conversion charter schools and 253 reported start-up charter schools in the State; 2 schools declined to report this information. Finally, charter schools may offer different locations for instruction. Site-based instruction uses classroom-centered instructional methods, and independent study employs nonclassroom-based methods. In total, almost 66 percent of the State's charter schools reported offering a site-based program.

[6] The primary source of data for this inventory is the Department of Education; the secondary source is the California Network of Educational Charters. However, charter schools voluntarily report this information, thus it is sometimes incomplete and may contain errors.

TABLE A.1

Characteristics of California's Charter Schools

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
Alameda	Alameda City Unified	Arthur Anderson Community Learning Center	2/8/2001	7-12	†	Start-up	†
	Alameda City Unified	Bay Area School of Enterprise	7/11/2001	9-12*	40	Start-up	Site Based
	Fremont Unified	Circle of Independent Learning	7/21/1998	K-12	156	Conversion	Independent Study
	Oakland Unified	American Indian Public Charter School	2/9/1996	6-9	34	Start-up	Site Based
	Oakland Unified	Aspire Public Schools - Oakland Campus	7/14/1999	K-8	365	Start-up	Site Based
	Oakland Unified	Dolores Huerta Learning Academy	7/14/1999	K-6	187	Start-up	Site Based
	Oakland Unified	East Bay Conservation Corps Charter School	12/8/1995	K-12	100*	Start-up	Both Site Based and Independent Study
	Oakland Unified	Ernestine C. Reems Academy of Technology and Art	7/14/1999	K-6	15	Start-up	Site Based
	Oakland Unified	North Oakland Community Charter School	6/7/2000	K-1	17	Start-up	Site Based
	Oakland Unified	Oakland Charter Academy	6/11/1993	6-8	165	Start-up	Site Based
	Oakland Unified	University Preparatory Charter Academy	6/7/2001*	9-12	120	Start-up	†
	Oakland Unified	West Oakland Community School	6/12/1998	6-8	45	Start-up	Site Based
	State Board of Education	Oakland Military Institute, College Preparatory Academy	12/6/2000	7-12*	190	Start-up	Site Based
	Sunol Glen Unified	Bay Area School for Independent Study (B.A.S.I.S.)	6/6/2001	K	†	†	Independent Study
Butte	Butte County Office of Education	Blue Oak Charter School	9/5/2001	K-8*	20*	Start-up	Site Based
	Butte County Office of Education	Learning Community Charter School	2/9/1996	K-12	518	Conversion	Both Site Based and Independent Study
	Chico Unified	Chico Country Day School	6/14/1996	K-6	244	Start-up	Site Based*
	Oroville Union High	Challenge Charter High School	7/10/1997	9-12	191	Start-up	Both Site Based and Independent Study
	Paradise Unified	Children's Community Charter School	11/8/1995	K-3	128	Start-up	Site Based
	Paradise Unified	HomeTech Charter School	9/9/1994	3-8	58	Start-up	Independent Study
	Paradise Unified	Paradise Charter Middle School	3/10/1995	6-8	97	Start-up	Site Based
	Paradise Unified	Paradise Charter Network	9/11/1998	K-12	80	Conversion	Independent Study
Contra Costa	Antioch Unified	Learner-Centered School	6/12/1998	K-8	116	Start-up	Site Based
	Knightsen Elementary	Home SmartKids of Knightsen	9/6/2000	K-8	205	Start-up	Independent Study
	Mt. Diablo Unified	Eagle Peak Montessori School	6/7/2000	1-5*	60*	Start-up	Site Based
	West Contra Costa Unified	Alternative Education Learning Center Charter School	3/7/2001	9-12*	100	Start-up	Site Based

Note: The primary source of data for this inventory is the Department of Education; the secondary source is the California Network of Educational Charters. However, charter schools voluntarily report this information, thus it is sometimes incomplete and may contain errors.

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	West Contra Costa Unified	Manzanita Charter Middle School	9/7/2000	6-8	73*	Start-up	Site Based
Del Norte	Del Norte County Office of Education	Castle Rock School	3/7/2001	K-12	360*	Start-up	Independent Study*
El Dorado	El Dorado County Office of Education	Charter Community School	2/11/1993	K-12	426	Conversion	Both Site Based and Independent Study
	El Dorado County Office of Education	Rite of Passage School	6/30/1994	K-12	94	Conversion	Site Based
	Pioneer Union Elementary	Learning With A Purpose	5/11/2000	7-12	47	Start-up	Site Based
Fresno	Alvina Elementary	Alvina Elementary School	9/7/2000*	K-8	207*	Conversion	Independent Study
	Fresno County Office of Education	Edison-Bethune Charter Academy	6/11/1999	K-6	675	Conversion	Site Based
	Fresno Unified	Carter G. Woodson Public Charter School	5/10/2001	7-12	200	Start-up	Site Based
	Fresno Unified	Center for Advanced Research and Technology (CART)	1/13/2000	11-12	1,500*	Start-up	Site Based
	Fresno Unified	Cornerstone Academy	7/13/2000	6-8	41	Start-up	Both Site Based and Independent Study
	Fresno Unified	Fresno Prep Academy	6/11/1999	9-12	55	Start-up	Both Site Based and Independent Study
	Fresno Unified	New Millennium Institute of Education Charter School	9/11/1998	7-12	148	Start-up	Both Site Based and Independent Study
	Fresno Unified	Renaissance Charter School	7/13/2000	7-12	60	Start-up	Site Based
	Fresno Unified	School of Unlimited Learning	7/21/1998	7-12	132	Start-up	Both Site Based and Independent Study
	Fresno Unified	Sunset Charter School	6/11/1999	K-6	312	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	K-8	147	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	K-6	†	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	K-1	385	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	7-8	409	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	5-6	458	Conversion	Site Based
	Kingsburg Joint Union Elementary	Kingsburg Joint Union Elementary§	†	2-4	632	Conversion	Site Based
	Sanger Unified	Quail Lake Environmental Charter	9/9/1999	K-8	207	Start-up	Site Based
	Sanger Unified	Sanger Academy Charter School	2/9/2000	3-8	291	Start-up	Site Based
	Sanger Unified	Sanger Hallmark Charter School	9/9/1999	K-12	287	Start-up	Both Site Based and Independent Study

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Sierra Unified	University High School, CSU Fresno	6/11/1999	9	105	Start-up	Site Based
	West Fresno Elementary	One Step Up Charter Academy	5/10/2001	K-12	268	Start-up	Both Site Based and Independent Study
	West Fresno Elementary	W.E.B. DuBois Charter School	11/9/1999	K-12	326	Start-up	Both Site Based and Independent Study
	West Fresno Elementary	West Fresno Performing Arts Academy	5/10/2001	K-12	200	Start-up	Site Based
	West Park Elementary	West Park Charter Academy	12/10/1993	K-12	433	Conversion	Both Site Based and Independent Study
Humboldt	Big Lagoon Union Elementary	Big Lagoon Charter School	9/6/2000	K-12	35	Start-up	Site Based*
	Freshwater Elementary	Freshwater Charter Middle School	2/10/1999	7-8	34	Start-up	Site Based
	Loleta Union Elementary	Pacific View Charter School	12/8/1999	K-12	156	Start-up	Independent Study
	Mattole Unified	Mattole Valley Charter School	9/11/1998	K-12	520	Start-up	Independent Study*
Kern	El Tejon Unified	Mountain Community Charter School	10/11/2000	4-11	50*	Start-up	Both Site Based and Independent Study
	Kern County Office of Education	Community Learning Center	1/13/1995	K-12	399	Start-up	Both Site Based and Independent Study
	Kern County Office of Education	Valley Oak Charter School	9/7/2000	K-12	64	Start-up	Independent Study
	Kern Union High	Kern Workforce 2000 Academy Charter	11/9/1994	9-12	466	Start-up	Site Based
	State Board of Education	Ridgecrest Charter School	12/6/2000	K-12*	300	Start-up	Site Based
Kings	Delta View Joint Union Elementary	Delta View District-wide Charter	6/10/1999	K-8	96	Conversion	Site Based
	Island Union Elementary	Island Union Elementary	10/12/2000	K-8	225	Conversion	Site Based
	Kings River-Hardwick Union Elementary	Kings River-Hardwick School District	5/10/2001	†	†	Conversion	Site Based
	Kit Carson Union Elementary	Mid Valley Alternative Charter School	7/14/1995	K-8	31	Start-up	Both Site Based and Independent Study
	Pioneer Union Elementary	Pioneer Elementary§	11/10/1993*	K-5	734	Conversion	Site Based
	Pioneer Union Elementary	Pioneer Middle§	11/10/1993*	6-8	356	Conversion	Site Based
Lassen	Fort Sage Unified	Long Valley Charter School	7/13/2000	K-8	178	Conversion	Both Site Based and Independent Study
	Westwood Unified	Westwood Charter School	7/11/2001	7-12*	400	Start-up	Site Based
Los Angeles	Antelope Valley Union High	Desert Sands Charter High School	9/5/2001	8-12*	197	Start-up	Independent Study
	Antelope Valley Union High	Henry Hearns Charter School	7/13/2000	K-12	163	Start-up	Site Based
	Baldwin Park Unified	Opportunities for Learning-Baldwin Park	7/11/2001	K-12	132*	Start-up	Both Site Based and Independent Study
	Burbank Unified	Options for Youth - Burbank	9/11/1997	K-12	873	Start-up	Independent Study

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Gorman Elementary	Gorman Charter Middle School	7/21/1998	6-8	57	Conversion	Both Site Based and Independent Study
	Gorman Elementary	Gorman Learning Center	2/9/2000	K-12	1,203	Start-up	Independent Study
	Hacienda La Puente Unified	Opportunities for Learning - Hacienda La Puente	5/12/1999	K-12	1,131	Start-up	Both Site Based and Independent Study
	Lawndale Elementary	Environmental Charter High School	2/8/2001	9-12	110	Start-up	Site Based
	Lennox Elementary	Animo Leadership High School	3/13/2000	9-12	140	Start-up	Site Based
	Long Beach Unified	Constellation Community Charter Middle School	7/8/1994	6-8	189	Start-up	Site Based
	Long Beach Unified	Emerson Parkside Academy Charter School	6/7/2001	K-5	714	Conversion	Site Based
	Long Beach Unified	New City School	4/12/2000	K-8	80	Start-up	Site Based
	Long Beach Unified	Pacific Learning Center	7/13/2000	9-12	54	Start-up	Both Site Based and Independent Study
	Long Beach Unified	Premier Education Charter High School	7/13/2000	9-12	325	Start-up	Both Site Based and Independent Study
	Long Beach Unified	Promise Academy Charter School	7/11/2001	†	120	Start-up	Both Site Based and Independent Study
	Los Angeles County Office of Education	Odyssey Charter School	7/14/1999	K-8	227	Start-up	Site Based
	Los Angeles County Office of Education	Soledad Enrichment Action Charter School	5/13/1997	9-12	743	Start-up	Site Based*
	Los Angeles Unified	Accelerated School	1/14/1994	K-8	263	Start-up	Site Based*
	Los Angeles Unified	California Academy for Liberal Studies	9/7/2000	6-8	64	Start-up	Site Based
	Los Angeles Unified	Camino Nuevo Charter Academy	4/12/2000	K-5	346	Start-up	Site Based
	Los Angeles Unified	Camino Nuevo Charter Middle School	7/11/2001	†	675	Start-up	Site Based
	Los Angeles Unified	CHIME Charter School	10/10/2001	K-4*	82*	Start-up	Site Based
	Los Angeles Unified	Community Charter Middle School	6/11/1999	6	128	Start-up	Site Based
	Los Angeles Unified	Crenshaw Learn Charter High School	7/14/1999	9-12	2,724	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Audubon Charter Middle School & Magnet Center	7/14/1999	6-8	2,109	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Baldwin Hills Charter Elementary	7/14/1999	K-5	706	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Coliseum Street Elementary School	7/14/1999	K-5	401	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Fifty-fourth Street Charter Elementary	7/14/1999	K-5	519	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Fifty-ninth Street Elementary	7/14/1999	K-5	487	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Forty-second Street Charter School	7/14/1999	K-5	717	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Hyde Park Charter School	7/14/1999	K-6	1,049	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Marlton Charter School	7/14/1999	K-12	352	Conversion	Site Based

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Los Angeles Unified	Crenshaw/Dorsey: Mid-City Charter Magnet School	7/14/1999	K-12	344	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Seventy-fourth Street LEARN Charter School	7/14/1999	K-5	928	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Sixth Avenue Elementary	7/14/1999	K-5	1,085	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Tom Bradley Environmental Science	7/14/1999	K-5	726	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: View Park Continuation High School	7/14/1999	10-12	77	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Virginia Road Charter Elementary School	7/14/1999	K-5	591	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Western Avenue Charter School	7/14/1999	K-5	955	Conversion	Site Based
	Los Angeles Unified	Crenshaw/Dorsey: Whitney Young Continuation High School	7/14/1999	9-12	51	Conversion	Site Based
	Los Angeles Unified	Fenton Avenue Charter School	9/10/1993	K-6	1,259	Conversion	Site Based
	Los Angeles Unified	Montague Charter Academy	9/13/1996	K-6	1,115	Conversion	Site Based
	Los Angeles Unified	Multicultural Learning Center	6/7/2001	K-5	200	Start-up	Site Based
	Los Angeles Unified	Open Charter Magnet School	5/14/1993	K-5	364	Conversion	Site Based
	Los Angeles Unified	Palisades Charter High School	7/14/1999	9-12	2,517	Conversion	Site Based
	Los Angeles Unified	Palisades: Canyon Charter Elementary	7/14/1999	K-5	334	Conversion	Site Based
	Los Angeles Unified	Palisades: Kenter Canyon Charter School	7/14/1999	K-5	399	Conversion	Site Based
	Los Angeles Unified	Palisades: Marquez Charter School	7/14/1999	K-5	711	Conversion	Site Based
	Los Angeles Unified	Palisades: Palisades Charter Elementary	7/14/1999	K-5	418	Conversion	Site Based
	Los Angeles Unified	Palisades: Temescal Canyon Continuation High School	7/14/1999	9-12	79	Conversion	Site Based
	Los Angeles Unified	Palisades: Topanga Elementary	7/14/1999	K-5	294	Conversion	Site Based
	Los Angeles Unified	Paul Revere Charter/LEARN Middle School	7/14/1999	6-8	1,834	Conversion	Site Based
	Los Angeles Unified	Valley Community Charter School	7/13/2000	K-6	175	Start-up	Site Based
	Los Angeles Unified	Vaughn Next Century Learning Center	6/11/1993	K-6	1,072	Conversion	Site Based
	Los Angeles Unified	View Park Preparatory Accelerated Charter School	5/12/1999	K-5	287	Start-up	Site Based
	Los Angeles Unified	Watts Learning Center Charter School	9/11/1997	K-1	199	Start-up	Site Based
	Los Angeles Unified	Westwood Charter School	9/10/1993	K-5	734	Conversion	Site Based
	San Gabriel Unified	Options for Youth San Gabriel Inc.	12/12/1996	K-12	444	Start-up	Independent Study
	Santa Monica-Malibu Unified	Edison Language Academy	9/11/1998	K-5	436	Conversion	Site Based
	West Covina Unified	San Jose-Edison Academy	4/9/1998	K-12	964	Start-up	Site Based

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	William S. Hart Union High	Opportunities for Learning - Santa Clarita	7/14/1999	7-12	535	Start-up	Both Site Based and Independent Study
Madera	Bass Lake Joint Elementary	Mountain Home School Charter	9/9/1994	K-8	138	Conversion	Independent Study
Marin	Marin County Office of Education	Phoenix Academy	6/9/1995	9-12	22	Conversion	Site Based
	Novato Unified	Novato Charter School	7/14/1995	K-8	221	Start-up	Site Based
	Sausalito Elementary	Willow Creek Academy	1/10/2001	K-4*	40*	Start-up	Site Based
Mendocino	Anderson Valley Unified	Anderson Valley Charter Network	7/14/1999	9-12*	5*	Start-up	Independent Study
	Arena Union Elementary	Pacific Community Charter School	5/12/1999	K-8	73	Start-up	Both Site Based and Independent Study
	Round Valley Unified	Eel River Charter School	9/10/1993	K-8	47	Start-up	Site Based
	Ukiah Unified	Black Oak Charter School	6/11/1999	K-12	40	Start-up	Site Based
	Ukiah Unified	La Vida Independent Study Charter School	4/12/2001	1-12	46	Start-up	Independent Study
	Ukiah Unified	Redwood Academy of Ukiah	11/9/1999	7-12	127	Start-up	Both Site Based and Independent Study
	Ukiah Unified	Tree of Life Charter School	12/8/1999	1-8	40	Start-up	Site Based
	Willits Unified	Willits Charter School	10/9/1998	6-12	73	Start-up	Both Site Based and Independent Study
Merced	Merced City Elementary	John C. Fremont Charter School	9/8/1995	K-5	615	Conversion	Site Based
Modoc	Modoc Joint Unified	Modoc Charter School	1/13/2000	K-12	264	Start-up	Independent Study
Mono	Eastern Sierra Unified	Sierra Charter School	3/12/1998	K-12	255	Start-up	Both Site Based and Independent Study
	Mono County Office of Education	Summit Charter School	6/7/2000	K-12	5	Start-up	Independent Study
Monterey	Monterey County Office of Education	Monterey County Home Charter School	9/6/2000	K-12	279	Conversion	Independent Study
	Monterey Peninsula Unified	Cypress Grove Charter for Arts & Sciences	5/10/2001	9-12	66	Start-up	Both Site Based and Independent Study
	North Monterey County Unified	Liberty Family Academy	9/11/1998	K-12	504	Start-up	Both Site Based and Independent Study
Napa	Napa Valley Unified	Napa Valley Language Academy	10/9/1998	K-6	660	Conversion	Site Based
	Napa Valley Unified	Phillips-Edison Partnership School	3/12/1998	K-6	567	Conversion	Site Based
	Napa Valley Unified	River School Charter	9/8/1995	6-8	160	Start-up	Site Based
	Napa Valley Unified	Shearer Charter School	6/11/1999	K-6	741	Conversion	Site Based
Nevada	Grass Valley Elementary	Grass Valley Charter School	7/9/1993	K-8	173	Start-up	Both Site Based and Independent Study
	Nevada City Elementary	Nevada City Charter School	10/14/1994	K-8	48	Conversion	Both Site Based and Independent Study
	Nevada County Office of Education	John Muir Charter School	7/14/1999	9-12	632	Start-up	Site Based
	Nevada County Office of Education	Nevada County Academy of Learning High School	12/8/1995	K-12	†	Start-up	Site Based

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Ready Springs Union Elementary	Vantage Point Charter	7/9/1993	K-12	92	Start-up	Both Site Based and Independent Study
	Twin Ridges Elementary	Bitney Springs Charter High School	3/11/1999	9-10	86	Start-up	Site Based
	Twin Ridges Elementary	Forest Charter School	2/8/2001	K-5*	8*	Start-up	Site Based
	Twin Ridges Elementary	Golden Valley Charter	4/7/1999	K-5	90	Start-up	Site Based
	Twin Ridges Elementary	Maria Montessori Charter Academy	4/12/2000	K-4	96	Start-up	Site Based
	Twin Ridges Elementary	Napa Valley Charter School	7/14/1999	K-2	115	Start-up	Site Based*
	Twin Ridges Elementary	Nevada City School of the Arts	7/12/1996	K-8	217	Start-up	Site Based
	Twin Ridges Elementary	Oak Tree Community School	5/11/2000	K-8	69	Conversion	Site Based
	Twin Ridges Elementary	River Oak Public Charter School	5/12/1999	K-4	160	Start-up	Site Based
	Twin Ridges Elementary	Twin Ridges Home Study Charter School	9/10/1993	K-8	55	Start-up	Independent Study
	Twin Ridges Elementary	Village School (The)	7/14/1999	K-3	39	Start-up	Site Based
	Twin Ridges Elementary	Woodlands Charter School (The)	7/14/1999	K-6	80	Start-up	Site Based
	Twin Ridges Elementary	Yuba River Charter School	6/9/1995	K-8	239	Start-up	Site Based
	Union Hill Elementary	Union Hill School District Charter School	4/14/1995	K-8	164	Start-up	Both Site Based and Independent Study
Orange	Capistrano Unified	Journey School	4/12/2000	K-3	90	Start-up	Site Based
	Orange County Office of Education	Orange County Charter School	6/11/1998	K-12	1,567	Conversion	†
	Orange Unified	California Charter Academy of Orange County	4/12/2000	K-12	31	Start-up	Both Site Based and Independent Study
	Orange Unified	Santiago Middle School	9/9/1994	7-8	1,070	Conversion	Site Based
	Saddleback Valley Unified	Gates Charter Language School	9/11/1998	K-6	792	Conversion	Site Based
	Santa Ana Unified	El Sol Santa Ana Science and Arts Academy	3/7/2001	K-8	120	Start-up	Site Based
	Santa Ana Unified	Orange County High School of the Arts	4/12/2000	7-12	806	Start-up	Site Based
Placer	Rocklin Unified	Rocklin Academy	6/7/2000	K-8	103	Start-up	Site Based
	Tahoe-Truckee Joint Unified	Prosser Creek Charter School	6/12/1998	K-12	356	Start-up	Both Site Based and Independent Study
	Western Placer Unified	Carlin C. Coppin Elementary	3/11/1993	K-5	450	Conversion	Site Based
	Western Placer Unified	Creekside Oaks Charter Elementary School	2/11/1993	K-5	498	Conversion	Site Based
	Western Placer Unified	Horizon Instructional Systems	6/11/1993	K-12	2,947	Start-up	Site Based
	Western Placer Unified	Lincoln High School	2/11/1993	9-12	855	Conversion	Site Based
	Western Placer Unified	Sheridan Charter School	5/14/1993	K-8	186	Conversion	Both Site Based and Independent Study
Plumas	Plumas Unified	Plumas Charter School	6/12/1998	K-12	138	Start-up	Independent Study
Riverside	Desert Sands Unified	Washington Charter School	6/13/1994	K-5	705	Conversion	Site Based

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Moreno Valley Unified	Moreno Valley Community Learning Center	7/8/1994	7-12	58	Start-up	Site Based
	Nuview Union Elementary	Nuview Bridge Academy	3/7/2001	9-12	50*	Start-up	Site Based
	Perris Union High	Choice 2000 On-Line School	7/8/1994	7-12	189	Start-up	Site Based
	Riverside County Office of Education	Indio Charter School	9/9/1999	K-12	263	Start-up	Site Based
	San Jacinto Unified	San Jacinto Valley Academy	7/10/1997	K-8	168	Start-up	Site Based
	Temecula Valley Unified	Language Acquisition Magnet Program (LAMP)	9/11/1998	K-1	135*	Start-up	Site Based
	Temecula Valley Unified	Temecula Learning Center	9/9/1994	K-8	138	Start-up	Site Based
	Temecula Valley Unified	Temecula Preparatory School	2/9/2000	K-12	189	Start-up	Site Based
Sacramento	Center Joint Unified	Antelope View Home Charter School	10/11/2000	K-12	44	Start-up	Both Site Based and Independent Study
	Del Paso Heights Elementary	Sharwin Charter School Academy	1/10/2002	†	†	†	†
	Elk Grove Unified	Elk Grove Charter School	9/10/1993	K-2	137	Start-up	Both Site Based and Independent Study
	Natomas Unified	Natomas Charter School	7/9/1993	K-10	944	Start-up	Both Site Based and Independent Study
	Rio Linda Union Elementary	Westside Charter School	12/9/1994	7-8	204	Start-up	Site Based
	Sacramento City Unified	Bowling Green Charter	6/11/1993	K-6	973	Conversion	Site Based
	San Juan Unified	Choices Charter School	12/8/1999	K-12	57	Start-up	Both Site Based and Independent Study
	San Juan Unified	Deterding Charter Elementary School	2/10/1994	K-6	549	Conversion	Site Based
	San Juan Unified	Options for Youth - San Juan	7/14/1999	K-12	40	Start-up	Independent Study
	San Juan Unified	Visions in Education Charter School	7/14/1999	K-12	2,860	Start-up	Site Based
San Bernardino	Apple Valley Unified	Academy for Academic Excellence	7/10/1997	K-12	533	Start-up	Both Site Based and Independent Study
	Oro Grande Elementary	California Charter Academy of Oro Grande	6/7/2001	K-12	634	Start-up	Independent Study
	Redlands Unified	Grove High School	3/11/1999	9-12	65	Start-up	Site Based*
	San Bernardino City Unified	Provisional Accelerated Learning (PAL) Academy	9/7/2000	9-12	325	Start-up	Site Based
	Snowline Joint Unified	California Charter Academy	5/10/2001	K-12	3,227	Start-up	Both Site Based and Independent Study
	Snowline Joint Unified	California Charter Academy	9/9/1999	K-12	1,261	Start-up	Site Based
	Snowline Joint Unified	Eagle Summit Academy	7/8/1994	7-12	192	Start-up	Site Based
	Upland Unified	Options for Youth - Upland	2/9/1996	K-12	460	Start-up	Independent Study
	Victor Elementary	Charter 101 Elementary School	12/8/1995	K-6	173	Start-up	Both Site Based and Independent Study
	Victor Elementary	Mountain View Montessori Charter School	4/12/2000	K-6	42	Start-up	Site Based
	Victor Elementary	Sixth Street Prep School	6/7/2000	K-6	164	Conversion	Site Based
	Victor Valley Union High	Excelsior Education Center	1/13/1995	7-12	1,090	Start-up	Independent Study

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Victor Valley Union High	Options for Youth - Victorville Charter School	6/11/1993	7-12	683	Start-up	Independent Study
San Diego	Bonsall Union Elementary	Vivian Banks Charter School	1/12/1996	K-5	143	Start-up	Site Based
	Chula Vista Elementary	Chula Vista Learning Community Charter	2/10/1998	K-6	349	Start-up	Site Based
	Chula Vista Elementary	Clear View Charter School	10/14/1994	K-6	587	Conversion	Site Based
	Chula Vista Elementary	Discovery Charter School	6/13/1994	K-6	909	Conversion	Site Based
	Chula Vista Elementary	Feaster-Edison Charter School	3/18/1997	K-6	1,120	Conversion	Site Based
	Chula Vista Elementary	Mueller Elementary Charter School	9/9/1994	K-6	863	Conversion	Site Based
	Dehesa Elementary	Dehesa Charter School	10/10/2001	†	†	Start-up	†
	Escondido Union Elementary	Classical Academy	6/11/1999	K-8	350	Start-up	Independent Study
	Escondido Union High	Escondido Charter High School	2/9/1996	9-12	867	Start-up	Both Site Based and Independent Study
	Grossmont Union High	Helix High School	7/21/1998	9-12	2,406	Conversion	Site Based
	Jamul-Dulzura Union Elementary	Greater San Diego Academy	9/9/1999	K-8	267	Start-up	Independent Study
	Julian Union Elementary	Julian Charter School	11/9/1999	K-12	732	Start-up	Independent Study
	Julian Union High	Eagles Peak Charter School	2/9/2000	K-12	260	Start-up	Both Site Based and Independent Study
	Lakeside Union Elementary	River Valley High Charter School	3/18/1997	7-12	143	Start-up	Both Site Based and Independent Study
	Oceanside Unified	Pacific View Charter School	7/14/1999	K-12	176	Start-up	Both Site Based and Independent Study
	San Diego City Unified	Audeo Charter School	7/11/2001	6-12	†	Start-up	Independent Study
	San Diego City Unified	Charter School of San Diego	9/10/1993	7-12	1,305	Start-up	Independent Study
	San Diego City Unified	Cortez Hill Academy Charter School	10/11/2000	7-12	94	Start-up	Site Based
	San Diego City Unified	Darnall E-Charter School	9/10/1993	K-5	528	Conversion	Site Based
	San Diego City Unified	Explorer Elementary Charter School	12/8/1999	K-6	128	Start-up	Site Based
	San Diego City Unified	Harriet Tubman Village Charter School	1/14/1994	K-6	297	Conversion	Site Based
	San Diego City Unified	High Tech High Charter School	11/9/1999	9-12	198	Start-up	Site Based
	San Diego City Unified	Holly Drive Leadership Academy	10/8/1999	K-6	254	Start-up	Site Based*
	San Diego City Unified	King/Chavez Academy of Excellence Charter School	11/7/2001	†	†	Start-up	†
	San Diego City Unified	Kwachiiyao/Ixcalli	1/7/1998	K-7	221	Start-up	Site Based
	San Diego City Unified	McGill School of Success	11/8/1995	K	75	Start-up	Site Based
	San Diego City Unified	Memorial Academy Charter School	11/8/1995	7-9	1,618	Conversion	Site Based
	San Diego City Unified	Museum School	4/14/1995	3-4	61	Start-up	Site Based
	San Diego City Unified	Nubia Leadership Academy	9/11/1997	K-6*	356	Start-up	Site Based

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	San Diego City Unified	O'Farrell Community School: Center for Advanced Academic Studies	1/10/1994	6-8	1,513	Conversion	Site Based
	San Diego City Unified	Preuss School UCSD	11/13/1998	6-9	423	Start-up	Site Based
	San Diego City Unified	Sojourner Truth Learning Academy	5/12/1999	K-8	255	Start-up	Site Based*
	San Diego County Office of Education	Literacy First Charter School	7/11/2001	K-3	120	Start-up	Site Based
	South Bay Union Elementary	South Bay Charter School	12/11/1998	K-6	3,637*	Conversion	Both Site Based and Independent Study
	Sweetwater Union High	MAAC Community Charter School	6/7/2000	K-12	50*	Start-up	Both Site Based and Independent Study
	Valley Center-Pauma Unified	All Tribes American Indian Charter School	6/7/2001	6-8	60	Start-up	Site Based
	Vista Unified	Guajome Park Academy	5/13/1994	6-12	1,839	Start-up	Both Site Based and Independent Study
	Vista Unified	Vista Literacy Academy Charter School	6/7/2001	K-6	520	Start-up	Site Based
San Francisco	San Francisco Unified	Creative Arts Charter School	11/10/1993	K-8	157	Start-up	Site Based
	San Francisco Unified	Gateway High School	4/9/1998	9-12	285	Start-up	Site Based
	San Francisco Unified	Leadership High School	4/11/1997	9-12	344	Start-up	Site Based
	San Francisco Unified	Life Learning Academy	4/9/1998	9-12	54	Start-up	Site Based
	State Board of Education	Edison Charter Academy	9/11/1998*	K-5	521	Conversion	Site Based
San Joaquin	Lammersville Elementary	Lammersville Charter School	6/11/1999	K-8	17	Start-up	Both Site Based and Independent Study
	Lodi Unified	Aspire Public Schools - Lodi Campus	3/7/2001	K-8	356	Start-up	Site Based
	Lodi Unified	Joe Serna Jr. Charter School	3/8/2000	K-5	180	Start-up	Site Based
	Lodi Unified	University Public Schools - San Joaquin Campus	3/11/1999	K-6	406	Start-up	Site Based
	Manteca Unified	Heritage Family Academy	7/14/1999	K-12	1,282	Start-up	Independent Study*
	New Hope Elementary	New Hope Charter School	2/9/2000	K-12	778	Start-up	Both Site Based and Independent Study*
	New Jerusalem Elementary	Delta Charter School	7/11/2001	†	†	Start-up	Independent Study
	New Jerusalem Elementary	New Jerusalem Charter School	1/6/1999	K-8	156	Start-up	Independent Study
	Tracy Joint Unified	Discovery Charter School	2/8/2001	5-8	125*	Start-up	Site Based
San Luis Obispo	Paso Robles Joint Unified	Grizzly Challenge Charter School	7/21/1998	10-12	119	Start-up	Site Based
	San Luis Coastal Unified	Bellevue-Santa Fe Charter School	10/13/1995	K-6	146	Start-up	Site Based
San Mateo	Ravenswood City Elementary	Aspire Charter High School	4/12/2001	9-12	80	Start-up	Site Based
	Ravenswood City Elementary	East Palo Alto Charter School	6/13/1997	K-6	358	Conversion	Site Based
	Ravenswood City Elementary	Edison-McNair Academy	6/12/1998	5-8	533	Conversion	Site Based

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Ravenswood City Elementary	School of Wisdom and Knowledge College Preparatory	5/12/1999	K-8	74	Start-up	Site Based
	Redwood City Elementary	Aurora High	6/11/1999	9-11	75	Start-up	Site Based
	Redwood City Elementary	Garfield Charter School	5/13/1994	K-8	727	Conversion	Site Based
	San Carlos Elementary	Arundel School	12/6/2000	K-4	316	Conversion	Site Based
	San Carlos Elementary	Brittan Acres School	9/9/1999	K-4	367	Conversion	Site Based
	San Carlos Elementary	Heather School	9/9/1999	K-4	287	Conversion	Site Based
	San Carlos Elementary	San Carlos Charter Learning Center	2/11/1993	K-8*	206*	Start-up	Site Based
	San Carlos Elementary	Tierra Linda Middle School	9/6/2000	5-8	242	Conversion	Site Based
	San Carlos Elementary	White Oaks Elementary	9/7/2000	K-4	349	Conversion	Site Based
Santa Barbara	College Elementary	Santa Ynez Valley Charter School	10/11/2000	K-8	127*	Start-up	Site Based
	Santa Barbara Elementary	Cesar Estrada Chavez Dual Language Immersion Charter School	9/6/2000	K-2	39	Start-up	Site Based
	Santa Barbara Elementary	Peabody Charter School	7/9/1993	K-6	659	Conversion	Site Based
	Santa Barbara Elementary	Santa Barbara Elementary Charter School	7/9/1993	K-5	205	Start-up	Site Based
	Santa Barbara High	Santa Barbara Middle Charter School	3/11/1999	6-8	52	Start-up	Site Based
Santa Clara	Campbell Union Elementary	Sherman Oaks Community Charter School	6/7/2000	K-5	454	Conversion	Site Based
	East Side Union High	Latino College Preparatory Academy	9/5/2001	9*	†	Start-up	Site Based
	East Side Union High	MACSA Academia Calmecac	9/7/2000	9-12	50	Start-up	Site Based
	Gilroy Unified	MACSA El Portal Leadership Academy	5/11/2000	9-12	60	Start-up	Site Based
	Morgan Hill Unified	South Valley Charter School	3/7/2001	K-6	235	Start-up	Site Based
	Mountain View-Los Altos Union High	Silicon Valley Essential Charter High School	10/11/2000	9-12	65	Start-up	Site Based
	San Jose Unified	Downtown College Preparatory	3/8/2000	9-12	109	Start-up	Site Based
Santa Cruz	Pajaro Valley Joint Unified	Academic/Vocational Charter Institute	10/8/1999	11-12	45	Start-up	Site Based
	Pajaro Valley Joint Unified	Alianza School	9/11/1998	K-6	724	Conversion	Site Based
	Pajaro Valley Joint Unified	Linscott Charter School	11/10/1993	K-8	189	Conversion	Site Based
	Pajaro Valley Joint Unified	Pacific Coast Charter School	1/6/1999	K-12	165	Start-up	Independent Study
	Pajaro Valley Joint Unified	Watsonville Charter School of the Arts	4/12/2001	K-8	110*	Start-up	Site Based
	San Lorenzo Valley Unified	SLVUSD Charter	9/10/1993	K-12	589	Conversion	Both Site Based and Independent Study
	Santa Cruz City High	Delta Charter School	7/8/1994	9-12	44	Start-up	Site Based
	Santa Cruz City High	Sojourn Middle School	7/10/1997	6-8	36	Start-up	Both Site Based and Independent Study
	Santa Cruz County Office of Education	Pacific Collegiate Charter Public School	6/11/1999	7-12	180	Start-up	Site Based

County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
Shasta	Enterprise Elementary	Chrysalis - Monarch Learning Center Charter School	5/10/1996	K-10	76	Start-up	Site Based
	Gateway Unified	Lubeles Academy Charter	12/8/1999	K-12	56	Start-up	Site Based
	Gateway Unified	North Woods Discovery School	4/12/2000	K-8	148*	Start-up	Site Based
	Redding Elementary	Monarch Learning Center	6/7/2000	K-8	86	Start-up	Site Based
	Redding Elementary	Pathway.com Charter School	3/7/2001	9-12	60*	Start-up	Site Based
	Redding Elementary	Stellar Charter School of Technology & Home Study	7/14/1999	K-8	79	Conversion	Both Site Based and Independent Study
	Redding Elementary	Wonder to Wisdom Academy	11/7/2001	4-12*	12	Start-up	Independent Study
	Shasta Union High	Redding School of the Arts	6/11/1999	K-8	218	Start-up	Both Site Based and Independent Study
	Shasta Union High	Shasta Secondary Home School	9/9/1999	9-12	138	Start-up	Independent Study
Siskiyou	Mt. Shasta Union Elementary	Challenge Home School	3/12/1998	K-8	19	Start-up	Independent Study
	Mt. Shasta Union Elementary	Options for Youth - Mount Shasta	3/12/1998	K-8	156	Start-up	Independent Study
Solano	Vacaville Unified	Elise P. Buckingham Charter School	7/8/1994	K-12	801	Start-up	Site Based
	Vallejo City Unified	Mare Island Technology (MIT) Academy High School	3/7/2001	9-12*	78*	Start-up	Site Based
	Vallejo City Unified	Mare Island Technology (MIT) Academy Middle School	4/7/1999	6-7	243	Start-up	Site Based
Sonoma	Fort Ross Elementary	Fort Ross Charter School	12/8/1999	K-6	343	Start-up	Independent Study
	Petaluma City Elementary	Live Oak Charter School	5/10/2001	K-3	63	Start-up	†
	Piner-Olivet Union Elementary	Piner-Olivet Charter School	12/8/1995	6-8	128	Start-up	Site Based
	Santa Rosa Elementary	Kid Street Learning Center Charter School	7/14/1999	K-6	23	Start-up	Site Based
	Santa Rosa Elementary	Nexus Learning Community Charter School	11/8/2000	9-12	66	Start-up	Site Based
	Santa Rosa Elementary	Santa Rosa Education Cooperative Charter School	1/13/1995	K-6	15	Start-up	Site Based
	Santa Rosa High	Roseland Accelerated Middle School	6/7/2001	7-8	55	Start-up	Site Based
	Sebastopol Union Elementary	Sebastopol Independent Charter School	3/10/1995	K-8	182	Start-up	Site Based
	Sonoma Valley Unified	Sonoma Valley Charter School	2/11/1993	K-8	230	Start-up	Site Based
	Twin Hills Union Elementary	Orchard View Charter School	7/13/2000	K-12	136	Start-up	Independent Study
	West Sonoma County Union High	West Sonoma Charter School	12/8/1999	7-12	289	Start-up	Independent Study
	Windsor Unified	Cali Calmecac	9/11/1998	K-6	846	Conversion	Site Based
Stanislaus	Denair Unified	Denair Charter Academy	3/7/2001	K-12	50*	Start-up	Both Site Based and Independent Study
	Hart-Ransom Union Elementary	Hart-Ransom Academic Charter School	4/14/1995	K-8	234	Start-up	Independent Study

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County	Chartering Entity	Charter School Name	Date Numbered by the State Board of Education and Eligible for State Funding	Approved Grade(s)	Estimated Enrollment	School Origin	Instructional Type
	Hickman Elementary	Hickman Charter School§	3/8/2000	K-8	706	Start-up	Site Based
	Hickman Elementary	Hickman Elementary School§	3/8/2000	K-8	213	Conversion	Both Site Based and Independent Study
	Hickman Elementary	Hickman Middle School§	3/8/2000	6-8	141	Start-up	Site Based
	Keyes Union Elementary	Gold Rush Home Study Charter School	7/11/2001	K-12*	300	Start-up	Independent Study
	Keyes Union Elementary	Keyes to Learning Charter School	5/12/1995	K-8	288	Start-up	Independent Study*
	Keyes Union Elementary	University Public Schools - Stanislaus	9/6/2000	K-6	200	Start-up	Site Based
	Oakdale Joint Unified	Oakdale Charter School	1/12/1996	9-12	107	Start-up	Independent Study
	Patterson Joint Unified	Grayson Charter School	7/14/1999	K-6	255	Conversion	Site Based
	Stanislaus County Office of Education	Valley Business High School	2/10/1999	11-12	39	Start-up	Site Based
Sutter	Yuba City Unified	Yuba City Charter School	4/12/2000	K-12	270	Start-up	Site Based
Tehama	Mineral Elementary	Wonder to Wisdom Charter Academy	7/11/2001	4-12*	40	Start-up	Both Site Based and Independent Study
	Red Bluff Union Elementary	Sacramento River Discovery Center Charter School	7/11/2001	6-12*	35*	Start-up	Both Site Based and Independent Study
Tulare	Tulare County Office of Education	Eleanor Roosevelt Community Learning Center	7/11/2001	K-8*	33*	Start-up	Independent Study
	Tulare County Office of Education	La Sierra High School	10/11/2000	9-12	157	Start-up	Site Based
	Visalia Unified	Charter Alternatives Academy	7/14/1999	7-12	114	Conversion	Both Site Based and Independent Study
	Visalia Unified	Charter Home School Academy	7/14/1999	K-8	38	Conversion	Independent Study
	Visalia Unified	Charter Oak School	6/13/1994	5-8	62	Start-up	Both Site Based and Independent Study
Ventura	Mesa Union Elementary	Golden Valley Charter School	2/8/2001	K-12	112*	Start-up	Independent Study
Yuba	Camptonville Elementary	Camptonville Academy	10/9/1998	K-12	514	Start-up	†
	Marysville Joint Unified	Marysville Charter Academy for the Arts	6/7/2000	7-12	84	Start-up	Site Based
	Wheatland Elementary	California Montessori Project	3/7/2001	K-12	460*	Start-up	Site Based
	Wheatland Elementary	Wheatland Charter Academy	3/7/2001	K-12	70*	Start-up	Both Site Based and Independent Study
	Wheatland Union High	Academy for Career Education Charter School	5/12/1999	9-12	51	Conversion	Both Site Based and Independent Study
	Yuba County Office of Education	Yuba County Career Preparatory Charter	9/8/1995	K-12	509	Start-up	Both Site Based and Independent Study
				Total	**130,921**		

Source: California Department of Education—Charter Schools Database.

* California Charter Schools Networking Directory and Resource Guide Year—2002.

† Neither of the two data sources contain this information.

§ These schools may be part of an all-charter school district.

APPENDIX B

Analysis of Charter Schools' Financial Information, Fiscal Year 2000–01

The table in this appendix lists each of the fiscally independent charter schools within the four chartering entities that we reviewed. As shown in the table, five of these charter schools did not complete a financial audit for fiscal year 2000–01 and four of those that did submit audited statements did not submit information specific to the school's operations.

The Department of Education (department) established regulations that a school district should maintain a reserve balance of between 1 percent and 5 percent, depending on the district's overall average daily attendance (ADA), to cover cash requirements in succeeding fiscal years. The required reserve balance is based on a ratio of fund balance to annual expenditures. By maintaining a reserve balance, charter schools would have a stronger financial position; therefore, using the department's regulations, the charter schools would need to maintain a fund balance of between 3 percent and 5 percent of annual expenditures. Although we recognize that charter schools are not legally obligated to meet this reserve requirement, we used it as a benchmark for assessing the schools' fiscal health.

For the 25 charter schools that submitted school-specific audited financial statements for fiscal year 2000–01, we reviewed the statements to determine their fund balance and the ratio of fund balance to annual expenditures. However, 9 of the charter schools reported net assets rather than fund balances, and 1 school included its fixed assets as a component of its fund balance. Because the department's ratio is based on fund balance, and because fund balance represents the cumulative difference between net revenues and net expenditures from the beginning of operations for the charter schools' operating funds, we adjusted the net assets for these charter schools to approximate the fund balance.

Of the 25 fiscally independent charter schools that submitted school-specific audited financial statements for fiscal year 2000–01, 5 reported a negative fund balance, an indication that these 5 charter schools are not fiscally healthy. As shown in the table, we found that 11 charter schools did not meet the fund balance

reserve based on their ADA, including those with negative fund balances as discussed above. Various circumstances may explain why a charter school would not meet the fund balance reserve. For example, a new charter school may have large expenditures for capital outlays or improvements and equipment purchases, which are necessary to begin operations. Further, repayment of the Charter School Revolving Loan from the department to aid a charter school in beginning operations, reduces the charter school's revenues in future years, and payments to a business management company to run a charter school increases the school's expenditures, both resulting in a decrease in a charter school's fund balance.

TABLE B.1

Fiscally Independent Charter Schools Within the Four Selected Chartering Entities Fiscal Year 2000–01

Chartering Entity/Charter School	Was Audit Report Received?	Did the School Meet the Fund Balance Reserve Ratio?	Target Reserve Based on ADA (%)	Expenditures to Fund Balance Ratio (%)
Fresno Unified School District				
Center for Advanced Research and Technology*	Yes	No	4%	2.6%
Cornerstone Academy	Yes	No	5	**-8.8**
Edison-Bethune Charter Academy*†	Yes	Unknown	4	Unknown
Fresno Prep Academy	Yes	No	5	**-29.2**
Gateway Charter Academy‡	No	Unknown	5	Unknown
New Millennium Institute of Education Charter School	Yes	Yes	5	52.5
Renaissance Charter School	Yes	Yes	5	46.4
School of Unlimited Learning†	Yes	Unknown	5	Unknown
Los Angeles Unified School District				
Accelerated School	Yes	Yes	5	20.6
California Academy for Liberal Studies	Yes	Yes	5	7.8
Camino Nuevo Charter Academy	Yes	No	4	1.1
Community Charter Middle School	Yes	No	5	**-8.0**
Fenton Avenue Charter School	Yes	Yes	3	50.1
Montague Charter Academy	Yes	Yes	3	26.5
Valley Community Charter School	Yes	No	5	**-12.3**
Vaughn Next Century Learning Center	Yes	Yes	3	159.6
View Park Preparatory Accelerated Charter School	Yes	Yes	5	6.5
Watts Learning Center Charter School	Yes	Yes	5	50.8

Chartering Entity/Charter School	Was Audit Report Received?	Did the School Meet the Fund Balance Reserve Ratio?	Target Reserve Based on ADA (%)	Expenditures to Fund Balance Ratio (%)
Oakland Unified School District				
American Indian Public Charter School	Yes	No	5	**-1.6**
Aspire Public Schools—Oakland Campus†	Yes	Unknown	4	Unknown
Dolores Huerta Learning Academy	Yes	No	5	1.6
East Bay Conservation Corps Charter School†	Yes	Unknown	5%	Unknown
Ernestine C. Reems Academy of Technology and Art	Yes	No	5	0.4%
North Oakland Community Charter School	Yes	Yes	5	17.1
Oakland Charter Academy	Yes	Yes	5	23.7
West Oakland Community School	Yes	Yes	5	59.2
San Diego City Unified School District§				
Charter School of San Diego	Yes	Yes	4	69.6
Cortez Hill Academy Charter School	Yes	Yes	5	20.5
Explorer Elementary Charter School	Yes	No	5	3.9
High Tech High Charter School	No	Unknown	5	Unknown
Holly Drive Leadership Academy	No	Unknown	5	Unknown
Nubia Leadership Academy	No	Unknown	4	Unknown
Preuss School UCSD	Yes	No	4	0.6
Sojourner Truth Learning Academy	No	Unknown	5	Unknown

* Fresno Unified School District is not entirely responsible for the monitoring of either of these charter schools. Center for Advanced Research and Technology is a joint charter of Fresno Unified School District and Clovis Unified School District. Responsibility for the school's fiscal monitoring lies with Clovis Unified School District. Edison-Bethune Charter is chartered by the Fresno County Office of Education, but a joint committee of staff from Fresno County Office of Education and the Fresno Unified School District is responsible for the school's fiscal monitoring.

† These charter schools were audited as part of their parent company and no separate audited financial information was available for fiscal year 2000–01.

‡ Charter revoked in January 2002.

§ San Diego City Unified School District had eight fiscally independent charter schools in operation during fiscal year 2000–01. In fiscal year 2001–02, two additional fiscally independent schools began operations, however, these schools are not reflected in this table.

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APPENDIX C

Academic Performance Index Scores and Stanford 9 Test Results for Selected Charter Schools, Academic Years 1998–99 Through 2000–01 and 1999–2000 Through 2001–02, Respectively

Table C.1 lists the Academic Performance Index (API) scores for academic years 1998–99 through 2000–01 for each of the charter schools within the four chartering entities we reviewed. The Department of Education describes the API as the cornerstone of the Public Schools Accountability Act, signed into law in April 1999. This law authorized the establishment of the first statewide accountability system for California public schools. The basis of a school's API score is the performance of individual pupils on the Stanford 9, as measured through the national percentile rankings.[7] The purpose of the API is to measure the academic performance and progress of all public schools, including charter schools. It is based on a numeric index that ranges from a low of 200 to a high of 1,000. The State has set 800 as the API score that schools should strive to meet. Over the next few years, the API will incorporate other standards tests, as well as the California High School Exit Examination, eventually including graduation and attendance rates as well.

As Table C.1 on the following page shows, only 5 of the 86 charter schools met the State's goal in all three academic years, by scoring at least 800. Further, as the table shows, even though the majority of the charter schools listed did not meet the State's goal, the charter schools' API scores generally improved over the two-year time period.

Tables C.2 through C.4 list each charter school in the four chartering entities we reviewed and the 1999–2000 through 2001–02 Stanford 9 scores for reading and math.[8] Schools, including charter schools, are required to test all students in grades 2 through 11 using the Stanford 9 exam. The purpose of this exam is to determine how well students are achieving academically compared to similar students tested nationwide. It has been used in California since 1997. Because the Stanford 9 is a national achievement test with the test questions

[7] Beginning in academic year 2001–02, the API also incorporates the results of the California Standards Test in English Language Arts as measured through performance levels.

[8] Schools with no reported Stanford 9 scores for the three years are not included in the table.

and scoring remaining the same from year to year, results from the test's 2001–02 administration are comparable to the results from any earlier examination completed within the previous four years.

Table C.2 on page 93 summarizes the Stanford 9 scores for those charter schools serving grades 2 through 5 within our sample chartering entities. As the table shows, the scores for some charter schools were higher than the average scores for their chartering entities' other, noncharter schools for the same grades in the same year. For example, in the San Diego City Unified School District (San Diego), for academic year 2001–02, two charter schools posted higher reading scores than San Diego's average, yet the remaining seven had lower scores. Overall, the scores for charter schools within our sample were roughly the same as their chartering entities' average scores.

Tables C.3 and C.4 on pages 95 and 97, respectively, show reading and math scores for charter schools and the average scores for their chartering entities for grades 6 through 8 and 9 through 11, respectively. Again, in either grade group, the charter schools' scores and their chartering entities' average scores are comparable.

TABLE C.1

API Scores for Four Selected Chartering Entities' Charter Schools
Academic Years 1998–99 Through 2000–01

Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	API 1998–99	API 1999–2000	API 2000–01
Fresno Unified School District				
Carter G. Woodson Public Charter School	5/10/2001	NS	NS	NS
Center for Advanced Research and Technology (CART)	1/13/2000	NS	NS	NS
Cornerstone Academy	7/13/2000	NS	NS	NS
Edison-Bethune Charter Academy	6/11/1999	363	399	446
Fresno Prep Academy	6/11/1999	NS	375	NS
Gateway Charter Academy*	5/12/1999	NS	NS	284
New Millennium Institute of Education Charter School	9/11/1998	NS	NS	NS
Renaissance Charter School	7/13/2000	NS	NS	NS
School of Unlimited Learning	7/21/1998	355	346	304
Sunset Charter School	6/11/1999	343	424	414
Los Angeles Unified School District				
Accelerated School	1/14/1994	574	654	706
California Academy for Liberal Studies	9/7/2000	NS	NS	700

Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	API 1998–99	API 1999–2000	API 2000–01
Los Angeles Unified School District–continued				
Camino Nuevo Charter Academy	4/12/2000	NS	NS	485
Camino Nuevo Charter Middle School	7/11/2001	NS	NS	NS
CHIME Charter School	10/10/2001	NS	NS	NS
Community Charter Middle School	6/11/1999	NS	528	590
Crenshaw/Dorsey: Audubon Charter Middle School & Magnet Center	7/14/1999	473	477	485
Crenshaw/Dorsey: Baldwin Hills Charter Elementary	7/14/1999	625	657	695
Crenshaw/Dorsey: Coliseum Street Elementary School	7/14/1999	440	515	532
Crenshaw/Dorsey: Fifty-fourth Street Charter Elementary	7/14/1999	597	653	622
Crenshaw/Dorsey: Fifty-ninth Street Elementary	7/14/1999	503	519	575
Crenshaw/Dorsey: Forty-second Street Charter School	7/14/1999	479	545	553
Crenshaw/Dorsey: Hyde Park Charter School	7/14/1999	349	376	414
Crenshaw/Dorsey: Marlton Charter School	7/14/1999	NS	NS	NS
Crenshaw/Dorsey: Mid-City Charter Magnet School	7/14/1999	456	508	558
Crenshaw/Dorsey: Seventy-fourth Street LEARN Charter School	7/14/1999	482	506	542
Crenshaw/Dorsey: Sixth Avenue Elementary	7/14/1999	344	417	470
Crenshaw/Dorsey: Tom Bradley Environmental Science	7/14/1999	508	536	560
Crenshaw/Dorsey: View Park Continuation High School	7/14/1999	NS	NS	NS
Crenshaw/Dorsey: Virginia Road Charter Elementary School	7/14/1999	446	519	600
Crenshaw/Dorsey: Western Avenue Charter School	7/14/1999	435	458	471
Crenshaw/Dorsey: Whitney Young Continuation High School	7/14/1999	NS	NS	NS
Crenshaw Learn Charter High School	7/14/1999	459	452	455
Fenton Avenue Charter School	9/10/1993	473	509	562
Montague Charter Academy	9/13/1996	444	505	585
Multicultural Learning Center	6/7/2001	NS	NS	NS
Open Charter Magnet School	5/14/1993	816	840	817
Palisades: Canyon Charter Elementary	7/14/1999	832	850	873
Palisades: Charter High School	7/14/1999	720	707	714
Palisades: Kenter Canyon Charter School	7/14/1999	827	851	882
Palisades: Marquez Charter School	7/14/1999	902	917	893
Palisades: Palisades Charter Elementary	7/14/1999	785	815	839
Palisades: Temescal Canyon Continuation High School	7/14/1999	NS	NS	NS
Palisades: Topanga Elementary	7/14/1999	794	861	832
Paul Revere Charter/LEARN Middle School	7/14/1999	747	751	747
Valley Community Charter School	7/13/2000	NS	NS	650
Vaughn Next Century Learning Center	6/11/1993	443	494	591

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Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	API 1998–99	API 1999–2000	API 2000–01
Los Angeles Unified School District–continued				
View Park Preparatory Accelerated Charter School	5/12/1999	NS	761	800
Watts Learning Center Charter School	9/11/1997	NS	577	681
Westwood Charter School	9/10/1993	842	872	858
Oakland Unified School District				
American Indian Public Charter School	2/9/1996	NS	NS	436
Aspire Public School - Oakland Campus	7/14/1999	NS	NS	466
Dolores Huerta Learning Academy	7/14/1999	NS	NS	504
East Bay Conservation Corps Charter School	12/8/1995	NS	348	NS
Ernestine C. Reems Academy of Technology and Art	7/14/1999	NS	NS	440
North Oakland Community Charter School	6/7/2000	NS	NS	NS
Oakland Charter Academy	6/11/1993	413	425	423
University Preparatory Charter Academy	6/7/2001	NS	NS	NS
West Oakland Community School	6/12/1998	NS	NS	597
San Diego City Unified School District				
Audeo Charter School	7/11/2001	NS	NS	NS
Charter School of San Diego	9/10/1993	510	NS	NS
Cortez Hill Academy Charter School	10/11/2000	NS	NS	NS
Darnall E-Charter School	9/10/1993	559	558	588
Explorer Elementary Charter School	12/8/1999	NS	NS	830
Harriet Tubman Village Charter School	1/14/1994	621	620	616
High Tech High Charter School	11/9/1999	NS	NS	820
Holly Drive Leadership Academy	10/8/1999	NS	546	504
King/Chavez Academy of Excellence Charter School	11/7/2001	NS	NS	NS
Kwachiiyao/Ixcalli	1/7/1998	NS	462	500
McGill School of Success	11/8/1995	NS	NS	NS
Memorial Academy Charter School	11/8/1995	497	NS	448
Museum School	4/14/1995	NS	745	788
Nubia Leadership Academy	9/11/1997	552	682	677
O'Farrell Community School: Center for Advanced Academic Studies	1/10/1994	608	620	620
Preuss School UCSD	11/13/1998	NS	820	800
Sojourner Truth Learning Academy	5/12/1999	NS	618	561

NS - No score available. API scores may not be reported for an individual school for a variety of reasons. For a school to earn an API score, it must have valid Stanford 9 test scores for a minimum of 100 students, and those students must have been in the school district the previous year. In addition, API scores are not created for county-run schools, community day schools, alternative schools, continuation schools, and independent study schools. Finally, the school may not have been open during the testing year; or the district superintendent (or principal, if an independent charter school) may have certified that the scores obtained on the administration of the Stanford 9 do not reflect the performance of the students at the school.

* Charter revoked in January 2002.

TABLE C.2

Average Stanford 9 Scores for Grades 2 Through 5 for Charter Schools in Four Selected Chartering Entities Academic Years 1999–2000 Through 2001–02

Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	Reading			Percentage Change Between 1999–2000 and 2001–02	Math			Percentage Change Between 1999–2000 and 2001–02
		1999–2000	2000–01	2001–02		1999–2000	2000–01	2001–02	
Fresno Unified School District		**598.0**	**599.8**	**602.6**	**0.77%**	**596.6**	**598.1**	**602.5**	**0.99%**
Edison-Bethune Charter Academy	6/11/1999	581.6	587.4	588.3	1.15	575.9	580.5	584.3	1.46
Gateway Charter Academy*	5/12/1999	N/R	577.4	—	—	N/R	567.9	—	—
Sunset Charter School	6/11/1999	580.0	577.2	583.2	0.55	589.0	580.4	581.8	(1.22)
Los Angeles Unified School District		**608.9**	**605.4**	**610.0**	**0.18**	**608.3**	**604.2**	**611.0**	**0.44**
Accelerated School	1/14/1994	614.0	621.3	621.2	1.17	621.4	619.7	615.8	(0.90)
Camino Nuevo Charter Academy	4/12/2000	N/R	585.3	586.4	—	N/R	583.7	586.2	—
Crenshaw/Dorsey: Baldwin Hills Charter Elementary	7/14/1999	620.8	625.6	623.5	0.43	606.5	615.8	618.4	1.96
Crenshaw/Dorsey: Coliseum Street Elementary School	7/14/1999	600.3	600.1	600.6	0.05	587.2	592.8	592.8	0.95
Crenshaw/Dorsey: Fifty-fourth Street Charter Elementary	7/14/1999	618.7	615.6	607.6	(1.79)	611.9	608.8	596.4	(2.53)
Crenshaw/Dorsey: Fifty-ninth Street Elementary	7/14/1999	595.6	603.2	605.9	1.73	591.4	597.4	604.9	2.28
Crenshaw/Dorsey: Forty-second Street Charter School	7/14/1999	601.9	600.5	605.5	0.60	595.2	597.6	599.4	0.71
Crenshaw/Dorsey: Hyde Park Charter School	7/14/1999	582.8	582.7	587.6	0.82	573.0	577.4	581.6	1.50
Crenshaw/Dorsey: Marlton Charter School	7/14/1999	608.4	605.8	616.1	1.27	606.3	609.4	618.4	2.00
Crenshaw/Dorsey: Mid-City Charter Magnet School	7/14/1999	601.4	607.2	613.7	2.05	601.6	606.0	619.4	2.96
Crenshaw/Dorsey: Seventy-fourth Street LEARN Charter School	7/14/1999	600.9	606.1	612.8	1.98	589.8	594.0	601.6	2.00
Crenshaw/Dorsey: Sixth Avenue Elementary	7/14/1999	587.4	590.7	599.6	2.08	579.8	584.2	592.3	2.16
Crenshaw/Dorsey: Tom Bradley Environmental Science	7/14/1999	603.6	606.9	613.1	1.57	594.8	596.9	604.7	1.66
Crenshaw/Dorsey: Virginia Road Charter Elementary School	7/14/1999	599.7	606.1	608.3	1.43	592.1	606.5	605.9	2.33
Crenshaw/Dorsey: Western Avenue Charter School	7/14/1999	592.6	590.3	599.7	1.20	585.1	587.0	597.2	2.07
Fenton Avenue Charter School	9/10/1993	592.9	597.8	605.0	2.04	597.7	602.4	613.8	2.69
Montague Charter Academy	9/13/1996	593.0	599.4	605.5	2.11	599.6	609.7	616.9	2.89
Multicultural Learning Center	6/7/2001	N/R	N/R	583.5	—	N/R	N/R	579.3	—
Open Charter Magnet School	5/14/1993	651.9	649.5	652.8	0.14	641.9	640.2	646.2	0.67
Palisades: Canyon Charter Elementary	7/14/1999	659.5	668.8	667.9	1.27	642.8	649.9	655.1	1.91

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Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	Reading			Percentage Change Between 1999–2000 and 2001–02	Math			Percentage Change Between 1999–2000 and 2001–02
		1999–2000	2000–01	2001–02		1999–2000	2000–01	2001–02	
Los Angeles Unified School District–continued									
Palisades: Kenter Canyon Charter School	7/14/1999	656.5	661.3	663.3	1.04%	646.9	655.7	660.1	2.04%
Palisades: Marquez Charter School	7/14/1999	672.0	667.8	670.2	(0.27)	655.9	658.3	663.9	1.22
Palisades: Palisades Charter Elementary	7/14/1999	657.1	658.8	656.1	(0.15)	640.2	644.9	654.4	2.22
Palisades: Topanga Elementary	7/14/1999	662.6	661.4	661.6	(0.15)	643.6	642.8	653.2	1.49
Valley Community Charter School	7/13/2000	N/R	624.3	621.9	—	N/R	602.5	606.3	—
Vaughn Next Century Learning Center	6/11/1993	591.6	599.7	603.8	2.06	598.2	613.1	611.0	2.14
View Park Preparatory Accelerated Charter School	5/12/1999	629.4	637.2	642.1	2.02	627.4	633.1	639.2	1.88
Watts Learning Center Charter School	9/11/1997	570.7	599.3	616.2	7.97	559.5	585.4	600.4	7.31
Westwood Charter School	9/10/1993	658.7	655.7	659.3	0.09	646.3	646.2	651.2	0.76
Oakland Unified School District		**600.2**	**602.9**	**607.8**	**1.27**	**597.6**	**599.6**	**604.1**	**1.09**
Aspire Public Schools - Oakland Campus	7/14/1999	N/R	585.0	592.5	—	N/R	591.4	607.7	—
Dolores Huerta Learning Academy	7/14/1999	582.9	588.6	580.0	(0.50)	593.1	600.0	587.7	(0.91)
East Bay Conservation Corps Charter School	12/8/1995	N/R	N/R	602.6	—	N/R	N/R	585.6	—
Ernestine C. Reems Academy of Technology and Art	7/14/1999	594.7	586.6	586.5	(1.38)	585.3	576.7	591.0	0.97
San Diego City Unified School District		**620.0**	**622.8**	**626.6**	**1.06**	**615.9**	**618.4**	**621.1**	**0.84**
Darnall E-Charter School	9/10/1993	598.0	603.7	600.1	0.35	596.3	609.6	601.1	0.80
Explorer Elementary Charter School	12/8/1999	N/R	661.1	677.0	—	N/R	642.5	651.0	—
Harriet Tubman Village Charter School	1/14/1994	607.9	614.6	615.1	1.18	603.7	603.3	601.2	(0.41)
Holly Drive Leadership Academy	10/8/1999	606.6	593.7	610.3	0.61	596.9	587.5	592.1	(0.80)
King/Chavez Academy of Excellence Charter School	11/7/2001	N/R	N/R	592.7	—	N/R	N/R	593.4	—
Kwachiiyao/Ixcalli	1/7/1998	591.2	596.5	607.9	2.82	573.3	591.5	592.9	3.42
Museum School	4/14/1995	645.6	661.7	663.7	2.80	638.7	652.9	645.3	1.03
Nubia Leadership Academy	9/11/1997	620.6	619.3	618.8	(0.29)	610.9	616.0	611.2	0.05
Sojourner Truth Learning Academy	5/12/1999	616.2	609.3	609.3	(1.12)	604.2	600.0	604.7	0.08
State of California		**617.5**	**620.2**	**622.2**	**0.76**	**614.8**	**618.8**	**622.2**	**1.20**

N/R - No score report available for this year.

* Charter revoked in January 2002.

TABLE C.3

Average Stanford 9 Scores for Grades 6 Through 8 for Charter Schools in Four Selected Chartering Entities Academic Years 1999–2000 Through 2001–02

Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	Reading			Percentage Change Between 1999–2000 and 2001–02	Math			Percentage Change Between 1999–2000 and 2001–02
		1999–2000	2000–01	2001–02		1999–2000	2000–01	2001–02	
Fresno Unified School District		**660.3**	**659.7**	**660.7**	**0.06%**	**661.4**	**661.3**	**662.4**	**0.15%**
Edison-Bethune Charter Academy	6/11/1999	635.1	637.2	635.5	0.06	636.1	633.2	637.1	0.16
Cornerstone Academy	7/13/2000	N/R	630.6	624.4	—	N/R	637.2	641.4	—
Gateway Charter Academy*	5/12/1999	N/R	634.4	—	—	N/R	634.8	—	—
New Millenium Institute of Education Charter School	9/11/1998	N/R	N/R	641.6	—	N/R	N/R	647.8	—
Sunset Charter School	6/11/1999	629.8	633.5	638.4	1.37	637.7	643.6	646.8	1.43
Los Angeles Unified School District		**665.7**	**658.4**	**659.2**	**(0.98)**	**665.6**	**656.7**	**658.6**	**(1.05)**
Accelerated School	1/14/1994	674.3	681.1	683.5	1.36	669.4	676.6	684.5	2.26
California Academy for Liberal Studies	9/7/2000	N/R	653.5	664.6	—	N/R	671.0	663.5	—
Camino Nuevo Charter Academy	4/12/2000	N/R	N/R	630.5	—	N/R	N/R	649.0	—
Camino Nuevo Charter Middle School	7/11/2001	N/R	N/R	654.3	—	N/R	N/R	653.1	—
Community Charter Middle School	6/11/1999	644.9	657.1	667.1	3.44	642.8	651.9	660.0	2.68
Crenshaw/Dorsey: Audubon Charter Middle School & Magnet Center	7/14/1999	651.5	654.7	656.9	0.83	647.2	646.9	647.0	(0.03)
Crenshaw/Dorsey: Mid-City Charter Magnet School	7/14/1999	653.1	658.4	662.6	1.45	643.7	644.4	648.3	0.71
Paul Revere Charter/LEARN Middle School	7/14/1999	689.5	688.3	690.8	0.19	687.5	690.1	691.1	0.52
Valley Community Charter School	7/13/2000	N/R	654.6	670.4	—	N/R	651.4	664.6	—
View Park Preparatory Accelerated Charter School	5/12/1999	N/R	675.0	685.6	—	N/R	686.9	694.1	—
Oakland Unified School District		**652.6**	**654.2**	**655.9**	**0.51**	**653.4**	**655.5**	**658.2**	**0.73**
American Indian Public Charter School	2/9/1996	634.4	647.0	658.1	3.74	620.9	643.1	661.6	6.56
Aspire Public Schools - Oakland Campus	7/14/1999	N/R	643.9	646.9	—	N/R	644.1	661.2	—
Dolores Huerta Learning Academy	7/14/1999	625.8	633.5	644.1	2.92	626.2	655.1	668.9	6.82

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Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	Reading			Percentage Change Between 1999–2000 and 2001–02	Math			Percentage Change Between 1999–2000 and 2001–02
		1999–2000	2000–01	2001–02		1999–2000	2000–01	2001–02	
Oakland Unified School District–continued									
East Bay Conservation Corps Charter School	12/8/1995	658.6	N/R	N/R	—	637.9	N/R	N/R	—
Ernestine C. Reems Academy of Technology and Art	7/14/1999	636.2	639.3	647.2	1.73%	629.2	634.0	645.2	2.54%
Oakland Charter Academy	6/11/1993	650.1	643.7	648.9	(0.18)	640.6	639.1	649.4	1.37
West Oakland Community School	6/12/1998	643.2	663.9	682.1	6.05	639.7	657.6	662.8	3.61
San Diego City Unified School District		**675.3**	**676.0**	**677.1**	**0.27**	**670.9**	**671.4**	**674.4**	**0.52**
Charter School of San Diego	9/10/1993	682.1	683.8	687.7	0.82	657.3	660.0	659.6	0.35
Cortez Hill Academy Charter School	10/11/2000	N/R	693.1	N/R	—	N/R	659.5	N/R	—
Explorer Elementary Charter School	12/8/1999	N/R	N/R	703.8	—	N/R	N/R	707.8	—
Harriet Tubman Village Charter School	1/14/1994	680.9	681.9	679.3	(0.23)	669.2	667.0	667.5	(0.25)
Holly Drive Leadership Academy	10/8/1999	N/R	635.7	649.4	—	634.9	649.3	647.6	2.00
King/Chavez Academy of Excellence Charter School	11/7/2001	N/R	N/R	640.7	—	N/R	N/R	650.0	—
Kwachiiyao/Ixcalli	1/7/1998	662.5	662.9	659.0	(0.53)	634.9	648.6	649.5	2.30
Memorial Academy Charter School	11/8/1995	657.4	650.2	654.6	(0.43)	653.2	650.0	655.4	0.34
Museum School	4/14/1995	N/R	670.3	681.1	—	N/R	671.3	686.7	—
Nubia Leadership Academy	9/11/1997	663.9	650.4	654.1	(1.48)	668.9	656.9	655.4	(2.02)
O'Farrell Community School: Center for Advanced Academic Studies	1/10/1994	669.3	665.6	666.5	(0.42)	663.8	664.9	667.4	0.54
Preuss School UCSD	11/13/1998	694.7	698.2	696.2	0.22	691.4	689.5	691.2	(0.03)
Sojourner Truth Learning Academy	5/12/1999	660.9	655.4	674.0	1.98	661.7	654.5	661.1	(0.09)
State of California		**674.0**	**675.1**	**675.4**	**0.21**	**673.4**	**675.7**	**677.4**	**0.59**

N/R - No score report available for this year.

* Charter revoked in January 2002.

TABLE C.4

Average Stanford 9 Scores for Grades 9 Through 11 for Charter Schools in Four Selected Chartering Entities Academic Years 1999–2000 Through 2001–02

Chartering Entity/Charter School	Date Numbered by the State Board of Education and Eligible for State Funding	Reading			Percentage Change Between 1999–2000 and 2001–02	Math			Percentage Change Between 1999–2000 and 2001–02
		1999–2000	2000–01	2001–02		1999–2000	2000–01	2001–02	
Fresno Unified School District		**682.0**	**681.2**	**681.3**	**(0.10)%**	**691.4**	**690.7**	**691.0**	**(0.06)%**
Fresno Prep Academy	6/11/1999	647.3	676.4	650.6	0.51	665.1	658.9	663.9	(0.18)
Gateway Charter Academy*	5/12/1999	N/R	661.8	—	—	N/R	666.9	—	—
New Millennium Institute of Education Charter School	9/11/1998	N/R	659.0	660.6	—	N/R	666.6	668.7	—
Renaissance Charter School	7/13/2000	N/R	647.7	648.7	—	N/R	665.2	660.7	—
School of Unlimited Learning	7/21/1998	659.9	645.7	661.7	0.27	665.1	669.4	667.6	0.38
Los Angeles Unified School District		**686.1**	**681.1**	**681.9**	**(0.61)**	**694.0**	**687.5**	**688.4**	**(0.81)**
Crenshaw Learn Charter High School	7/14/1999	671.9	671.8	673.3	0.21	675.9	676.7	676.6	0.10
Crenshaw/Dorsey: Marlton Charter School	7/14/1999	N/R	N/R	635.1	—	N/R	N/R	660.3	—
Crenshaw/Dorsey: Mid-City Charter Magnet School	7/14/1999	673.9	N/R	N/R	—	679.9	N/R	N/R	—
Crenshaw/Dorsey: View Park Continuation High School	7/14/1999	654.2	658.1	664.2	1.53	663.7	663.3	662.8	(0.14)
Crenshaw/Dorsey: Whitney Young Continuation High School	7/14/1999	662.9	647.5	680.2	2.61	667.9	N/R	670.8	0.43
Palisades: Charter High School	7/14/1999	705.7	709.8	709.8	0.58	712.4	713.3	711.7	(0.10)
Palisades: Temescal Canyon Continuation High School	7/14/1999	691.6	672.6	659.5	(4.64)	685.6	683.4	662.3	(3.40)
Oakland Unified School District		**675.3**	**674.3**	**673.9**	**(0.21)**	**685.6**	**685.9**	**685.9**	**0.04**
American Indian Public Charter School	2/9/1996	664.6	N/R	N/R	—	658.9	N/R	N/R	—
East Bay Conservation Corps Charter School	12/8/1995	N/R	644.8	N/R	—	N/R	636.7	N/R	—
University Preparatory Charter Academy	6/7/2001	N/R	N/R	694.5	—	N/R	N/R	701.2	—
San Diego City Unified School District		**696.5**	**694.2**	**693.7**	**(0.40)**	**701.3**	**699.7**	**700.6**	**(0.10)**
Charter School of San Diego	9/10/1993	688.2	688.9	689.0	0.12	679.9	679.5	680.7	0.11
Cortez Hill Academy Charter School	10/11/2000	N/R	692.1	689.1	—	N/R	681.8	682.2	—
High Tech High Charter School	11/9/1999	N/R	723.4	720.5	—	N/R	723.9	728.5	—
Memorial Academy Charter School	11/8/1995	668.8	663.8	662.0	(1.02)	676.0	673.1	674.8	(0.18)
Preuss School UCSD	11/13/1998	N/R	705.6	713.2	—	N/R	712.7	718.4	—
State of California		**691.7**	**691.5**	**691.6**	**(0.01)**	**698.2**	**698.6**	**699.3**	**0.16**

N/R - No score report available for this year.

* Charter revoked in January 2002.

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Agency's comments provided as text only.

Fresno Preparatory Academy, Inc.
3381 North Bond, Suite 102
Fresno, CA 93726

October 16, 2002

California State Auditor*
Attn: Elaine M. Howle, Auditor
555 Capital Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

I wish to thank you and all your staff for their tireless and unfortunately unappreciated efforts to comply with the request from the Joint Legislative Audit Committee. While we can't speak for all charter schools, we can see that the end result of this process will be a better informed charter school with a more streamlined assessment vehicle.

Fresno Prep Academy is one of many fourth-year charter schools that have seen the charter movement go from its infancy to its awkward adolescence with all the pitfalls and challenges. We have seen the transformation of the open-ended charter school law of 1992 to a law that has associated with it the bureaucratic red tape of non-charter public schools. This growth process is not without problems. It is our hope that a collaborative effort between charter schools and their sponsoring agencies will produce highly efficient and productive charter schools. To this end we have taken this audit review as a first step in this healing process.

We have attached our responses to those areas pertaining to our charter school and we ask that our responses, along with the responses of other charter schools, be taken in the manner in which they were intended. We hope that we can shed some light on many of the problem areas of the charter school movement.

If there is any further information or materials you might need to complete this document, please contact me at your earliest convenience.

Sincerely,

(Signed by: Earl C. Vickers)

Earl C. Vickers, Consultant

* California State Auditor's comment appears on page 103.

RESPONSES

Chapter 1

"Sponsoring agencies lack oversight guidelines and do not periodically monitor their charter schools' performance against the agreed-upon measurable outcomes."

Fresno Preparatory Academy completed an annual report as well as a compliance review report of their charter for their sponsoring agency in the 2001-2002 school year. These two reports were the first reports of that nature that were required by Fresno Unified School District in our three years of operation. While, in the opinion of some outside sources, these reports may not have sufficiently assessed the academic health of our charter schools, they formed a reasonable benchmark beginning for in-depth reports in subsequent years. The whole charter school experience has been a learning process for the charters as well as their sponsoring agencies. We are reasonably sure that the experience gained with this report will translate to better assessments by all parties.

"Some charter schools assess their students performance against the charters' measurable outcomes in their charters, but other schools do not."

The measurable student outcomes as detailed in our charter petition are as follows: 1) Academic Progress, 2) Job Readiness, 3) Work Experience, & 4) Personal Objectives.

In the fall of 2000-2001, our second school year, Fresno Prep Academy narrowed its student focus from a 9-12 high school with an education/business concentration to a transition school for retained 8th graders and first year 9th graders. This decision was reached by collaboration with our sponsoring agency. We found that many of our students in the previous year had so many deep-seated emotional and academic problems that they became socially ineligible for job shadowing and work experience. We worked with our sponsoring agency to attract a student population that had fewer problems and could possibly be saved from dropping out of school. This was the first year of State mandated retention policies for all districts. Part of the retention process was the development of strategies and programs to help the retained student. Fresno Prep became that important program in the retention process. We still addressed the needs of continuing students with an independent study program that offered core classes along with classes to make them more marketable from an employment point of view. We could only measure academic progress and personal progress. Academic progress can only be measured by a comparison of previous academic levels with academic levels at the current date. The paper trail of Cumulative Permanent Records is drastically slowed due to the increased numbers of requests for transcripts that are received by local secondary public schools in the first months of every school year. This backlog of requests may take months to be completed. In many instances we have had to wait a full semester to receive student records. The records that we receive may not be current in regards to test scores and special education IEP's or assessments. As is the custom, the test scores for the Sanford9 Tests for the previous school year are not made public until the end of October and would not be included in many student records. Many of our at-risk students have incomplete testing records due to their high transience and attendance levels. Therefore, we can only measure student growth during the time in which

we have the student in our program. We have each student do an autobiography and goal projection at the beginning of the semester to formulate a starting point from which to begin our assessments. We keep a portfolio on each student in order to see and record academic growth. Each student is enrolled in the core curriculum along with grade specific electives. The electives we offer the ninth grade students is Peer Communication which is a semester class on conflict resolution and a semester class of literacy work in a laboratory setting using technology as a tool. We offered our independent study program at the request of our sponsoring agency due to the numbers of students that leave and enter the district in mid semester. In many cases all of the alternative sites in the district are full and the district needed another site that could and would accept continuing students temporarily to complete the semester. We enroll these students in independent study and continue in the course work that they need so as to allow them to stay on track with their classmates and become eligible to re-enter the high school in their attendance area if possible. Many of these students have not taken any standardized tests and are with us for a very short time. It would be highly improbable to measure one year's growth academically. In most cases they make whatever credits they can while they are here and then move on to other schools. We enroll these students in the core classes that they need in order to help them make progress towards graduation.

Chapter 2

"Sponsoring agencies lack policies and procedures for thorough fiscal monitoring and have not adequately monitored their charter schools."

Sponsoring agencies as well as charter schools were not prepared for the complexity of the charter school movement. Fresno Unified School District approved our charter proposal in the spring of 1999 and we went about getting set to open our doors for the 1999-2000 school year. We signed a lease on a 40-year-old building that was centrally located in the inner city of Fresno between two major freeways and with a municipal bus stop in front of the school. We unrealistically estimated our enrollment to be 140 students and received an advance apportionment to get us started. We realized very soon that our apportionment money would not cover our costs, especially when the City of Fresno building inspectors informed us in the middle of the school year that our building had a business B-2 occupancy and we must apply for and complete a change of occupancy to an E-2 occupancy. We applied for a loan from the Charter School Revolving Loan Fund and we received $ 250,000 to help in the many start-up costs. We also applied for and received a Federal Implementation Grant for $ 150,000 to help install our technology equipment to make us eligible to apply for a Digital Grant. The start-up loan payment is taken from our monthly apportionment monies in four consecutive months in the spring of each year and amounts to $50,000 per year for 5 years. We, like our sponsoring agency, found out that we didn't have the resources or manpower to handle all the complexities of running or overseeing a charter school. The end result of all our facility and manpower shortages caused us to have a fiscal shortfall. We spent over $ 130,000 on just building improvements to complete our change of occupancy. We turned in our first independent audit late to our sponsoring agency due to our not anticipating the scope of the audit as well as the length of time to complete.

We feel that our charter school governing board as well as the alternative education division of our sponsoring agency are now feeling the result of being under prepared to handle all the complexities of this process. I feel that our school will become fiscally sound now that building costs will be reduced to a minimum and we now are experiencing increased support and advice from our sponsoring agency.

"Sponsoring agencies do not sufficiently review audit reports or insure that audit findings are resolved."

Fresno Prep experienced the finding of ten (10) problems that were listed in our audit. We responded to all the items in detail and sent our district as well as the California Department of Education copies of our audit along with responses. We assumed that if our sponsoring agency or the Department of Education had any issues concerning the nature of the problems listed in the audit or our responses then they would communicate them to us in some form. Our audit stated that we were compliant in all areas; however improvements were needed in several areas. We have complied with all the improvements and we realize that the audit process is in its self a learning process and growth must occur. I doubt that many new charter schools had a perfect audit with no improvements recommended.

We feel that with our unstable fiscal forecast for our state and the backlash from the negative publicity concerning charter schools have cast a cloud of uncertainty on school finance in general. We hope to work with our sponsoring agency to insure a collegial atmosphere and mutual understanding.

Appendix B

"Analysis of charter schools' financial information – fiscal year 2000-2001."

The concept of a reserve balance for all public schools is all well and good as it relates to overall fiscal solvency. I am sure that every charter school would love to have a 5 % reserve balance. The real world paints a drastically different picture. Most charter schools have enrollments change from month to month and year to year. Most large public schools and districts have a reasonable secure student base to begin each school year to allow for adequate staffing and facilities. Cash flow is not usually an issue in these large schools/districts. Charter schools are faced with last minute hires and lay-offs to accommodate student population levels. I hope that all the parties involved in this issue can understand that charter schools have a difficult time acquiring experienced staff especially when most districts can offer lifetime benefits for those employees that demonstrate long tenures with the district.

Most people in education are painfully aware of the pending budget cuts for education and uncertainty of our fiscal future. Most people are not aware that most large districts will take out short-term loans to ride through the tough times. Most charter schools with 3 or 4 years of experience are not a very good candidate for loans and therefore must make due with what they have.

There is relief on the horizon with the incorporation Prop 39 monies for charter schools to request facilities from a district that has children in the charter school. Fresno Prep has made a request for facilities from their sponsoring agency for the 2003-2004 school year. The number one cause for fiscal problems for most charter schools is facilities and this proposition could make a significant impact on school fiscal climate.

COMMENT

California State Auditor's Comment on the Response From the Fresno Preparatory Academy

To provide clarity and perspective, we are commenting on the Fresno Preparatory Academy's (Fresno Prep) response to our audit report. The number below corresponds to the number we placed in the margin of Fresno Prep's response.

1 Although the term "sponsoring agency" is in the statutes, we have changed the term to "chartering entity" to more closely conform to the language of the Charter Schools Act of 1992. The change in term does not affect any of the findings or recommendations in our report.

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Agency's comments provided as text only.

Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721-2287

October 24, 2002

California State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, Ca 95814

Attention: Elaine M. Howle

Dear Ms. Howle:

Enclosed is the Fresno Unified School District's Executive Summary and Response to the audit report from your office.

Please contact Dr. Marilyn Shepherd, Administrator, Student Support Services, 559 457-3913, if you have any questions.

Thank you.

Sincerely,

(Signed by: Santiago V. Wood)

Santiago V. Wood, Ed.D.
Superintendent

Enclosures

* California State Auditor's comments begin on page 127.

FRESNO UNIFIED SCHOOL DISTRICT'S RESPONSE TO CALIFORNIA STATE AUDITOR'S OCTOBER 15, 2002 DRAFT AUDIT ENTITLED "CALIFORNIA'S CHARTER SCHOOLS: MONITORING AND OVERSIGHT AS ALL LEVELS COULD BE STRONGER TO ENSURE CHARTER SCHOOLS ACCOUNTABILITY"

EXECUTIVE SUMMARY

The Fresno Unified School District believes the State Auditor's report is fundamentally flawed. The audit's flaws appear to arise from a fundamental misunderstanding of charter school law, which manifested itself in the audit's creation of its own particular (and statutory unfounded) criteria for evaluating school district oversight of charter schools. While audits of most State government subdivisions and programs would be routine and would likely involve similar standards, charter schools are truly a unique creation of the State Legislature. Charter schools are not, and never were intended to be, to be overseen, supervised and managed as if they were an ordinary subordinate department, bureau or office of the school district, and thus cannot be fairly evaluated in this way.

One would reasonably expect that such an audit would evaluate how a specific statutory scheme is being carried out in the field, and then make recommendations as to how the laws could be improved. Instead, the audit appeared to start by first generating its own ideas of what the law should require with respect to charter school oversight, and then measured school districts against this artificial standard. Predictably, the audit concludes school districts have failed to meet the audit's newly created standards. What is most confounding is that the audit actually could make constructive suggestions about how oversight of charter schools might be improved.

The following points relating to basic deficiencies in the audit are addressed in detail by Fresno Unified:

- The audit relies on the reference to "accountability" in Education Code section 47601, without acknowledging all of the intent behind the creation of charter schools and even misunderstanding "accountability " in the context of charter schools.

- The audit demonstrates basic misunderstanding of charter school law through its repeated misuse of charter school terminology.

- The audit contradicts charter school law by criticizing school districts for tolerating "non-objective" pupil outcomes, and defines "academic performance" as the only acceptable measurable pupil outcome to be identified and pursued by charter schools.

- Rather than acknowledging the real limitations and absence of legal authority existing in current charter school law, the audit "implies" duties and assumes the existence of powers which do not legally exist.

- The audit fails to acknowledge the existing statutory limitations to demanding financial reports from charter schools.

- The audit ignores the statutory requirement that a charter school's annual independent financial audits meet "generally accepted accounting principles", and creates its own standard for audits, and then chastises school districts for not unlawfully imposing them on charter schools.

- While the Charter Schools Act expressly freed charter schools from Education Code requirements, the audit has reimposed the Education Code's budgetary reserve requirements.

- The audit repeatedly asserts that chartering agencies can and should "withhold fees" despite the fact that no legal authority exists for such withholding.

- The audit creates strict accounting standards for school district expenses relating to charter schools and then condemns districts for not meeting the new standards.

In addition to all of the general deficiencies of the audit as set forth above, the audit also makes specific statements directed to Fresno Unified which are inaccurate, misleading or otherwise objectionable. The District's response identifies and challenges 15 specific statements in the audit related specifically to Fresno Unified.

It is our expectation that the State Auditor will give due consideration to our response, and ultimately concur with our recommendation and request that the starting point of the audit, its understanding of charter school law and definition of standards, be re-worked from scratch. Specifically, it would be helpful for the audit team if charter school law experts were brought into the process at the beginning. Such charter school law experts could include representatives from charter school advocacy groups and school districts with knowledge of the law and real world experience in applying it. Additionally, the process should be transparent and open to input from the districts who are the subject of the audit.

Alternatively, we note that Education Code section 47616.5 requires the Legislative Analyst to contract for a comprehensive neutral evaluation of the entire charter school system, with the report to be submitted by July 1, 2003. This statutorily mandated report process easily exceeds the current audit in both scope and resources. Accordingly, rather than re-work the current audit from scratch, it may make sense to take no action and simply defer analysis, conclusions and recommendations to the Section 47616.5 report.

FRESNO UNIFIED SCHOOL DISTRICT'S RESPONSE TO CALIFORNIA STATE AUDITOR'S OCTOBER 15, 2002 DRAFT AUDIT ENTITLED "CALIFORNIA'S CHARTER SCHOOLS: MONITORING AND OVERSIGHT AS ALL LEVELS COULD BE STRONGER TO ENSURE CHARTER SCHOOLS ACCOUNTABILITY"

OCTOBER 24, 2002

A. Introduction

The Fresno Unified School District believes the State Auditor's report is fundamentally flawed. The audit's flaws appear to arise from a fundamental misunderstanding of charter school law, which manifested itself in the audit's creation of its own particular (and statutory unfounded) criteria for evaluating school district oversight of charter schools. While audits of most State government subdivisions and programs would be routine and would likely involve similar standards, charter schools are truly a unique creation of the State Legislature. Charter schools are not, and never were intended to be, to be overseen, supervised and managed as if they were an ordinary subordinate department, bureau or office of the school district, and thus cannot be fairly evaluated in this way.

One would reasonably expect that such an audit would evaluate how a specific statutory scheme is being carried out in the field, and then make recommendations as to how the laws could be improved. Instead, the audit appeared to start by first generating its own ideas of what the law should require with respect to charter school oversight, and then measured school districts against this artificial standard. Predictably, the audit concludes school districts have failed to meet the audit's newly created standards. What is most confounding is that the audit actually could make constructive suggestions about how oversight of charter schools might be improved.

It is our recommendation and request that the starting point of the audit, its understanding of charter school law and definition of standards, be re-worked from scratch. Specifically, it would be helpful for the audit team if charter school law experts were brought into the process at the beginning. Such charter school law experts could include representatives from charter school advocacy groups and school districts with knowledge of the law and real world experience in applying it. Additionally, the process should be transparent to the districts who are the subject of the audit. For example, there are many ambiguities in charter school law, and these ambiguities have been interpreted in many different ways. The legal interpretations and positions adopted by the audit team should therefore be explained and supported by reasoned legal analysis, available for review and comment by the school districts. Where ambiguities in the law are not clearly resolvable, the audit should allow for the different interpretations by different school districts or suggest legislative clarifications, not criticisms of school districts for their inability to enforce ambiguous laws.

Alternatively, we note that Education Code section 47616.5 requires the Legislative Analyst to contract for a comprehensive neutral evaluation of the entire charter school system, with the report to be submitted by July 1, 2003. This statutorily mandated report process easily exceeds the current audit in both scope and resources. Accordingly, rather than re-work the current audit from scratch, it may make sense to take no action and simply defer analysis, conclusions and recommendations to the Section 47616.5 report.

B. General Flaws and Deficiencies throughout the Audit

1. The audit relies on the reference to "accountability" in Education Code section 47601, without acknowledging all of the intent behind the creation of charter schools and even misunderstanding "accountability " in the context of charter schools.

The audit is based upon an initial misunderstanding of charter school law, resulting in the creation of unsupported expectations based more upon what the auditors wanted charter school law to be, rather than what it actually is. The audit appears to begin and end its interpretation of charter school law with subdivision (f) of Education 47601, which sets forth the Legislature's intent regarding the accountability of charter schools. But charter schools do not exist for the purpose of being held accountable to public school districts. To the contrary, the essence of charter schools is found in the other subdivisions of Section 47601, which state that charter schools are intended to encourage "different and innovative teaching methods", "increase learning opportunities", "create new professional opportunities", and "provide parents and pupils with expanded choices in the types of education opportunities".

Furthermore, Education Code section 47601 also intends that charter schools "provide vigorous competition" to existing public schools. Given this intent behind charter school law, even the audit's understanding of its sole standard, accountability, is called into question. While the audit views charter schools as being solely accountable to school districts, Section 47601 does not identify to whom charter schools are to be held accountable, but simply states the intention that they be accountable. Given the "vigorous competition" intended to occur with existing schools of school districts, the Legislature apparently understood that a charter school could not fairly compete with a school district while at the same time being subject to aggressive monitoring, excessive accountability standards, and intrusive corrective action. More than anything else, charter schools have been defined so as to be strictly accountable to parents and pupils–unlike the schools of public school districts, no pupil in the State is required to attend a charter school, and every student in the State is free to attend a charter school. Ultimately, the choices of parents and pupils to attend any given charter school will determine the ultimate success or failure of that charter school.

Ultimately, the audit fails to understand that charter schools are not, and never were intended to

be, subdivisions of school districts, to be supervised as if they were a subordinate department, bureau or office of the school district, and thus cannot be fairly evaluated in this way.

2. The audit demonstrates basic misunderstanding of charter school law through its repeated misuse of charter school terminology.

The terminology used throughout the audit suggests a fundamental misunderstanding of the statutorily created relationship between a chartering agency and a charter school. The following are examples of the misleading terminology which permeates the audit:

(a) **"Sponsoring Agencies" and "Sponsors"**. The audit elects to refer to chartering agencies repeatedly and exclusively as the "sponsors" of charter schools. In the Charter Schools Act agencies that grant charters to charter schools are referred to as the "Chartering agency" for good reason. To "sponsor" something implies supporting, endorsing, or vouching for it. When a charter petition is submitted to a chartering agency, it is legally irrelevant whether the chartering agency supports, endorses or can otherwise vouch for a charter school. Education Code section 47605 requires a chartering agency to grant a charter unless the specified grounds are established for denying the charter. These grounds do not include whether the chartering agency endorses or supports the charter school. In fact, many charter schools existing today were granted charters not only without express endorsement or approval of a school district, but despite opposition from the school districts. The term "sponsoring agency" came into use in 1999 as a term of art with respect to the funding scheme for charter schools, as a way to delineate which public entity is required to front a portion of property taxes to charter schools pursuant to Education Code section 47635. Its use throughout this audit demonstrates both a basic misunderstanding of the law, as well as a potential predisposition against chartering agencies.

(b) **"Charter agreements", "Agreed-upon provisions" and "Charter represents an agreement between it and the sponsoring agency"**. A charter is not an agreement. The charter school and chartering agency do not "agree" to a charter. A school district that receives a charter petition has no legal authority to negotiate any terms of the charter and has no ability to deny a charter absent establishing the grounds specified by Education Code section 47605. An agreement can be generally understood as terms and conditions voluntarily negotiated and assented to between two or more parties and which define the rights and responsibilities of the parties. A charter, on the other hand, can be generally understood as a document which defines the goals, characteristics, and practices of the charter school, and binds only that one entity. By referring to charters as "agreements", the audit implies a voluntary consent to everything in the charter by the chartering agency. But such consent does not exist nor is it intended to be a requirement for the granting of a charter. By implying such consent, the audit seems to be bolstering its own idea of what the relationship should be between a chartering agency and charter school, an idea without a basis in existing law and which should more appropriately be presented as a legislative recommendation than used against school districts as if it were existing law.

(c) **"Approve charters"**. Again, the audit misleads by choosing to use its own word, "approve", to refer to the granting of a charter by a chartering agency, rather than the statutory terminology. The Charter Schools Act does not require nor even expect that an agency which receives a charter petition will "approve" of the charter school. Charter schools are intended to compete directly with existing public schools, and as such, their existence cannot be subject to the actual approval of the school district. Chartering agencies are required by Education Code section 47605 to grant a charter petition in all circumstances, unless it can establish the specified grounds for denying a charter petition.

(d) **"Fiscal health" and "Academic health"**. Again, nowhere in charter school law does there exist a standard of "fiscal health" or "academic health" which a charter school must meet and which a chartering agency must "ensure" or take "corrective action". While new laws and regulations creating and defining such standards might or might not be warranted, rather than simply making this recommendation the audit once again assumes that this standard already exists and then criticizes school districts for not ensuring it is met. Further, as stated elsewhere in this response, the Legislature gave chartering agencies only one power to take corrective action, the power to revoke a charter. Education Code section 47607, setting forth the grounds for revocation, does not refer to concerns over "fiscal health" or "academic health" that may lead to problems in the future. Under Section 47607, unless a charter school fails "to meet generally accepted accounting principles, or engaged in fiscal mismanagement", a charter may not be revoked. While poor "fiscal health" (never specifically defined by the audit) would not be a good thing, such a charge would likely fall short of the statutory grounds of engaging in fiscal mismanagement or failing to meet generally accepted accounting principles.

(e) **"Academic Monitoring"**. This is a phrase invented by the audit but which has no actual basis in charter school law. While the audit may believe "academic monitoring" powers should be added to the law, they do not now exist. Further, the Legislature which enacted the charter school laws may very well object to "academic monitoring" by school districts, coupled with actual power to "take corrective actions". Such pervasive monitoring and oversight of charter school curriculum would be antithetical to one of the basic premises underlying charter schools. Charter schools are expected to experiment, be innovative, and provide an education different from the existing public school structure. Having a public school district monitor and correct the academic programs of charter schools would defeat one of their very purposes.

3. **The audit contradicts charter school law by criticizing school districts for tolerating "non-objective" pupil outcomes, and defines "academic performance" as the only acceptable measurable pupil outcome to be identified and pursued by charter schools.**

While academic performance would certainly be a significant measure of a charter school's success, the audit proceeds as if this is the exclusive measure of whether a charter school is pursuing or meeting its pupil outcomes. Further, the audit suggests that charter schools should have only objectively measurable student outcomes. The audit states:

> As Table 4 shows, all 12 of the sample schools had at least two outcomes in their charter agreement that could be measured objectively and were adequate indicators of student academic performance. However, 34 percent of the outcomes listed in the schools' charters were not related to academic performance. Objective measures of student performance are important because they provide clear indicators against which a school can measure itself and demonstrate to others its accountability.
>
> (The audit's basic misunderstanding of the chartering agency-charter school relationship is addressed elsewhere in this report--here it is evidenced by reference to the "charter agreement" (a charter is not an agreement) and the "sponsoring agency" (a chartering agency does not "sponsor" a charter school)).

The audit than goes on to criticize the goal of increased attendance as not sufficiently measurable with respect to academic performance, and states that it has therefore ignored any successful charter school efforts toward assessing and meeting this goal.

Once again, the audit creates its own definition of what is an appropriate measurable pupil outcome for charter schools ("objectively measurable academic performance"), then proceeds to condemn school districts for not forcing this definition on "its" charter schools. The requirement that charter schools identify and pursue measurable pupil outcomes is found in Education Code section 47605(b)(5)(B), which requires the charter school to provide a reasonable description in its charter of the following:

> The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes" for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the ***skills, knowledge, and attitudes*** specified as goals in the school's educational program. (Emphasis added.)

First, the audit's requirement that "objectively measurable" standards of "academic performance" be used to judge whether pupil outcomes are being adequately monitored by school districts and charter schools is contrary to the statutory law, which expressly allows for outcomes related to skills and attitudes, in addition to objectively measurable knowledge. Using the example of increased attendance, which was dismissed by the audit as unacceptable, it is easy to understand how this measure would be relevant to achieving goals related to skills and attitude. Showing up consistently for class, regardless of one's test scores, demonstrates the basic (yet frequently

overlooked) job skill of showing up for work every day, as well as a positive attitude toward learning. With respect to attitude, low test scores combined with increased attendance could even suggest the development of the desirable attitude of persistence in the face of adversity. While such goals would be expressly permitted by statute, and even encouraged by the intent of the Charter Schools Act, they apparently do not fit into the audit's preconception of what the law should be, and thus the law itself is ignored.

4. Rather than acknowledging the real limitations and absence of legal authority existing in current charter school law, the audit "implies" duties and assumes the existence of powers which do not legally exist.

The legal starting point for the audit's creation of standards it then applies to school districts is, admittedly, an implication. The audit concedes that there is no express statutory (or regulatory) requirements, directions or guidance regarding how and to what extent a chartering agency should carry out its oversight of a charter school. Undaunted, the audit simply asserts, without legal support, that all of its newly created standards for oversight are "implied" by the law. The audit then goes so far as to express "surprise" when they discover school districts have not necessarily recognized the same implied standards assumed to exist by the audit.

One example can be found in the following sentence, which criticizes a specific chartering agency for failing to do that which it has no legal authority to do:

> By not monitoring its charter schools effectively, [the school district], as a sponsoring agency, may not ensure that its schools are providing students with a suitable curriculum and education opportunities and cannot identify when corrective action is necessary.

Putting aside the misuse of terminology which implies a relationship and control which does not exist, here the audit implies powers that do not legally exist, and then criticizes a school district for not exercising the fictional powers. Nowhere in the Charter School Act are chartering agencies given the responsibility or power to ensure that a charter school is providing its students with a suitable curriculum and educational opportunities. The Charter School Act was carefully crafted to ***prevent*** chartering agencies from imposing their view of what is a "suitable" curriculum or what "educational opportunities" should be offered to the students of a particular charter school. Charter schools have been intentionally protected from any such interference by districts in order to allow for innovation and experimentation.

Even if, in the above example, a chartering agency were legally permitted to determine the suitability of a charter school's curriculum, the audit misidentifies the possible remedies of a chartering agency. Throughout the audit school districts are chastised for not taking "corrective action", which is never quite defined, but is identified as a separate action than revoking a charter. Legal authority to take "corrective action" short of revocation simply does not exist. As stated above, the Charter Schools Act was structured so as to prevent chartering agencies

meddling, micro-managing or otherwise interfering with the operation of charter schools. Chartering agencies were entrusted with only one power to control the operations of an existing charter school--the ultimate power to revoke a charter and permanently close its doors pursuant to Education Code section 47607. The audit's failure to understand this fundamental limitation on chartering agencies is evident throughout the report, and leads to baseless criticisms of school districts. In addition to giving chartering authorities just that one big stick of revocation, section 47607 limits the grounds for revocation. A charter may not be revoked for concerns about the "suitability" of its curriculum or differences of opinion regarding "educational opportunities" for charter students. A charter may be revoked only when the chartering agency finds that the charter school:

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

2. Failed to meet or pursue any of the pupil outcomes identified in the charter.

3. Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

4. Violated any provision of law.

Given the structure and intent of the Charter Schools Act, in practice only a few chartering agencies have taken the drastic step of revoking a charter, and only in response to the most serious grounds.

5. The audit fails to acknowledge the existing statutory limitations to demanding financial reports from charter schools.

When school districts are able to stretch the law and require more accountability of charter schools, they should be commended by the audit. Instead, such efforts are used to criticize any other instances where a school district did not take such aggressive action.

A clear example of this is the way some school districts have effectively used the Memorandum of Understanding (MOU) to get charter schools to provide financial information above and beyond what is required by statute. In a typical MOU, the school district agrees to provide certain services to the charter school, typically for a fee. As part of the agreement, some school districts, such as Fresno, require charter schools to submit preliminary financial reports in addition to the Annual Financial Audit. Rather than commend such school districts for successfully negotiating such terms with its charter schools, the audit considers this to be a minimum standard that all school districts must meet, and then condemns those that do not. Again, however, the newly created standard has no basis in the current charter school law.

First, the Charter Schools Act limits the what financial documents may be required of a charter school. This is consistent, as stated elsewhere herein, with a statutory scheme premised on freeing and protecting charter schools from existing school district burdens. A school district is only permitted to impose those burdens on a charter school that it is expressly allowed to impose by statute. With respect to financial documents, there are two provisions that reference a requirement. The first is Education Code section 47605(b)(5)(I), requiring the charter petition (as stated above, a non-negotiated document created by the charter school promoters) to state the:

> manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

The second is Education Code section 47604.3, which states:

> "A charter school shall promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority or from the Superintendent of Public Instruction and shall consult with the chartering authority or the Superintendent of Public Instruction regarding inquiries."

The first requirement above, that an annual audit be conducted, does not in any way require preliminary, supplemental, interim or additional financial reports to be generated by a charter school. The second requirement only allows *financial records* to be available for inspection–it does not require a charter school to generate any additional financial reports at the request of the chartering agency. Conceivably, a district could review all of the invoices, receipts, and other records of a charter school and then generate its own desired interim report–effectively conducting its own full-scale continuous audit of the school–but that is clearly not the intention of the statutes. Thus, there is simply no legal authority for a school district to require a charter school to generate and present any financial report to the district other than the annual, independent, financial audit.

Notwithstanding this statutory limitation, some school districts have nevertheless been able to get some additional financial reports from some charter schools through use of an MOU. There is nothing, however, in the Charter School Act that even requires a charter school to negotiate or enter into an MOU with a school district on any terms. The only statutory reference to such an agreement is in Education Code section 47613, which permits the oversight charge, and then goes on to state that this section "shall not prevent the charter school from separately purchasing administrative or other services from the chartering agency or any other source." If a charter school does not want to enter into an MOU with a school district, there is nothing a district can do. The limited grounds for denying a charter petition under Section 47605 do not include a charter school's failure to enter into an MOU with a district. The only other leverage a district might have, the revocation powers of Education Code section 47607, similarly do not allow a charter to be revoked for failing to enter into an MOU with a district. Many charter schools are

well aware of these statutory limitations and choose not to enter into any kind of MOU with a district, or choose to use this freedom to negotiate non-restrictive terms in the MOU. Charter schools are generally not motivated to voluntarily agree to increased financial reporting requirements.

Given the limitations on what financial reporting a school district can require of charter schools, one would expect the audit to commend those districts which are able to get additional financial reports from charter schools. The audit, however, makes incorrect assumptions about the current state of charter school law, and then condemns districts for not meeting the audit's assumptions.

6. The audit ignores the statutory requirement that a charter school's annual independent financial audits meet "Generally Accepted Accounting Principles", and creates its own standard for audits, and then chastises school districts for not unlawfully imposing them on charter schools.

The only statutory auditing standard by which charter schools are required to perform their annual independent financial audits is that they meet "generally accepted accounting principles" (GAAP). The audit, however, has created a new standard for charter school audits, one which requires the charter school audit to address all of the specific statutory requirements of charter schools, such as tests of average daily attendance, a charter school's compliance with standardized testing, meeting minimum instructional minute requirements, employing properly credentialed teachers, and all other statutory requirements.

While the audit's recommendations on adding specific requirements to a charter school's annual independent financial audit might have merit, once again the audit assumes that its preferences already exist as current law, and then chastises districts for not meeting the fictional standards. The audit completely refrains from referring to GAAP anywhere, and goes so far as to delete any mention of the statutory requirement from its restatement of existing law. The audit cites Education Section 47605's audit requirement as follows: "Annual, independent, financial audits shall be conducted", followed by: "Audit exceptions and deficiencies shall be resolved to the sponsoring agency's satisfaction." Section 47605(b)(5)(I), however, requires charter schools to describe the following:

> "The manner in which annual, independent, financial audits shall be conducted, ***which shall employ generally accepted accounting principles,*** and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority." (Emphasis added to statutory language deleted from audit's version.)

Furthermore, the only leverage a school district has to enforce this requirement is the threat of revocation pursuant to section 47607(b)(3), the specific ground being limited to when the charter school:

> ***"failed to meet generally accepted accounting principles,*** or engaged in fiscal mismanagement." (Emphasis added.)

Chartering agencies simply do not have the legal authority to require any more of a charter school than an annual, independent, financial audit, meeting generally accepted accounting principles.

Possibly the clearest statement in the audit which reveals both the audit's fundamental misunderstanding of charter school law, as well as the desire to portray the audit's preferences as existing law is as follows:

> "Although we recognize that charter school audits are not required to conform to these guidelines, if the sponsoring agencies required their application as part of the charter agreement, the resulting audits would provide a more complete picture of the charter schools' financial position."

First, the audit actually concedes that charter schools have no legal obligation to meet the standards by which the audit is judging them and the school districts. The audit then goes on to recommend that school districts simply require the insertion of these heightened standards in charter petitions. This would be illegal. Under Education Code section 47605, chartering agencies may deny charters only on specified grounds–the chartering agency has no power to require the insertion of any additional requirements, let alone additional non-statutory audit requirements. The audit also refers to the charter petition as an "agreement"–which it is definitely not. Chartering agencies have no legal right to negotiate any aspect of a submitted charter petition. Again, the agency can only grant or deny the charter on limited grounds. Further, while it may be helpful to obtain "a more complete picture of the charter school's financial position", the chartering agency can only take action to revoke a charter if the school fails to meet generally accepted accounting principles or engages in fiscal mismanagement. This is a high standard for action which does not necessarily allow for revocation based on generalized concerns over a charter school's fiscal health.

7. While the Charter Schools Act expressly freed charter schools from Education Code requirements, the audit has reimposed the Education Code's budgetary reserve requirements.

The Charter Schools Act deliberately exempts charter schools from almost all laws governing school districts. Education Code section 47610 states:

A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts except all of the following:

(a) As specified in Section 47611.

(b) As specified in Section 41365

(c) All laws establishing minimum age for public school attendance.

Notwithstanding this basic premise of charter school law, the audit has concluded that charter schools should meet State Department of Education regulations requiring and defining the size of an appropriate reserve balance in public school district budgets. Again, rather than simply recommend to the Legislature that the laws be changed to impose this new requirement on charter schools, the audit simply assumes it already exists as a legal requirement and then proceeds to condemn school districts for not forcing the fictional requirement on charter schools. The audit states:

> "Further, the Department of Education (department) established regulations that a district should maintain a reserve balance of between 1 percent and 5 percent, depending on the district's overall average daily attendance (ADA), to cover requirements in succeeding fiscal years. The required reserve balance is based on a ratio of fund balance to annual expenditures. By maintaining a reserve balance, charter schools would have a stronger financial position; therefore, according to the department's regulations, the charter schools would need to maintain a fund balance of between 3 percent and 5 percent of annual expenditures."

It might be a good idea to impose a mandatory budget reserve requirement on charter schools, although the real world experience of charter schools is that their financial circumstances differ greatly from established public school districts. In any event though, such a requirement does not legally exist today, and to criticize districts for not enforcing it is patently unfair.

8. The audit repeatedly asserts that chartering agencies can and should "withhold fees" despite the fact that no legal authority exists for such withholding.

At several points in the audit, the school districts' authority to "withhold funding" from a charter school is mentioned as if this were legal or even possible. In fact, school districts have not been given the leverage of being able to "withhold funds" from charter schools. Education Code section 47613 states, in relevant part:

> ". . . a chartering agency may charge for the actual costs of supervisorial oversight of a charter school . . ."

As there is no express authorization to withhold charter school funding, many school districts follow the letter of the law and will "charge" a charter school by sending it a bill for the 1% amount. Even if a school district were to decide to withhold funding without any express legal authority, most charter school funding does not actually pass through school districts. Since 1999 most new charter schools are directly funded by the state, with dollars being transferred directly from the State Treasury to the county treasury, and then directly to the charter schools. This funding never passes through school districts, and thus cannot be withheld. The only potential funding to withhold would be the in lieu property tax transfers from districts to charter schools required by Education Code section 47635. This property tax transfer requirement is not considered additional funding given that it is offset dollar-for-dollar from the ADA direct funding to charter schools. Rather, this property tax transfer assists charter schools with managing the very real cash flow challenges that arise in the creation of a new charter school. Withholding this crucial cash flow from charter schools, rather than "charging" for oversight, without express legal authorization could very well result in a successful legal challenge by a charter school. While giving this power to school districts may or may not be a good idea, this is a decision for the Legislature, and the audit should not treat the issue as having already been decided.

9. The audit creates strict accounting standards for school district expenses relating to charter schools and then condemns districts for not meeting the new standards.

Given the overall critical tone of the audit, it is not surprising that audit would hope to expose any school districts which may be double-charging the State for the costs of charter school oversight. But in this instance, the audit has not any exposed any actual wrongdoing. Rather, the audit has determined that school districts should have tracked and documented all of their charter school oversight costs in order to make sure that their 1% charge to charter schools is consistent with actual costs of oversight. By not following this standard, the audit concludes that it would be possible for school districts to potentially double-charge the State when submitting a mandated cost claim. The appropriate conclusion from this analysis that can be fairly stated is that the current lack of expense tracking by school districts allows for potential abuse through double-charging. The appropriate recommendation to make from this conclusion is that school districts should track and document charter school expenses. In practice, the recommendation would likely become moot, as many districts are already attempting to better document charter school expenses in order to obtain reimbursement, whether from charter schools or the State.

The audit, however, chooses to make a confrontational accusation more befitting of a tabloid headline than an unbiased audit, proclaiming: "School Districts may be double-charging the State". It is easy to see how unfair this accusation is by hypothetically applying it every situation where an audit determines that more rigorous accounting procedures might be warranted (which

probably encompasses most audits). For example, if the audit concluded that better expense report verification systems are required for State employees, the comparable headline would be "Employees may be stealing from State!". It is analogous to the difference between pointing out someone's incorrect statements and proclaiming that the person may be a compulsive liar.

Under current charter school law, of course, there is no clear guidance as to what tracking and documenting may be required for charter school expense. Nowhere in the Charter Schools Act are school districts even expressly required to track their expenses associated with oversight of a charter school. The statute at issue, Education Code section 47613, states, in relevant part, only the following:

> ". . . a chartering agency may charge for the actual costs of supervisorial oversight of a charter school . . ."

The audit extrapolates from this language a standard regarding how and to what degree charter school expenses incurred by a school district must be specifically tracked and documented. While such a requirement regarding how and to what extent school districts track and document charter school expenses is certainly not an unreasonable proposition, such a requirement is not currently defined in charter school law. With respect to this matter, simple clarifying guidelines issued by an appropriate State agency may very well achieve the desired results as a practical matter.

C. Specific Flaws and Deficiencies in the Audit with Respect to Fresno Unified School District

In addition to all of the general deficiencies of the audit as set forth above, the audit also makes specific statements directed to Fresno Unified which are inaccurate, misleading or otherwise objectionable.

The District objects to following specific statements, identified by the page number corresponding to the October 15, 2002 Draft Report:

1. "..(Fresno) does not have guidelines to monitor charter schools and does not always periodically monitor its charter schools' academic performance relative to the charter agreement." (Page 24)

Table 3 (pg. 24) gives an overview of academic monitoring of charter schools by sponsoring agencies. One column of the table evaluates the districts based on their written guidelines. The District would like to emphasize that "written guidelines" are not mentioned or required by charter school law. In addition, the report states "...Fresno Unified school District (Fresno) does not have guidelines to monitor charter schools..." (pg. 24), which is inaccurate. Fresno has

guidelines that were set out in the annual report and the process for the District's compliance review of charter schools. The report further states "...(Fresno) does not always periodically monitor its charter schools' academic performance relative to the charter agreement" (Pg. 24). While periodic monitoring of academic performance is the unstated expectation of the audit team, current charter law under which Fresno was operating does not require this type of monitoring. However, the District did engage in an annual review of the charter school's performance in performing its oversight duties.

2. "...Fresno still lacks a written monitoring plan and an adequate process to ensure that its charter schools achieve academic outcomes they set forth in their charter agreements." (pg 25)

Fresno disputes this statement, as the charter school compliance review process that the District utilizes provides a comprehensive process to evaluate all of the fifteen elements of the charter petition.

3. "Although Fresno had six of its nine charter schools participate in a Review of Compliance with Charter Provisions (compliance review) beginning in November 2001,..." (pg. 25)

This statement is inaccurate as Fresno had seven of its ten charters participate in the compliance review.

4. "...Fresno required the six schools to describe how they had measured student outcomes." (pg. 25)

Again, Fresno required the seven schools to participate to describe this particular element.

5. "However, Fresno did not associate the schools' responses with the measurement criteria described in the charter, nor did Fresno verify the accuracy of the schools' responses." (Pg. 25)

The charters provided the objective measurement data in their responses to the compliance review, such as STAR 9, proficiency test, and other testing information. These measurements are considered the primary indicators of student progress, as with all of the District's schools. Consideration of other subjective data would not provide an appropriate measure of the charter schools' "academic health."

6. **"For example, in its compliance review for Renaissance Charter School (Renaissance), Fresno listed that the school administers proficiency tests, comprehensive tests of basic skills, and the Stanford 9. However, the charter agreement, we found references to three other methods of measurement, including grade point averages, graduation rates, and portfolios, none of which the district included in its compliance review of Renaissance." (Pg. 26)**

The assessments referenced in the Renaissance report were better indicators of students' progress versus grade point averages, graduation rates, and portfolios. The assessments that the District utilized to assess Renaissance's progress were more objective than the ones mentioned in their petition, which are highly subjective. To rely on the indicators of grade point average, graduation rate and portfolios would have based student progress on factors that varied from teacher to teacher. The audit team's limited knowledge of California's current standards for assessing school progress is evident in this particular finding.

7. **"Even though these agreed-upon measures were not included in the compliance review, Fresno deemed the school 'compliant'." (Pg. 26)**

Fresno deemed the school compliant since the school completed appropriate student assessments and analyzed the results to determine areas for improvement and growth for the charter. In the annual reports, the charters discussed the results of student assessment and their approach for student improvement.

8. **"Additionally, Fresno required six of its schools to complete an annual report. Each charter school developed its annual report and presented it to the Fresno Board of Education in March 2002." (Pg. 26)**

Again the report is inaccurate. In 2000-01, Fresno required and received seven of the nine schools to complete an annual report. Two of the charter schools were District conversion charter schools and their reports were included in the District's elementary and secondary division reports. The March 2002 Board of Education presentation was not the charter schools annual reports, but rather the findings from the compliance review conducted November 2001.

9. **"Although Fresno's compliance review and annual reports may have provided some valuable information, they were insufficient to completely and accurately assess its charter schools' academic health." (Pg. 26)**

The audit team states their opinion that the degree of "academic health" should be measured. This requirement is not imposed by law. Why have we never seen the audit committee's opinion

in law or memorandum from any State agency until now? A reality the auditors do not face is the evolution of a charter school's operation as it gains knowledge about how to better serve its students as reflected in the response by Fresno Prep. To think that every element of a charter petition would remain as written is naive. Real schools are constantly adapting to students, finances, students' needs, and crisis.

10. "Fresno did not require all its' charter schools to participate, thus Fresno's insight was limited to the participating schools". (Pg. 26)

The District explained and provided documentation to the audit committee on several occasions that the three charter schools that did not participate in the compliance review were District conversion charter schools. These charter schools are provided oversight by the District division assistant superintendents, and are monitored as all other schools within the Fresno Unified School District.

11. "...Fresno merely collected and summarized the schools' responses without verifying that the schools were responding based on previously agreed-upon student outcomes and demonstrating how they are meeting those outcomes."(Pg. 26)

This statement is a gross misrepresentation of the District's actions. Upon completion of the compliance review, District staff met with all of the charter school administrators and presented the District's findings of the review. Where there were questions or noncompliant areas, the District informed the charter school administrators that a staff member would be visiting the site and reviewing the specific areas of concern. Throughout the entire process the District collaborated with the charter schools to review their findings and determine areas that needed to be addressed. In the spirit of the charter law, the District acknowledged the charter schools' independence to analyze the data and develop improvement plans regarding curriculum, instruction and, ultimately, student outcomes.

The District disagrees with the statement of "demonstrating how they are meeting those outcomes". The issue is to what degree did we verify the charter schools' responses to student outcomes. The District did not verify to the degree that the audit committee considered adequate; however we haven't seen anything from the committee that indicates what adequate verification would be.

12. "Although exempt from many statutes, charter schools are still subject to at least three legal requirements as conditions for receiving state funds including: (1) hiring teachers that hold a Commission on Teacher Credentialing permit, except for non-core, non-college prep course; (2) offering, at minimum, the same number of instructional minutes as traditional public schools; and (3) certifying that its students have participated in

state testing programs in the same manner as other students attending public schools. Requirements 1 and 2 became conditions of receiving state funds beginning January 2002, whereas requirement number 3 became a condition of receiving state funds effective January 2000. Since these requirements are conditions of apportionment, we expected to find sponsoring agencies with guidelines and activities to ensure compliance with these legal provisions." (Pg. 32)

The audit committee's assertion that Fresno Unified did not have guidelines and activities to ensure compliance with the cited legal provisions is insulting. The District demonstrated that the compliance review process addressed all 15 fifteen elements of the charter petition, including teacher credentialing and student participation in State assessments. In addition, the District produced the documentation that the instructional minutes of each charter school were reviewed. While the guidelines and activities may not have been in a format that the audit committee would have preferred, the District took very seriously its responsibility to ensure compliance with all required legal provisions. Again, the District's monitoring performance was evaluated on unstated and inappropriate expectations.

13. Table 5 - Sponsoring Agencies' Verification of Charter Schools' Compliance with Legal Requirements Fiscal Year 2001-02. (Pg. 33)

Fresno disagrees with the assertion that the District's process for verifying teacher qualifications was "unclear". The table heading is unclear in itself, as the statute states that teachers in charter schools are to hold a credential. Clarity of qualification versus credential is essential to provide an accurate picture. During the compliance review conducted in 2001-02, Fresno required every charter school to produce evidence that the teachers employed had a valid teaching credentials. While the process may not have met the audit committee's unwritten standards, the District did inspect the documents and, as appropriate, obtained copies. The audit committee's finding of "unclear" is unwarranted and inappropriate based on the tenets of the law.

The subsequent columns on the chart for Fresno of "verify instructional minutes" and "verify standardized testing" also contain misleading information. The District did in fact verify both of these areas for all of the charter schools in 2001-02. Again, the audit committee's unstated expectations for the process that districts were to utilize to conduct such reviews allows for such a misrepresentation of Fresno's activities.

D. Conclusion

The Fresno Unified School District understands the need for a fair audit to determine how well the District is meeting its oversight obligations toward charter schools. The draft report provided for District comment and review five days ago is not such an audit. The District proposes that

the State Auditor convene an audit team which includes experts in charter school law and practice, in order to reach an initial understanding of what the charter school law actually requires and how best to measure district monitoring efforts. We propose that the process be transparent to the effected school districts, and that differences in legal understanding and interpretation be shared, analyzed and resolved where possible. Where understanding can not be achieved, at a minimum, the ambiguity of current law, should be acknowledged and district efforts to comply should be respected.

Alternatively, we note that Education Code section 47616.5 requires the Legislative Analyst to contract for a comprehensive neutral evaluation of the entire charter school system, with the report to be submitted by July 1, 2003. This statutorily mandated report process easily exceeds the current audit in both scope and resources. Accordingly, rather than re-work the current audit from scratch, it may make sense to take no action and simply defer analysis, conclusions and recommendations to the Section 47616.5 report.

If the State Auditor publishes the audit in its current form, or any edited form that does not address the District's fundamental concerns, we request that this response and executive summary be published with the audit, in its entirety and without any editing or alteration.

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COMMENTS

California State Auditor's Comments on the Response From the Fresno Unified School District

To provide clarity and perspective, we are commenting on the Fresno Unified School District's (Fresno) response to our audit report. The numbers below correspond to the numbers we placed in the margins of Fresno's response.

- The report title changed and we made Fresno aware of the change while Fresno was reviewing the draft report.

- Contrary to Fresno's suggestion, this report is not intended to be read as a legal opinion on the application of charter schools law to chartering entities. Instead, we looked to the law for guiding principles in responding to specific questions from the Joint Legislative Audit Committee (audit committee) regarding policies and practices for monitoring charter schools. Moreover, on pages 18 and 32, we recognize the lack of specificity in state law regarding monitoring charter schools and recommend to the Legislature that it might consider making the oversight role and responsibilities of chartering entities more explicit. Finally, as we state on these same pages, we believe that some monitoring role for chartering entities is implicit in the Charter Schools Act of 1992 (Act), particularly in a chartering entity's charter revocation authority, the primary vehicle for enforcement of charters.

  Although not rendering a legal opinion on the issue of oversight, our view that the charter schools law places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system. In fact, in *Wilson v. State Board of Education*, (1999) 75 Cal.App 4th 1125, the First Appellate District Court of Appeal considered the issue of whether the Act permitted funding for schools that fell outside of the public school system, thus violating the California Constitution. In finding that the Act did not run afoul of the constitution, the court pointed to the statutes that we have relied on as evidence that charter schools are operated in a framework that keeps them within the public school system. For example, the court found that:

- Chartering entities have "continuing oversight and monitoring powers" with:
  - The ability to demand response to inquiries.
  - Unlimited access to inspect or observe any part of the charter school at any time.
  - The right to charge for actual costs of supervisorial oversight.
  - The right to revoke a charter for, among other reasons, a material violation of the charter or violation of any law, failure to meet student outcomes, or fiscal mismanagement.
- As part of their revocation authority, chartering entities are required to permit a charter school the opportunity to cure the alleged problem. More specifically, the court stated, "short of revocation, [charter entities] can demand that steps be taken to cure problems as they occur."
- Chartering entities "approve" charters. The chartering entity "controls the application-approval process, with sole power to issue charters"—"[a]pproval is not automatic, but can be denied on several grounds, including presentation of an unsound education program."
- With regard to accountability, charter schools must promptly respond to all reasonable inquiries from a chartering entity.
- The charter schools law does not create a dual system of public schools. Although the law loosens the "apron strings of bureaucracy," the court found that charter schools are within the common system of public schools because, among other reasons, they "are subject to state and local supervision and inspection."
- Even though charter schools have operational independence "the very destiny of charter schools lies solely in the hands of public agencies and offices, from the local to the state level: school districts, county boards of education, the Superintendent [of Public Instruction] and the [State] Board of [Education]."

We believe that the statutes, although not explicit, do envision a monitoring role for chartering entities and that a monitoring process is absolutely essential to identifying key issues, providing charter schools the opportunity to take corrective action, and determining whether a chartering entity should exercise its authority to revoke the charter.

- As noted on page 18 of the report, our expectation that Fresno would have a monitoring process in place is also based on the statutes providing chartering entities with the authority to revoke charters when a school fails to maintain satisfactory academic and fiscal operations.

- Although the term "sponsoring agency" is in the statutes, we have changed the term to "chartering entity" to more closely conform to the language of the Act. The change in term does not affect any of our findings or recommendations in the report.

- Fresno's comment here misrepresents the discussion of academic outcomes in the report. On page 27 of the report, we indicate that about one-third of the outcomes listed in the charters are not clear indicators of academic performance. We recognize that certain of these outcomes are beneficial, but do not have a clear causal relationship with academic performance. We limited our analysis to determining the extent to which the schools and chartering entities were measuring academic progress against the objective measures in the charters, because we believed that they would be the measures that the schools and chartering entities would find to be the easiest to assess and most likely to be documented.

- As we discuss more fully in note 2 on page 127, we stand behind our analysis of the authority chartering entities have with regard to monitoring charter schools' adherence to the provisions of their charters.

- Since Fresno has successfully obtained financial reports from its charter schools, we are uncertain why Fresno raises the issue of statutory limitations on requests for information. These requests are allowed by the Education Code, Section 47604.3, which requires charter schools to promptly respond to all reasonable inquiries, including those regarding its financial records.

- Fresno misrepresents our discussion of the annual audit reports. We are not creating our own standard for audits. We are merely recommending that the independent financial audit could be expanded to include these state compliance items. Furthermore, the Department of Education (department) believes that the passage of Assembly Bill 2834 (Chapter 1128, Statutes of 2002), will make this a requirement for charter schools.

- Fresno again misrepresents the wording of our report. As we note on page 38 of the report and in Appendix B, we used the fund balance reserve requirement established by the department for school districts as one indicator in our assessment of a charter school's fiscal health. We also acknowledge in the report that charter schools are not legally required to meet this reserve requirement, although it would be a prudent practice.

- We have changed the wording of the report to reflect "charge" rather than "withhold" to conform more precisely to the charter schools law. The change in term does not change the findings or recommendation related to this issue. We would note, however, that the documents we obtained from the chartering entities show that at least three of the four *withhold* the oversight fee from amounts they distribute to the charter schools.

- Contrary to Fresno's assertion, we did not create accounting standards for school district expenditures related to charter schools. As we describe more fully in note 28 on page 134, the problem we identified at Fresno was that it did not have support for the expenses it asserted that it incurred providing oversight of the charter schools. The statute allows Fresno to charge a charter school for *actual* costs up to 1 percent or 3 percent of a charter school's revenue as a fee for oversight.

- We stand by the findings and recommendations in our report. The audit committee charged us with the independent review of the chartering entities' policies and procedures for enforcing charters and the policies and practices for monitoring the charter schools' compliance with the conditions, standards, and procedures entered into under the charter. As our work shows, chartering entities are not enforcing the charters and the responses reflect that the chartering entities do not believe it is their responsibility to do so.

- Fresno misrepresents the text of our report. As we state on page 19 of the report, unless a chartering entity engages in some sort of periodic monitoring, it will not be in a position to identify grounds for charter revocation and the corrective action that a charter school must undertake to avoid revocation. We discuss more fully in note 2 on page 127 our analysis of the authority chartering entities have with regard to monitoring of charter schools' adherence to the provisions of their charters.

- Our use of the term "agreements" stems primarily from the fact that in its charter petition, the individual charter school has set forth its planned academic program and the measurable student outcomes for which it agrees to be held accountable. We also concluded that the charter document was an agreement, because the chartering entity does have the ability to have the charter petitioner modify the document before approval if it is lacking in certain statutorily specified elements. Thus, although Fresno disagrees with us, we believe our use of the term "agreement" is appropriate.

- Although Fresno asserts that chartering entities do not approve charters, its objection to our terminology is not supported by a decision by the First Appellate District Court of Appeal, as we describe more fully in note 2 on page 127.

- Again, Fresno is overreacting to terminology we use to describe the focus of the monitoring we believe that chartering entities should perform to fulfill their responsibilities under the Act. As we state on page 19 of the report, unless a chartering entity engages in some sort of periodic monitoring, it will not be in a position to identify grounds for charter revocation and the corrective action that a charter school must undertake to avoid revocation. Although we agree with Fresno on the grounds for revocation and that revocation is not to be taken lightly, the chartering entities are required by the Education Code, Section 47607(c), to notify the charter school of any violation of either an academic or fiscal nature and give the school a reasonable opportunity to cure the violation. Thus, the chartering entity has the ability to work with a school to effect corrective action short of revocation.

- Fresno may have overlooked the text of the report beginning with page 19 where we are using "academic monitoring" to mean what the chartering entity is doing to ensure that its charter schools are meeting the student outcomes listed in their charters. As Fresno has pointed out in its response, one of the grounds for which a chartering entity can revoke a charter is if a school has failed to meet or pursue any of the student outcomes identified in the charter. Since a chartering entity is required to give the charter school an opportunity to cure the violation, it seems reasonable that a chartering entity would periodically monitor its charter schools to ensure that progress is being made.

- Fresno misrepresents the discussion of measurable outcomes on pages 24 though 27 of the report. We in fact recognize that certain of the measurable student outcomes have value, but do not have a direct causal link to improved student academic achievement. Far from terming these outcomes as unacceptable, on page 27 we note that they can be a measure of a charter school's overall success, but their effects on academic performance are of a longer-term nature and are difficult to measure. Thus, we limited our analysis to determining the extent to which the schools and chartering entities were measuring academic progress against the objective measures in the charters, because we believed they would be the measures that the schools and chartering entities would find to be the easiest to assess and most likely to be documented.

- Fresno indicates in its response on page 122 that in its compliance review of its charters, it used assessments to measure progress that were more objective than the analyses of grade point averages, graduation rates, and portfolios. Fresno asserts it used these more objective assessments because the others are highly subjective and would have based student progress on factors that varied from teacher to teacher. Thus, Fresno has criticized us for limiting our review to the objective measures of student progress even though it did the same thing.

- Fresno is responding to an example where another chartering entity is not making a determination of whether the charter schools are in fact meeting or pursuing any of the pupil outcomes identified in the charter. Since this is a basis for revocation, the chartering entities have the authority to request information from the charter schools, and the chartering entities have charged the charter schools for oversight costs, it is reasonable that the chartering entity can monitor the schools for compliance with the academic program as delineated in the charter.

- Fresno's claim that we fail to understand that the only power that chartering entities have to control the operation of an existing charter school is the power to revoke, misreads our report and misrepresents the Act. Nowhere in the report do we suggest that a chartering entity should or could revoke a charter on the basis of the suitability of its curriculum. In fact, on page 19, we state that without periodically monitoring their schools for compliance with the charter terms, the chartering entities cannot determine whether their charter schools are making progress in improving student learning, nor are the chartering entities in a position to identify necessary corrective

action or revocation. Moreover, as we discuss in note 16 on page 131, short of revocation, a chartering entity may demand material compliance with any of the conditions, standards, or procedures set forth in a charter it has approved and, in fact, the law requires that the charter school be provided a reasonable opportunity to cure the violation prior to revocation. Fresno's response simply ignores this important opportunity for chartering entities to demand that charter schools be held accountable to their charters short of the revocation process.

- We do not believe that implementing our findings and recommendations would lead Fresno to begin meddling, micro-managing, or otherwise interfering with the operation of their charter schools. Our basic premise was that the chartering entities would be working with their charter schools to provide a quality academic program to all students and, possibly, learn new and innovative techniques from the charters that could be replicated in Fresno's noncharter schools.

- Contrary to Fresno's contention, we did not criticize its ability to receive financial information from its charter schools. We did, however, discuss on page 35 of the report how Fresno's review of this information was not as effective as it could be.

- Fresno is again misrepresenting the Act and misreading our report. The Act allows chartering entities to make reasonable requests for information from their charter schools, including requests for financial information and we did not recommend a specific financial reporting scheme for all chartering entities to implement.

- Fresno misrepresents our discussion of the annual audit reports. We are not creating our own standard for these audits. As we note on page 41 of the report, less than one-half of the audit reports we reviewed indicated that the auditor had verified the school's reported average daily attendance (ADA). Because ADA is the primary basis for state funding and, thus material to a school's revenue, the validity of the school's attendance system would be an essential test for an auditor to perform under generally accepted auditing standards to render a conclusion on the school's financial statements. The fact that nearly half of the schools we reviewed had their auditors use the State Controller's Office standards and procedures for California K-12 local educational agency audits indicates that our conclusion on its use is worthwhile.

- Fresno misrepresents our discussion related to the budgetary reserve. As we note on page 38 of the report and in Appendix B, charter schools are not required to meet the reserve ratio established by the department. However, we used the reserve ratio as one indicator in our analysis to gauge the fiscal health of charter schools. Of the 11 schools that did not meet the ratio, 5 reported negative fund balances, which is itself a warning sign. Our intent in using the reserve ratio was to attempt to identify additional tools that chartering entities could use to analyze financial information from the charter schools to determine whether the schools need additional technical assistance.

- We have changed the wording of the report to reflect "charge" rather than "withhold" to conform more precisely to the charter schools law. However, Fresno has again misrepresented the wording of our report. As we state on page 46 of the report, each of the chartering entities charged their charter schools precisely the percentage allowed. When we asked for the support for the actual costs incurred to justify this percentage, none of the chartering entities could show the costs that were covered. Each chartering entity could document the costs that it included in its mandated-costs claims, but could not show that these costs were in addition to the costs for which the charter schools reimbursed their chartering entities. Although Fresno states that the documentation of a chartering entity's costs is not required or defined in the statutes, we see this as strictly an accounting issue. In fact, by signing the mandated-costs claim, the chartering entity is certifying that it has not been otherwise reimbursed for these costs. As we found, the chartering entities cannot support this assertion. We have modified the report text to state there "is a risk of double charging" rather than "may be double charging."

- The compliance review that Fresno performed in fiscal year 2001–02 was the first effort Fresno had made to formally monitor the academic performance of its charter schools. According to Fresno's administrator of student support services, Fresno will not repeat the compliance review as it had done it in fiscal year 2001–02, but is currently redefining the monitoring approach that it will use in the future.

- Although Fresno states that its compliance review process is a comprehensive review of all elements of the charter, as shown on page 22 of our report, our work did not support this assertion. Fresno did not assess the charter schools' progress against the measurable outcomes in each charter. In addition,

Fresno's assertion here is inconsistent with other statements in its response on page 122 where it provides its rationale for why it did not assess each school's progress against its specific charter outcomes.

- Fresno began a compliance review with a seventh school, but it suspended the review of this school when Fresno revoked the school's charter in January 2002. In addition, Fresno included only the results of its compliance review of six charter schools in its presentation to its board in March 2002.

- Fresno's assertion here that it was justified in not assessing its schools' use of more subjective indicators of academic progress such as grade point averages, graduation rates, and portfolios is inconsistent with its earlier statements in its response on page 112 that the objective measures should not be the exclusive measure of whether a charter school is pursuing or meeting its pupil outcomes. Our point was that Fresno should be asking its charter schools to show how they are meeting the pupil outcomes they include in their charters, whether they are objectively or subjectively measured.

- The documentation that Fresno provided to us related to the conversion charter schools did not reflect that Fresno used the charters as the basis for any part of its monitoring.

- We recognize, as does the Act, that a school's academic program may change over time. That is why the Education Code, Section 47607(a), allows for charters to be amended for material revisions, with the agreement of the chartering entity. The important point to remember is that the charter provides the criteria against which the chartering entity should be monitoring the school for accountability. To imply that charters are no longer relevant indicates that the chartering entity and the school are not following the statutory provisions to keep the charter relevant.

- We reexamined our evidence and concluded that for the verification of instructional minutes that Fresno had sufficiently validated their charter schools' compliance with this requirement and have made the appropriate text changes. However, we have not changed our conclusions related to Fresno's verification of standardized testing or teacher credentials. The compliance review performed in November 2001 was before the standardized testing dates for fiscal year 2001–02. As far as we are aware, Fresno's only other verification of standardized

testing occurs for the majority of its charter schools when the test results are posted to the department's Web site in late summer, after Fresno has certified the last apportionment for the year. Thus, we continue to be concerned that Fresno is not verifying this condition of apportionment timely. Finally, we termed Fresno's actions related to the verification of teacher credentials as "unclear" because the documentation that Fresno provided to us was faxed to it from the schools the day after we requested the information from Fresno. Moreover, the compliance review documents did not show that Fresno had verified the teacher certifications. Thus, it was unclear to us whether Fresno had in fact verified this information during fiscal year 2001–02.

Agency's comments provided as text only.

Los Angeles Unified School District
333 South Beaudry, 25th Floor, Room 143
Los Angeles, California 90017

October 24, 2002

Elaine Howle, State Auditor*
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

In response to the draft of the State Auditor's report entitled "California's Charter Schools: Monitoring and Oversight at all Levels Could Be Stronger to Ensure Charter Schools Accountability," I wish to express the following concerns on behalf of the Los Angeles Unified School District:

The auditors' assumptions and interpretation of the laws regarding the extend of the authority of school districts are questionable. Charter schools are governed by statutes that specifically support the independent nature of such schools. They are not subdivisions of the local school districts, nor are they subject to type of supervision that, in part, was the premise upon which the audit was conducted. This audit and its recommendations and findings clearly contradict the law and are contrary to the legislative intent concerning the operation and oversight of charter schools.

Education Code section 47605 requires a chartering agency to grant a charter unless there are specific grounds upon which a charter may be denied by a chartering agency. The legislative intent was to create a process whereby Charter schools could operate independently and school districts were not designated to be nor are they sponsoring agencies.

In conducting this audit, the intent of the law was expressly ignored. Instead the auditors admittedly relied upon "implied law" and assumptions to formulate their conclusions. Nowhere in the Charter School Act are school districts held responsible for ensuring that charter schools provide students with a "standard" instructional program. In addition, the auditors' basic lack of knowledge concerning the Charter School Act and related laws further led them to flawed conclusions concerning the degree of fiscal accountability of school districts for charter schools.

While the auditors go to great lengths to impose a duty upon school districts to require charter schools to provide more detailed financial reporting, the law does not support the extent to which they hold school districts accountable for ensuring that a certain degree of accountability is met. Education Code section 47065 is clear that charter schools are to follow generally accepted accounting principles and are to conduct annual, independent fiscal audits; not district dictated audits. Simply stated, current law does not support the standard created by the auditors.

* California State Auditor's comments begin on page 143.

We also question the assumption that district oversight is implied in the law in the way it is applied by the auditors. The auditors' recommendation to withdraw funds from charter schools for relatively minor non-compliance, for example, not only far exceeds the district's authority, but it is also restrictive and punitive. This type of approach would result in an inability on the part of the charter school to follow its stated vision and mission as approved by the local and State Board of Education.

Type of evidence sought was limited and in most cases did not warrant the conclusions reached by the auditors. The type of evidence the Auditors' sought was limited in scope. The auditors drew conclusions based on a specific type of record keeping they expected to see, leaving out important information that was available from other sources. For example, the auditors' report stated that the number of minutes for instruction was not verified, yet, everything was done on the part of the district to verify it, i.e., the bell schedule was collected, a person was appointed to verify that the number of minutes on the schedule corresponded to the required number of minutes. When challenged, the auditors said that they were looking for a signature. The auditors cite the case of Accelerated schools' three students, whose test results were allegedly not matched to the outcomes in the charter document, as evidence of lack of accountability. The number alone makes the claim questionable. In addition there are valid developmental and educational reasons for charter outcomes not matching precisely to individual students' outcomes. Having visited the school numerous times and collected overwhelming evidence of academic success for all the students, we question the auditors' methodology, applicability and relevance of the claims.

Another example of conclusions based on limited evidence is in reference to standardized testing, which the auditors claim was not verified. However, all the charter schools had test results published on the LA Times like the non-charter schools, they were reported on the CDE web page, and were included in our annual analysis of test scores. In other words, even though a checklist of phone calls or other records may not have been available as verification, the schools' performance indicated compliance. This is precisely what performance-based rather than a rule-based accountability requires. We submit that this is ample evidence of verification and underscores the auditors' basis lack of knowledge concerning charter schools and charter school law.

There are many ways to hold schools accountable that in most instances better reflect the soundness of the academic program and likelihood of a charter school to succeed. For instance, information revealed through conversations and networks is often more accurate and reliable than simple checklists as monitoring instruments. A shared vision and strong network relationships are widely supported by educational research, research on high performing teams and systems thinking research as ways to inspire people to do better quality work and to promote increased accountability. Focusing only on information found in record keeping is a serious limitation that invalidates the conclusions that are drawn. It was obvious that the goals of the audit were intended to support preconceived notions rather than to objectively discover how well districts oversaw charter schools.

Conclusions reached appear to stretch the extent of logic. The draft report often appears to lack logic or sound reasoning. In the case of Valley Community Charter, for example, the auditors jumped to the conclusion that "if Valley's fiscal health continues to deteriorate, the school may close." The characterization of the school's fiscal health as "deteriorating," is in fact an overstatement. It is very unlikely that this school would close. Valley has a sound educational program and it

has demonstrated excellent academic growth from year to year, as evidenced by longitudinal data analyses. Not only is Valley's academic achievement higher than that of the nearby public schools, it has an extended track record of being fiscally sound.

Conclusions reached were limited to those supporting the auditors' thesis and ignored and neglected many other possible explanations. Rather than state an observation that there is a potential for double-charging due to a lack of expense tracking, the auditors made bold assertions that the state was being double charged. For example, in reference to oversight fees and mandated costs, although we would not disagree with the desirability of clearly determining how the 1% fee is used by the district, the fact that more than 1% was claimed for reimbursement from mandated costs does not automatically mean that there was a double charge. Another explanation could simply be that in fact more was spent than was charged to the schools. This is in fact supported by an internal study conducted by the district in 1998, which indicated that district expenses in relation to charters were indeed much higher than the 1%.

Accountability systems already in place were ignored. In the past year the LAUSD has placed an increased focus and emphasis on accountability. Although the LAUSD Policy for Charter Schools was approved by the Board of Education following the years covered by the audit, neglecting to mention the systems that are currently in place presents the District in an inaccurate light. The LAUSD has a very clearly articulated accountability system, which is widely disseminated monthly to potential charter school developers, to existing charter schools at Focus Group meetings, and is posted on the district's web page for the general public.

The LAUSD's accountability system is proactive and is focused on the following practices:

1) Promoting and recruiting high quality charter schools that are accountable
2) Using rubrics as a tool to strictly apply the five point criteria for charter approval, which is required by State law, and approving those charter schools that demonstrate a sound educational program and the likelihood to succeed
3) Annually examining and analyzing both student achievement data and financial data reports.
4) Carrying out an external charter evaluation on the fourth year, preceding the fifth year charter renewal

An entire section of the LAUSD Policy for Charter Schools is dedicated to a discussion on the district's expectations on accountability. Ignoring this fact was simply irresponsible.
The charter proposal itself represents the school's internal accountability. Therefore, the district expects that accountability measures be clearly outlined in the charter proposal, be consistent with the stated vision and mission of the school, and address legal and statutory requirements. The following are expected to be part of the charter proposal:

- Clear goals and expectations. The school has clear and measurable learning goals and a curriculum and instructional program that are designed to help students reach the goals.

- Multiple student assessments. The school uses, not only State-required standardized tests, but also ways to continuously monitor student performance individually and in groups. For example, the school may create ways to examine student work in collaboration with colleagues as part of teacher reflective practice; it may use vertical K-5 teams; use mid-point evaluations, and regular review of practices and achievements.

- Assessment as part of the total system. The school uses student assessment as part of the total system to improve instruction, design professional development, and refine school operations and make decisions.
- Management practices. The school defines the roles and responsibilities for the governance of the school and the process of decision making to support and enhance student learning and achievement.
- Financial practices. The school's financial practices promote the financial sustainability of the school over the years.

External measures of accountability, most of which are required by the District, include the following:

- Results of standardized achievement tests. Charter Schools are included in the Public Schools Accountability Act of 1999 and SB1X. Therefore, in addition to internal student progress monitoring and assessments that are consistent with the charter vision and mission, students in the Charter School are required to participate in the State Testing and Reporting System (STAR) and API, and demonstrate growth. A minimum of an annual 5 percent point increase is required. For schools with an API of 1, a higher growth of at least 10 percent points is expected. The District expects that all students in charter schools, including subgroup populations, meet their targeted growth and demonstrate increased learning, in keeping with District's mission of reducing the achievement gap for low-income students. Failure to meet growth targets for three of the four years prior to renewal may result in non-renewal of the charter.
- External evaluation prior to 5-year renewal. The charter school is required to participate in a District-sponsored external evaluation during the spring of the fourth year of operation. This evaluation is comprehensive and encompasses information from multiple sources, such as, statistical analyses of student test scores and disaggregated data, staff interviews, surveys, school observations, evidence of gains in academic achievements overall and for each subgroup population. The results of this evaluation carry considerable weight on the Los Angeles Unified School District Board of Education decision on whether or not to renew a charter.
- Annual independent fiscal audit. The charter school is required to participate in an annual independent fiscal audit, which employs generally accepted accounting principles, to demonstrate on-going financial stability.
- Systematic data collection. The Charter Office and the Program Evaluation and Research Branch in the Los Angeles Unified School District have developed a collaboration to collect, maintain and analyze data from charter schools in a systematic way from year to year, in order to learn from the charter school experience. Three components, 1) charter renewal evaluation, 2) identification of best practices, and 3) continual data monitoring, will respond to short-term and long-term information needs of the District. Longitudinal, matched-data measuring student progress over time will be used to identify effective and promising practices from which others may learn. An in-depth study of 10 charter schools that represent charter schools throughout the district is planned. Three dimensions: 1) student performance; 2) school organization and governance; 3) instructional leadership, classroom practice, and professional development, will be used as a framework to identify best practices from which all District schools can learn.

- Student Enrollment and Application Pool. Student enrollment and application pool, and number of students on waiting lists, are strong indicators of the general public's interest in the charter school. They are a powerful measure of the ultimate accountability of charters in a market economy.
- Charter-Generated Voluntary Annual Report. Charter schools may voluntarily generate a locally - designed annual report, such as a type of "Accountability Report Card" to report information to the general public, such as school wide successes, student growth, challenges and goals.

In addition to the internal and external accountability measures described above, there are informal processes that can be equally as powerful in promoting a high level of accountability among the various stakeholders and in holding a school accountable for results. Although more difficult to measure by usual instruments, it is important to acknowledge their impact. Operating from the assumption that professional educators, and human beings in general, tend to feel strongly accountable to their peers for their performance to a greater degree than they do only to external measures, the Los Angeles Unified School District promotes the development of "Community of Practice" networks. These networks are intended as vehicles to:

- Provide a peer-support mechanism to existing and newly established charters
- Exchange research-based, proven or innovative ideas that improve practice
- Disseminate best practices to the wider educational community
- Promote the sustainability of the charter school over the years

It is assumed that in the process of sharing innovative practices with one another and revealing weaknesses and needs within a safe context, charter schools can demonstrate their accomplishments and successes as well as offer support and growth opportunity to one another. Through communication and interaction with one another they can help clarify issues, learn about resources for improvement, and become further inspired by their colleagues to do their best work. Dissemination thus becomes another tool for accountability.

Charter law has evolved throughout the ten years it has been in effect. Its central core, however, has not changed. The balance between flexibility and accountability remains the most important and fundamental concept that, if challenged, can defeat the entire purpose and value of charter schools in educational reform. If we overemphasize accountability and enforce traditional methods to measure it, we risk posing serious limitations to the potential that charter schools offer to discover valuable solutions to educational challenges that are typical of urban districts. On the other hand, flexibility cannot be such that it would pose a risk to students.

The solution to ensuring a true balance and to preserving the spirit of the Charter School Act is in the types of accountability measures that we select. By the very nature of the issues and because of the many types and ranges of charter schools, multi-dimensional and creative accountability measures are required. Therefore, any accountability review team should include not only certified public accountants, who would clearly best understand the financial aspects of a school, but also educators that have depth and breadth of experience with school organizations, curricula, assessments and learning. The methodology used in the review process itself should include the many facets that make organizations work, such as types of relationships, teamwork, leadership, and the culture of the school. The latter are clearly more difficult to measure, but they may indeed be equally as, if not the most, important in determining whether or not a school will be effective and succeed.

The LAUSD is committed to ensuring both the accountability of charter schools to the extent required by law, to ensure maximum learning for its students, and the necessary flexibility, to ensure that creativity and experimentation will indeed result in collective learning for the entire educational community beyond the school. Only in this way can reform take place for the betterment of education now and in the future.

The LAUSD proposes that, at the very least, a fair and impartial audit be conducted with the assistance of experts in charter school law who could assist in resolving ambiguities in law and facilitating an understanding of various positions. If in fact the State Auditor publishes the draft audit in its current form without addressing the concerns of the District, we request that this response accompany the audit report in its entirety and that any further response by LAUSD also be published in its entirety.

Sincerely,

Grace Arnold, Ph.D.
Director

COMMENTS

California State Auditor's Comments on the Response From the Los Angeles Unified School District

To provide clarity and perspective, we are commenting on the Los Angeles Unified School District's (Los Angeles) response to our audit report. The numbers below correspond to the numbers we placed in the margins of Los Angeles' response.

- The report title changed and we made Los Angeles aware of the change while Los Angeles was reviewing the draft report.

- Contrary to Los Angeles' suggestion, this report is not intended to be read as a legal opinion on the application of the Charter Schools Act of 1992 (Act) to chartering entities. Instead, we looked to the law for guiding principles in responding to specific questions from the Joint Legislative Audit Committee (audit committee) regarding policies and practices for monitoring charter schools. Moreover, on pages 18 and 32, we recognize the lack of specificity in state law regarding monitoring charter schools and recommend to the Legislature that it might consider making the oversight role and responsibilities of chartering entities more explicit. Finally, as we state on these same pages, we believe that some monitoring role for chartering entities is implicit in the Act, particularly in a chartering entity's charter revocation authority, the primary vehicle for enforcement of charters.

  Although not rendering a legal opinion on the issue of oversight, our view that the charter schools law places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system. In fact, in *Wilson v. State Board of Education*, (1999) 75 Cal.App 4th 1125, the First Appellate District Court of Appeal considered the issue of whether the Act permitted funding for schools that fell outside of the public school system, thus violating the California Constitution. In finding that the Act did not run afoul of the constitution, the court pointed to the statutes that we have relied on as evidence that charter schools are operated in a framework that keeps them within the public school system. For example, the court found that:

- Chartering entities have "continuing oversight and monitoring powers" with:
  - The ability to demand response to inquiries.
  - Unlimited access to inspect or observe any part of the charter school at any time.
  - The right to charge for actual costs of supervisorial oversight.
  - The right to revoke a charter for, among other reasons, a material violation of the charter or violation of any law, failure to meet student outcomes, or fiscal mismanagement.
- As part of their revocation authority, chartering entities are required to permit a charter school the opportunity to cure the alleged problem. More specifically, the court stated, "short of revocation, [charter entities] can demand that steps be taken to cure problems as they occur."
- Chartering entities "approve" charters. The chartering entity "controls the application-approval process, with sole power to issue charters"—"[a]pproval is not automatic, but can be denied on several grounds, including presentation of an unsound education program."
- With regard to accountability, charter schools must promptly respond to all reasonable inquiries from a chartering entity.
- The charter schools law does not create a dual system of public schools. Although the law loosens the "apron strings of bureaucracy," the court found that charter schools are within the common system of public schools because, among other reasons, they "are subject to state and local supervision and inspection."
- Even though charter schools have operational independence "the very destiny of charter schools lies solely in the hands of public agencies and offices, from the local to the state level: school districts, county boards of education, the Superintendent [of Public Instruction] and the [State] Board of [Education]."

We believe that the statutes, although not explicit, do envision a monitoring role for chartering entities and that a monitoring process is absolutely essential to identifying key issues, providing charter schools the opportunity to take corrective action, and determining whether a chartering entity should exercise its authority to revoke the charter.

- Los Angeles mischaracterizes our assumptions regarding the authority of chartering entities. On pages 18 and 32, we recognize the unique and independent nature of charter schools. At the same time, as discussed in note 2 on page 143, we recognize that charter schools are not set completely free from the public school systems and that the statutory framework provides for some measure of oversight of charter schools by their chartering entities. We have also endeavored to identify areas where that oversight can be improved and perhaps even clarified by the Legislature.

- Los Angeles misstates our report; we do not state or even imply that charter schools are required to provide students with a "standard" education program. In fact, on page 20, we recognize the unique flexibility of charter schools to craft their own educational programs, as reflected in their approved charters.

- Los Angeles is misrepresenting our report; nowhere in our report do we state that the chartering entities are to 'dictate' charter schools' audits. On page 32 we state that one element each charter must contain is a description of how an annual audit will be conducted and any exceptions satisfactorily resolved. The audit requirement is contained in the Education Code, Section 47605(b)(5)(I).

- Los Angeles has mischaracterized our recommendation regarding a chartering entity developing and implementing policies and procedures for monitoring. On page 50 of our report, we recommend that the chartering entities' fiscal monitoring policies and procedures outline the types and frequency of fiscal data the charter schools should submit, including consequences if the schools fail to comply. Los Angeles has chosen to interpret this recommendation as including a monetary penalty, we did not state that in our report.

- Los Angeles continues to mischaracterize our report. On page 28, Table 5 summarizes Los Angeles' verification of charter schools' compliance with three legal requirements. We do not use Los Angeles' verification of instructional minutes as an example in our report. However, we concluded that Los Angeles' process was 'unclear' because the data it provided us contained fax date stamps that showed that Los Angeles received the charter schools' bell schedules after we requested the information. Thus, it was unclear to us when Los Angeles verified the charter schools' instructional minutes or whether the district has an ongoing process to determine charter schools' compliance with legal requirements for receiving state apportionment funds.

- Los Angeles has misread our report. Contrary to Los Angeles' statement that we are basing our conclusion on the performance of three students on standardized tests, on page 26 we state that the Accelerated School had in its charter three student outcomes that related to individual student performance on standardized tests. In addition, although the school has analyzed the test results on a school-wide and grade-level basis, it has not assessed the test results to determine whether the individual students' results have achieved the outcomes agreed to in the charter.

- Los Angeles has missed the point of our report related to standardized testing. As we state on page 27, standardized testing is one of at least three legal requirements charter schools must fulfill to receive state funds. Table 5 on page 28 of our report reflects that Los Angeles verified most of its charter schools participated in standardized testing. We do not use Los Angeles' verification of standardized testing as an example in our report. However, we concluded that Los Angeles verified 'most' of its schools because many of Los Angeles' charter schools contract with it for testing services. However, not all of the charter schools do. Therefore, as a condition of apportionment, Los Angeles should be certain that the testing has taken place before certifying the schools are compliant for funding purposes as discussed in the case of Oakland Unified School District on page 29 of our report.

- As with any audit we perform, our first step is to review and evaluate the laws, rules, and regulations relevant to the issues. As we state on pages 18 and 32 of our report, we determined that the chartering entities have certain authority for overseeing charter schools' academic outcomes and fiscal health. As we describe further on these pages, to facilitate their oversight, we expected the chartering entities would have established policies and procedures guiding these activities and also describe what makes up a sound monitoring system. Los Angeles states in its response that it has accountability systems in place. If Los Angeles' procedures were as effective as it now asserts, the results of our audit would have been substantially different.

- We disagree with Los Angeles that we jumped to a conclusion related to Valley Community Charter School. As we state on page 39 of our report, the school's expenditures have exceeded its revenues by almost $189,000; the school has also taken a loan for $200,000. It seems reasonable to us that Los Angeles would want to understand the school's fiscal situation and assist in any way possible. Moreover, it seems short-sighted

on Los Angeles' part to assume that a school with sound instructional practices also has sound fiscal practices. Finally, despite Los Angeles' claims, as we note on page 39 of our report, the school has been open for two years, this does not represent an extended track record of being fiscally sound.

- We changed the text in this section to more precisely communicate the issue we describe. As we state on page 46 of our report, Los Angeles failed to track its oversight costs to demonstrate that the fee it charged its charter schools was justified. In addition, as Table 9 on page 49 shows, Los Angeles submitted a mandated-costs claim for its charter schools' oversight costs and as we state on this same page, because the chartering entities failed to adequately track their actual costs of providing oversight, they could not demonstrate that the charter schools have not already paid for some or all of these oversight activities through the oversight fee. Thus, although Los Angeles' explanation that the district spent more for oversight than it charged to the schools is plausible, our conclusion that Los Angeles, and other chartering entities, risk double-charging the State for charter school oversight costs is also plausible.

- Contrary to Los Angeles' claim that we ignored the accountability system that it already had in place, on page 36 we discuss Los Angeles' fiscal review of charter schools including interim budget and year-to-date actual revenue and expenditure reports and audited financial statements. We agree with Los Angeles that it annually examines and analyzes this data, but we conclude that not all of its schools submitted data for review and Los Angeles lacks formal policies to appropriately follow up when a school experiences fiscal problems. Moreover, Los Angeles is overstating its academic monitoring and the value it provides. Los Angeles provided us with a report its Program Evaluation and Research Branch (PERB) prepared comparing charter and noncharter schools' Academic Performance Index and Stanford 9 scores. However, we understood that this report represents a one-time effort by Los Angeles in compiling this data. This is supported by the fact that in March 2002, PERB proposed to develop a data monitoring system for charter schools; the development was estimated to take six to seven months. Finally, on page 21, in Table 3 we summarize the chartering entities' academic monitoring. Specific to Los Angeles, we conclude that it engaged in some academic monitoring, but on page 23 we conclude that its efforts are not adequate as it relies

on an external evaluation during a school's fourth year of its charter. Moreover, Los Angeles uses the evaluation for renewal purposes, not as a monitoring tool.

- Again, Los Angeles claims that we ignored its accountability system, this is not true. On page 21 we mention Los Angeles' recently developed guidelines; however, as we also mention, the guidelines lack a process to continually monitor the charter schools' academic performance. On page 37 we again mention Los Angeles' guidelines, but note that the guidelines do not address its charter schools' fiscal monitoring. Los Angeles states that the charter proposal represents the schools' internal accountability. However, we do not believe that the charter itself is a substitute for a sound monitoring system. As we state in note 2 on page 143, our view that the Act places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system.

- Los Angeles accurately notes that the charter schools' annual independent fiscal audit is an external measure of accountability; on page 39 of our report we also state this. However, on page 44 we state that Los Angeles needs audit review policies and procedures to ensure that staff take appropriate measures in holding the charter schools accountable for their fiscal management.

- It should be noted that Los Angeles' systematic data collection was proposed by its PERB on March 25, 2002. We understand that PERB has undertaken the first element of evaluating charter schools for renewal; we are not certain Los Angeles has implemented the two remaining proposed elements: identification of best practices and continual data monitoring.

- We agree with Los Angeles, we do not promote enforcing traditional methods to measure charter schools and flexibility cannot be such that it would pose a risk to students.

- We stand by the findings and recommendations in our report. As we state in note 2 on page 143, we reviewed the law for guiding principles in responding to specific questions from the audit committee that charged us with the independent review of chartering entities' policies and procedures for monitoring charter schools' compliance with their charters. We also recognize the lack of specificity in state law regarding monitoring and recommend that the Legislature make the chartering entities' role and responsibilities more explicit.

Agency's comments provided as text only.

Oakland Unified School District
1025 Second Avenue
Oakland, California 94606

October 24, 2002

Elaine M. Howle, State Auditor*
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: California Charter Schools Audit
Agency Response from Oakland Unified School District

Auditor Expectations Not Based in California's Charter Law

Dear Ms. Howle:

Oakland Unified School District (OUSD) has received and reviewed your agency's draft audit report, California's Charter Schools, dated October 2002, that cites our district's performance as a charter-granting agency. We appreciate the difficulty the audit team faced as it attempted to master California's complex Charter Law and to fashion orderly expectations where few are stated in the law, while members of your auditing team came and went in turnover that mirrors what we face in local districts.

The District concurs with the auditors' general finding that the State Legislature's charter school program could benefit from stronger efforts at the state, district and charter school levels to assure fiscal, legal and academic accountability. However, this audit report is fundamentally flawed because it is based upon an initial misunderstanding of California's Charter School Law, resulting in the creation of statutorily unsupported expectations that are not based on what California's Charter School Law actually is. Independent charter schools are not subdivisions of school districts, to be supervised as if they were subordinate departments, bureaus or offices of the school district, and thus cannot be fairly evaluated in this way.

Even though the auditors acknowledge a district's oversight "responsibilities are not explicitly stated" in Charter Law, they not only presume that responsibilities "are implied through the Act and its amendments," **[Report Summary]** they also define specific procedural expectations for how a district should fulfill these presumed responsibilities. We do not believe that the auditors had a basis in Charter Law for many of their critiques. In addition, there are factual errors in the report that we wish to correct and statements that may mislead readers that we wish to clarify.

* California State Auditor's comments begin on page 157.

The District has been strengthening and improving its role as a charter authorizing agency. Progress has been made on many fronts, and more is underway. The District agrees that it would benefit from clearer, written policies and practices that could be implemented more consistently, and staff has many of these improvements underway. In August 2001, the Oakland Board of Education recognized the value of creating a position whose sole responsibility would be to coordinate the District's attention to charter issues. During the past fiscal year, we could only support that function as a half-time position. This proved sufficient for processing the many new applicants for charters, but did not provide time for monitoring at the level our District believes is important. In July 2002, the Board expanded the position to full-time specifically to provide more opportunity for creating and implementing a broader monitoring system. Our fiscal and human resources will be severely strained, however, if there is no limit to the quantity of charters we must accept and no relief to the drain on fiscal and facility resources caused by charter schools.

The audit report recognizes some of the improvements underway, especially improvements to our fiscal monitoring system, but under-reports other improvements. More disturbingly, the auditors have interpreted the words in Charter Law to create their own standards of practice that they *expected to see* in place at districts. Our failure to have a practice in place that matches these individuals' expectations should not be confused with a failure to meet our statutory obligations.

For contextual clarity, we recommend that the audit report change one of its terms. The report consistently refers to charter-granting agencies as "sponsoring agencies." The term, although defined in the statute, is misleading to readers because it implies a relationship between the local educational agency and the charter school that is neither required by law, nor typical in practice. The term "sponsor" connotes a backer, a patron, a benefactor or a champion. By contrast, Charter Law *requires* a district to grant a charter unless the charter fails to meet one of five conditions outlined in the Charter School Act **[Ed Code 476069(b)]** regardless of the fiscal, facility, or monitoring burdens that the school's existence will place on a district. A "sponsoring" agency may even have *denied* a charter that is subsequently granted by the County Office of Education or State Board of Education. **[47632(i)]**

The report **[Page 25]** incorrectly says that District staff only visited charter schools to investigate parent complaints. This is untrue. District staff visited eight of its nine charter schools last year and the ninth school was the first one visited this year. Several schools received more than one visit. Most of the District's site visits were to observe, to counsel and to establish relationships between our new staff and charter leaders. Parent complaints sometimes stimulated a site visit and other times were addressed through telephone conversations, exchanges of correspondence, or referrals to the schools' directors and boards.

The report suggests **[Page 25]** that the District should conduct site visits "to help ensure that the school is maximizing its students' educational opportunities and making sound use of taxpayer funds." These are noble endeavors, but not the responsibility of a charter authorizer. The District may well believe that students' educational opportunities would be maximized in a District school or by applying a different educational approach, but Charter Law allows charter schools to make independent choices, as long as they employ some sound educational program. **[Ed. Code 47605(b)(1)]** The statute would permit us to suggest, but would prohibit us from prescribing our preferred educational approach. Further, the "sound use of taxpayer resources" is a subjective evaluation linked to one's support of, or opposition to, the educational techniques being employed. As the report notes **[Page 20]** the intent of Charter Law was to move charter schools to performance-based accountability systems. While the District needs to do more to monitor performance, it is inconsistent with the intent of the statute to ask districts to evaluate the means to those ends, beyond strict legal parameters. At most, District staff might evaluate whether taxpayer resources are being used for *legal* purposes.

Auditors note that they expected to find "established policies and procedures for assessing the academic achievements of students in their charter schools, in accordance with the measurable student outcomes required in each charter" **[Report Summary]** and they describe their version of what a sound accounting system might include. **[Report - Page 21]** Their report reads as if the District has failed to meet its legislated responsibilities when, in several instances, our system simply failed to match what the auditors expected to see. Even so, the District is also eager to improve its charter schools accountability system. The District's effort to expand and clarify its charter schools accountability activities this year is especially apparent in the more detailed language the Oakland Board of Education has approved for this year's Memoranda of Understanding (MOU) with our charter schools. We will consider adding those portions of the auditors' recommendations that are not already represented in our expanded MOUs.

The report makes a general assertion that authorizing agencies "do not periodically monitor their charter school's performance against agreed-upon measurable outcomes." **[Page 22]** This statement is both inappropriately broad and incorrect. The auditors have completely negated the value of the review process that occurs in our district when charters are considered for renewal. Given that the statute does not specify how frequently a *periodic* monitoring must occur, and given that the academic benefits of a program typically take a year to implement for benchmarking, then at least two years to bear fruit, it is not unreasonable for an authorizing district to wait until a school's fourth year to evaluate the academic benefits of its program. This timeline is consistent with review for charter renewal after five years.

The report notes that we have not established comprehensive *written* monitoring guidelines. **[Page 23]** However, the District presented plentiful evidence that it has implemented many monitoring activities and acted upon its findings. For example, the District monitors charter schools' monthly fiscal and attendance data, monitors other program components occasionally, initiated revocation procedures on several occasions, and revoked two charters. Our District is compiling year-by-year testing information and consulting with the charter schools to develop a written, multiple-criteria annual assessment report that will also incorporate each school's unique measurable goals.

Although it is not the District's statutory responsibility to ensure that charter school students demonstrate academic performance, the District is aware of which charter schools are experiencing academic difficulty and offering some assistance-which independent charter schools and their governing boards, which are separately incorporated nonprofit organizations, are not obligated to accept. For example, in 2001-02, the District invited five under-performing charter schools to enroll in the High Priority Schools Grant of the Immediate Intervention Under-performing Schools Program (HPSG-IIUSP). Four accepted the invitation and the District assisted them with the application process.

The auditors were displeased to find that one-third of charter school outcomes were not related to academic performance. **[Page 31]** While we recognize the importance of academic achievement, we find the auditors' low esteem for non-academic measurable outcomes disturbing. Many of the parents in our charter schools place high value on non-academic factors (such as safety and attendance) that are essential prerequisites to learning, and attitudes (such as self-esteem and respect for others) that they recognize as important components of citizenship. Charter Law does not require that the benefit of all outcomes be objectively measurable in the short-term, nor that all measures be of academic performance. Ignoring improved attendance as a success factor is severely myopic.

In Table 5 **[Page 33]**, the report alleged that OUSD did not verify teacher credentials. The text of that page then *described part of the process* OUSD used to verify teacher credentials in 2001-02. The auditors may believe our process was insufficient, but the "no" on this table should be changed to "some" or another term that indicates a process existed. The audit report notes that schools must certify a listing of their teachers and their credentials as part of CBEDS data. In addition, but unnoted in the audit report, each school's charter and the annual MOUs that are signed by each charter include a passage stating that teachers in the school will hold a Commission on Teacher Credentialing Certificate, permit or other document equivalent to that which a teacher in other public schools would be required to hold except where the lack of such certificate, permit, or other document is permitted by law.

Charter Law **[Ed Code 47605(l)]** and each school's MOU identify that charter schools are responsible for maintaining teacher credentialing information at the school and that these records are subject to *periodic* review by the authorizing district. The auditors have interpreted this provision to mean that districts should conduct and document *annual* credential reviews. While we concur that this would be a laudable practice, and we plan to increase our scrutiny this year, an annual review is not required by Charter Law.

In Table 5 **[Page 33]**, the report alleges that OUSD did not verify that State-mandated tests were administered at charter schools. We believe the auditors confused a lack of a document with a lack of verification. The "no" on this category should be changed to either "yes" or "some" verification. Our

process included informing schools that they must test, gaining their agreement to test (in both their charters and in their annual MOUs), arranging for them to order and purchase testing material from our vendor, providing extensive training in testing and reporting procedures, and receiving their testing results. Schools that did not attend training sessions received information by mail and all schools received on-going counsel via electronic mail and telephone. We note that the auditors did not find that any of our charter schools failed to participate in State-mandated tests. If performance (i.e., participation) was the goal, then our method was successful. In the future we will ask each school to provide a document certifying that its students participated in the State Testing Programs specified in Education Code 60600-60652 in the same manner as other students attending public schools, but signing a certificate after the fact will not change the outcome (participation or not).

In Table 5 on page 33, the report notes that the District did not verify instructional *minutes* in 2001-02. Each school commits in its charter and annual MOU that "The School shall offer, at a minimum, the same number of instructional minutes set forth in Education Code 46201 for the appropriate grade levels." The District did verified instructional days. The MOUs for the current year and our accounting system have been amended to include monitoring instructional *minutes*.

During 2001-02, the District emphasized improving the foundation of our charter school relationships by tightening provisions in the charter documents themselves. The report ignores the District's expanded charter petition review process that has led to improved charter quality, more specific measurable standards, and greater clarity about charter schools' statutory obligations. This has had an immediate effect on the quality and specificity of new charters and will eventually cover all charter schools after their renewals. Our more careful scrutiny by the Charter Schools Coordinator, an internal review team, and a committee of the Board of Education takes more time but will lead to long-term improvement in the authorizer/school relationship

The report ignores District monitoring that has revealed problems and where our intervention either led to a correction of a problem (e.g., a leadership change at one school, governance changes at two schools to eliminate conflicts of interest; school schedule changes to provide an adequate number of instructional days at one school) or a revocation of charters (Oak Tree Charter School and Meroe International Academy). Clearly, the District's monitoring efforts reveal, address and resolve many problems.

In two instances, the auditors apply a standard that they admit is not required of charter schools **(Page 47, 51.)** The auditors expect charter authorizers to work with charter schools to improve their financial condition. **(Page 47)** While this is a nice service to offer, and the District sometimes offers advice, we are not required to do this.

The auditors complain that two charter schools had periods when E.C. Reems' and North Oakland's revenues on hand were less than their current expenses. **(Page 48)** It is not unusual for many charter schools and entire school districts to experience cash flow disruptions. There are many techniques for navigating these periods and these schools navigated adequately.

This year's more detailed MOU will specify that the annual external audit must reflect tests of ADA and instructional minutes. (**Page 49)**

The auditors acknowledge improvements to our audit review process, but complain that we do not specify how negative audit findings are resolved. **(Page 53)** This will always depend on the nature of the finding is. It is noteworthy that the auditors say, "For fiscal year 2000-01, the charter schools' audit findings did not appear to be significant." **(Page 53)** They seem to be stretching hard to find something to complain about in our new process.

The report says our district "failed to track actual oversight costs" (Pages 55, 56) even though documentation was provided to the audit team.

The auditors' allegation that districts "may be double-dipping" allegation (Page 55) should either be specific and substantiated or omitted. Our District could not possibly have double-dipped in 2001-02 because we have not yet submitted our Mandated Costs Reimbursement (MCR) request for charter activities yet. (Page 61) We are compiling our records and will turn them in by the October 31 deadline. Our minimal MCR claimed in 99-00 and 00-01 is can be more than justified with staff time reviewing new charters in those years.

There is a lack of logical connection (Page 59) between the auditors' acknowledgement that MCR is the way to collect for new charter reviews because there is no charter school revenue stream to assess, and their subsequent suspicion that districts also charged the (non-existent) charter school's revenue stream for staff time processing new applications.

The District wholeheartedly supports the auditors' calls (Pages 56, 60, 61) for language clarification in the statute about what revenue we can assess our 1% against. This has been a source of confusion and multiple interpretations by State and District staff and by charter school leaders.

Our district, like others, endeavors to interpret and implement its responsibilities, as it identifies needs and as resources are available for this purpose. A major impetus of the charter schools movement was to move away from procedural accountability toward outcome accountability. In this spirit, we are seeking an appropriate balance of intervention and autonomy, prescription and innovation, control and independence. Change the District is implementing will increase our role in monitoring charter schools to ensure greater accountability.

If the Legislature wishes to dictate the requirements of a comprehensive procedural audit, we would expect to receive clear definitions about what documents would be required to have available for review at the State Department of Education Charter Schools Office, at the County Department of Education, at the authorizing district's office, and at each charter school site, at what frequency those documents must be updated, and what supporting materials are required to substantiate

the information. We would also expect the District's cost for participating in these documentation and audit processes to be fully eligible for payment as a charter monitoring cost, and expenses in excess of those fees to be fully reimbursable as mandated costs.

Sincerely,

(Signed by: Dennis K. Chaconas)

Dennis K. Chaconas
Superintendent

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COMMENTS

California State Auditor's Comments on the Response From the Oakland Unified School District

To provide clarity and perspective, we are commenting on the Oakland Unified School District's (Oakland) response to our audit report. The numbers below correspond to the numbers we placed in the margins of Oakland's response.

1 Contrary to Oakland's suggestion, this report is not intended to be read as a legal opinion on the application of the Charter Schools Act of 1992 (Act) to chartering entities. Instead, we looked to the law for guiding principles in responding to specific questions from the Joint Legislative Audit Committee regarding policies and practices for monitoring charter schools. Moreover, on pages 18 and 32, we recognize the lack of specificity in state law regarding monitoring charter schools and recommend to the Legislature that it might consider making the oversight role and responsibilities of chartering entities more explicit. Finally, as we state on these same pages, we believe that some monitoring role for chartering entities is implicit in the Act, particularly in a chartering entity's charter revocation authority, the primary vehicle for enforcement of charters.

Although not rendering a legal opinion on the issue of oversight, our view that the charter schools law places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system. In fact, in *Wilson v. State Board of Education*, (1999) 75 Cal.App 4th 1125, the First Appellate District Court of Appeal considered the issue of whether the Act permitted funding for schools that fell outside of the public school system, thus violating the California Constitution. In finding that the Act did not run afoul of the constitution, the court pointed to the statutes that we have relied on as evidence that charter schools are operated in a framework that keeps them within the public school system. For example, the court found that:

- Chartering entities have "continuing oversight and monitoring powers" with:
  - The ability to demand response to inquiries.
  - Unlimited access to inspect or observe any part of the charter school at any time.
  - The right to charge for actual costs of supervisorial oversight.
  - The right to revoke a charter for, among other reasons, a material violation of the charter or violation of any law, failure to meet student outcomes, or fiscal mismanagement.
- As part of their revocation authority, chartering entities are required to permit a charter school the opportunity to cure the alleged problem. More specifically, the court stated, "short of revocation, [charter entities] can demand that steps be taken to cure problems as they occur."
- Chartering entities "approve" charters. The chartering entity "controls the application-approval process, with sole power to issue charters"—"[a]pproval is not automatic, but can be denied on several grounds, including presentation of an unsound education program."
- With regard to accountability, charter schools must promptly respond to all reasonable inquiries from a chartering entity.
- The charter schools law does not create a dual system of public schools. Although the law loosens the "apron strings of bureaucracy," the court found that charter schools are within the common system of public schools because, among other reasons, they "are subject to state and local supervision and inspection."
- Even though charter schools have operational independence "the very destiny of charter schools lies solely in the hands of public agencies and offices, from the local to the state level: school districts, county boards of education, the Superintendent [of Public Instruction] and the [State] Board of [Education]."

We believe that the statutes, although not explicit, do envision a monitoring role for chartering entities and that a monitoring process is absolutely essential to identifying key issues, providing charter schools the opportunity to take corrective action, and determining whether a chartering entity should exercise its authority to revoke the charter.

- Oakland is misrepresenting the content of our report. We did not define specific procedural expectations, but rather identified where chartering entities did not provide adequate oversight using any one of a number of methods that we would have considered satisfactory. As we state on page 18, we expected that, to facilitate their oversight, chartering entities would have established policies and procedures guiding these activities. Typically, sound systems define types and frequency of data to be submitted, the manner in which the entity will review the data to be submitted, the manner in which the entity will review the data, and the steps it will take to resolve any concerns resulting from its oversight activities. Therefore, we assessed the charter oversight activities of the selected chartering entities against what a sound oversight system would include.

- Although Oakland states that we made factual errors or misleading statements, the following point-by-point analysis of its response disproves this assertion.

- Although Oakland disagrees with the underlying facts, Oakland agrees that it would benefit from clearer, written policies and practices that could be implemented more consistently, and states that staff has many of these improvements underway.

- Oakland apparently believes that our expectations that its oversight system should ensure that charter schools are meeting the terms of their charter, such as measuring student progress in achieving stated outcomes and ensuring qualifications of staff, are unreasonable expectations. As fully described in note 1 on page 157, we recognize the lack of specificity in state law regarding monitoring charter schools. In addition, in our report we recommend to the Legislature that it might make the oversight role and responsibilities of chartering entities more explicit.

- Although the term "sponsoring agency" is in statute, we have changed the term "sponsoring agency" to "chartering entity" to more closely conform to the language of the Act. The change in term does not affect any of our findings or conclusions in the report.

- We have modified the text on page 22 to incorporate Oakland's assertion that it made school visits to establish relationships. However, the point remains that Oakland did not visit its charter schools to monitor their performance in accordance with the schools' charter agreements.

- Oakland is understating its responsibility. Although the California Constitution gives the State the ultimate responsibility to maintain the public school system and to ensure that students are provided equal educational opportunities, Oakland presumably has some responsibility. However, we have clarified the text on page 22 to state that Oakland did not assess whether its charter schools were achieving the measurable outcomes agreed to in their charters. Presumably these agreed-upon measurable outcomes were designed as alternative methods to provide equal educational opportunities to students. Oakland could have denied a charter petition if it believed the educational program was not sound. Also, Oakland is understating its responsibility to ensure that taxpayer funds are being spent soundly. It has a responsibility to ensure charter schools' compliance with various legal requirements that are conditions of apportionment, a responsibility to ensure that federal funds are spent in accordance with federal rules, and can revoke a charter for fiscal mismanagement.

- We are pleased Oakland is improving in this area after our audit. However, the fact remains that for fiscal year 2001–02 Oakland did not have any type of effective policies and procedures to ensure that charter schools were assessing the academic achievement of students in its charter schools in accordance with the measurable student outcomes required in each charter.

- Oakland is asserting that the evaluation that occurs relating to a charter renewal process, which occurs every five years, is an adequate substitute for the periodic monitoring that a chartering entity is supposed to be performing in order to justify the fee of "up to" 1 percent or 3 percent of a charter school's revenue. This interpretation ignores the chartering entity's authority to not only renew a charter but to also revoke a charter due to the material violation of any charter condition. In addition, as described in note 1 on page 157, chartering entities have the ability to demand response to inquiries and unlimited access to inspect or observe any part of the charter school at any time. Without periodic monitoring of their schools for compliance with the charter terms, the chartering entities cannot ensure that their charter schools are making progress in improving student learning, nor are the chartering entities in a position to identify necessary corrective action or the need for revocation.

- The fact remains that Oakland provided us no evidence that it had either written procedures or any consistently applied monitoring effort in place for the period we reviewed during fiscal year 2001–02.

Oakland's response recognizes that in fiscal year 2001–02 the resources it provided "proved sufficient for processing the many new applicants for charters but did not provide time for monitoring at the level our district believes is important."

- As discussed in detail in note 1 on page 157, Oakland is understating its statutory authority to ensure that charter school students demonstrate academic performance in accordance with its charter. It has the authority to revoke a charter due to failing to achieve or pursue any of its student outcomes if the charter school does not correct the problem.

- Oakland is mischaracterizing our report. We expressed no displeasure that one-third of charter schools' outcomes were not related to academic performance. For example, on page 24, we call some of these goals laudable. However, we also correctly discuss that these goals by their nature are difficult, if not impossible to measure by any objective standard. Without objective standards defined in their charters that are relevant to academic performance, the charter schools will not be able to demonstrate to their chartering entities the success of their academic programs.

- Although Oakland may state teacher qualifications in its charters, Oakland had no process in place at the time of our review where it verified the credentials of teachers in charter schools. Oakland did not perform the verification on an annual or any other periodic basis.

- Oakland is either missing or evading our point related to verifying that testing at charter schools has occurred prior to its certifying the last apportionment. Even though Oakland states that it does numerous things to ensure that testing will occur, it does nothing to ensure that testing did occur prior to its certifying the last apportionment for the year. Oakland's statement about "receiving their (charter schools) testing results" is disingenuous because, as far as we are aware, they are referring to the fact that they have access to the Department of Education's Web site that posts the results after Oakland has certified the last apportionment for the year. Thus, this late receipt of test results is irrelevant to the point that we raised.

- Oakland is understating its statutory authority related to charter school fiscal affairs. It has authority to revoke a charter due to fiscal mismanagement. Although expenses greater than revenues is not in isolation a problem, it is sufficient for Oakland to use its statutory authority to make reasonable inquiries, including inquiries for financial data.

- Oakland is mischaracterizing our report. We do not state that it could not support the expenses reported on its mandated-costs claim. Rather we state that it did not provide us with any support for the expenses that it asserted it incurred providing oversight over the charter schools. The statute allows Oakland to charge a district "up to" 1 percent or 3 percent of a charter school's revenue as a fee for oversight. Without any supporting detail for these expenses, Oakland cannot support that it has expenses other than the expenses related to charter schools for which it sought reimbursement on its mandated-costs claim. We have modified the report text to state there "is a risk of double-charging" rather than "may be double-charging."

- The Legislature has already provided a funding mechanism for the oversight of charter schools—the 1 percent or 3 percent. Also, if Oakland already had in place the procedures it is asserting it is now developing or implementing, the results of our audit would have been substantially different. In addition, as discussed in note 2 on page 159, we are not suggesting that the Legislature define specific procedural expectations, but rather that Oakland accomplish sound oversight systems for the "up to" 1 percent or 3 percent of charter school revenue fee that they can charge charter schools.

Agency's comments provided as text only.

San Diego City Schools
Eugene Brucker Education Center
4100 Normal Street
San Diego, CA 92103-2682

October 24, 2002

Elaine Howle*
State Auditor
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle,

Enclosed you will find San Diego Unified School District's written response to the report titled "California's Charter Schools: Monitoring and Oversight at All Levels Could Be Stronger to Ensure Charter Schools Accountability." A diskette with files for the response and this cover letter is also enclosed.

We request that you inform the San Diego Unified School District of the details for releasing this audit including the date, time, method(s) of release and intended audiences. We also request that notification be given at least two weeks in advance of to allow us the opportunity to make travel arrangements, should they be necessary, to participate and/or observe the release.

Respectfully,

(Signed by: Terrance L. Smith)

Terrance L. Smith
Chief of Staff

* California State Auditor's comments begin on page 185.

SAN DIEGO UNIFIED SCHOOL DISTRICT'S RESPONSE TO CALIFORNIA STATE AUDITOR'S OCTOBER 15, 2002 DRAFT AUDIT ENTITLED "CALIFORNIA'S CHARTER SCHOOLS: MONITORING AND OVERSIGHT AS ALL LEVELS COULD BE STRONGER TO ENSURE CHARTER SCHOOLS ACCOUNTABILITY"

A. INTRODUCTION

San Diego Unified School District welcomed the opportunity to participate in the California State Auditor's evaluation of how effectively the oversight of charter schools was conducted within the State of California during 2000/2001. The audit team members explained that they were working with various departments of the State of California, four school districts, and a selected number of charter schools within those districts to complete an audit report with respect to the accountability of public charter schools in the 2000/2001 school year. It was our understanding that the audit report would confirm practices as they existed in 2000/2001 at the state, district and charter school levels; identify actions, policies or procedures enacted by the State Board of Education, California Department of Education, districts or charter schools since that time to improve the accountability of charter schools; and newly enacted legislation with the end result of the audit being a number of recommendations for improving the accountability of charter schools at all levels. We looked forward to participating in a process that was designed to result in a better understanding of how the current charter laws and regulations were being implemented, their effectiveness, and how they might be improved.

The San Diego Unified School District believes there are fundamental flaws in the draft audit and the process that was utilized to create the draft. It was our belief at the outset of the audit that the auditors had already obtained a thorough "understanding of the program to be audited to help assess, among other matters, the significance of possible audit objectives and the feasibility of achieving them. The auditors' understanding could have come from knowledge they already had about the program and knowledge they would have gained from inquiries and observations they made in planning the audit" (GAO Yellow Book Section 6.9). The extent and breadth of these inquiries and observations would certainly have varied given the change in identity of members of the audit team, as would the need to understand individual aspects of public charter schools, such as the following:

1. Laws and Regulations
2. Purpose and Goals
3. Efforts
4. Program Operations
5. Outcomes

During the last four months of interaction with the audit team, it has become clear to us that this was not the case. In addition the four-person audit team has consisted of at least six different people of which we are aware. It is appears that there has been a lack of consistent communication among the six audit team members, with respect to information that was already provided by and discussed with district staff, during the transition that has occurred. This lack of clear communication among the audit team members has not been resolved and has resulted in incorrect information being contained within the draft report.

The San Diego Unified School District expected that the audit would evaluate how the charter law and regulations were being implemented at the state, district and charter level. We anticipated that findings would highlight areas of effective implementation, identify areas for improvement, and make recommendations for clarifying and improving the existing law and regulations. However, the audit seems to be based upon an initial misunderstanding of charter school law which resulted in the creation of non-existent performance expectations based upon how the auditors interpreted the law, rather than the reality of existing charter law. Those unsupported standards were then used as if they were the established legal standards to evaluate the effectiveness of authorizing agencies. Interestingly enough, the standards created by the audit could be excellent recommendations for improving the oversight of charter schools if they were presented as recommendations for the Legislature to enact into law or the State Board of Education and/or California Department of Education to include in regulations.

In the interest of creating an audit that would be very useful for charter school policy makers and practitioners within the State of California, we recommend that the audit team enlist the assistance of charter school law experts from advocacy groups and school districts. Such experts would be able to assist in the creation of a balanced legal analysis of the existing charter school law, and where the law is ambiguous not fault districts for having different interpretations.

B. Specific Audit Inaccuracies in Reference to San Diego Unified School District that are Contained in Chapter 1: "Sponsoring Agencies do not Adequately Monitor the Academic Health of their Charter Schools"

1. As stated at page 19, "… our review of California's charter schools revealed that sponsoring agencies do not adequately oversee their schools to ensure that the program described in the charter agreement is implemented successfully".

   - A review of Education Code 47600 et seq. indicates multiple references to "the authority that granted the charter" and not to "sponsoring agencies" – the District observes that the use of the word "authority" conveys a vastly different legal reality than that of "sponsor". This is consistent with the legislative intent language of EC 47601: "… to establish and maintain schools that **operate independently** from the existing school district structure…"

- In the context of "*their* charter schools", public charter schools are not the *property* (as "their" is commonly defined) of their authorizing districts. They are intended to be operationally independent from districts and other authorizers, and independently subject to legal and other compliance to the State Board of Education who acts as the ultimate authority for a charter's permission to open.
- The audit year selected was the first full year of implementation of (then) recently passed AB 544. The legislation itself never defined the term "oversight." Earlier charter laws used the term "monitoring," which also lacked any definition in the statue or in regulations.
- The definition of "adequate oversight" as employed by the audit team has no clear statutory basis in legislation or litigation – rather, it was defined solely by the audit team and applied as they saw fit to the District and local school sites.
- In the absence of written procedural definition to the contrary (from the Legislature, the California Department of Education, the State Board of Education, or the GAO Yellow Book), the District was free to set its own standards for reasonable monitoring of individual school performance.
- The appropriate standard for review, absent definitional clarity in the law, would have been to compare the District's activities against its usual and customary practice of monitoring schools' academic performance in the audit year selected.
- The audit year selected included an obligation on the part of the charter school to execute an annual audit – yet the legislation was silent as to the scope and authority of the audit. There were no implementing or definitional regulations passed in that year by CDE or SBE to clarify this issue, and no direction to charter schools NOT to rely on existing District audit practice (i.e., inclusion within the annual district audit and related audit practices for academic review).
- In the SDUSD, only three schools were visited – and they were visited with little notice, after the conclusion of the school year, and with little or no explanation of the audit scope and rights of response.
- The audit team at no time identified the criteria for selecting these three schools as compared to others within the District. They further failed to identify the written rubrics for selection of these sites - a silent selection process made all the more suspect by the team's admission that THEY, not statute or regulation, were defining "adequate oversight".

2. As stated at page 20, and as a justification for the audit team's self-generated definition of "adequate oversight", the ability to "withhold fees from the charter schools for oversight" is referenced. As used here and frequently through the report, the verb "withhold" is incorrectly applied to District practice – all District charter schools were "billed" for the fee and the fee was "paid" by the schools to the District.

3. As stated at page 22, "We found that they were not always assessing their academic programs against the terms of the charter".

   - "Not always" is a term of linguistic art and has no statistical basis for audit review. Further, as frequently seen in the report, there is no definitional basis for the following terms: "most", "some", "adequately", "academic health", etc.
   - There is no definition of these terms in the GAO Yellow Book, the late-announced audit protocol, nor in statute or regulation as it applies to charter schools.
   - Absent such standards, how can an audit conclusion be reached that "Sponsoring agencies do not adequately monitor the academic health of their charter schools"?

4. While the audit report leaves the reader with the impression that the District did not specify the responsibilities of the charter schools, District charter schools were, in fact, the subject of written expectations - as stated at page 23, "… in its fiscal year 2000-01 **memorandum of understanding (MOU)** with Explorer Elementary School …"

5. As stated at page 23, "… sponsoring agencies … have typically not established monitoring guidelines or engaged in these activities".

   - For the audit year selected, there was no statutory or regulatory obligation on the part of the District to establish such guidelines – the audit team thus contradicts itself by acknowledging the presence of MOU's as stated above while concluding that no written expectations were present.
   - What is the statistical definition of "typically not established" as used here?

6. It is agreed to by the audit team that the District has the right to revoke a charter – what the team clearly does not understand is the PERMISSIVE language in the charter law that indicates that a District **"may"** revoke a charter for the five reasons listed in the law – it is not mandatory that they **"shall"** do so (EC 47607 (b)).

   - This District has in fact revoked two charters since the first law was enacted, but does so only as a last resort. There is no hesitancy to act when the health, safety, and welfare of students is at stake, or the practices in place prevent the charter from reaching its stated goals. There is no evidence in the audit team's report that these more serious issues were present at any District school and ignored by District staff and Board.
   - Revocation was the only tool in place in 2000-01 to remedy even the most trivial issues involving charter school practice within the District. Given the legislative intent to have charters be operationally independent from districts as stated in the law, the audit team failed to justify that any of the issues of concern that they cited would in fact have been legally defensible to justify charter revocation.

- The audit team further ignores the fact that the reasons for revocation identified in EC 47607 were never defined in the law. CDE, SBE, or any court has never subsequently defined them. The team substitutes its own personal definition when one cannot be found in the law, and fails to mention that such definitions are nowhere defined in their own audit protocol.

7. As noted at page 24, the District is faulted for "having no written guidelines".

- In fact, each school had a MOU as the team admitted earlier in the chapter.
- The audit team sites no statutory obligation on the part of the District in the audit year selected to have had such written guidelines across the District.

8. As noted at page 24, the District receives a "NO" in answer to the claim of "Engaged in Periodic Monitoring".

- "Periodic monitoring" is a term of art that was never defined in the law or regulations.
- The audit team never defines "periodic" and cites no definition from the audit protocol for this term.
- The District was thus free to define the term for itself as it best fit the needs of the District – especially in the first full year of the new law (2000-01) that the audit team selected for its review, and in the absence of statutory or regulatory direction to the contrary.
- As further proof that our conclusion is correct, we note that the audit team at no time cites the District for abusing its definitional discretion.

9. As concluded on page 24, "… none of the sponsoring agencies has adequately ensured that their charter schools are achieving the measurable student outcomes set forth in their charter agreements."

- As the audit team only reviewed three schools in the district, they would have had no way of knowing if this was universally correct – even if we assume that this was not done at the three schools selected – a position that we do not admit.
- The team cites no definitional basis, statute, regulation, or portion of the audit protocol that defines "adequately ensured", "achieving", or "measurable student outcomes".

10. At page 24, the team concludes that "San Diego lacked monitoring guidelines for student performance and did not periodically review its charter schools at the time of our review."

- There was no statutory or regulatory standard against which "monitoring guidelines" could have been measured or defined in the audit year selected.
- There is no definition at law or in the audit scope for "periodic".
- The Public Schools Accountability Act (PSAA) represents the standard against which student performance is based. It specifically includes charter schools. As the team itself seems to recognize (in that Appendix C includes STAR data), the accountability system in place was regulated by the PSAA. As this was the most important standard for academic accountability (recognizing that the PSAA includes identified sanctions for nonperformance), the District adhered to state law in this instance.
- There is no statutory obligation on the part of the District to exceed adherence to state law – by definition; the PSAA was "usual and customary practice" in the state. As such, the yearly release and review of STAR data constitutes annual review of charter academic performance. We note that "periodic" certainly encompasses "annual". We further observe that the sequence of release of the data (API raw scores followed by API growth targets followed by API rankings) represent at least three different benchmarks of "periodic" review.
- Charter school independence, as identified in the so-called "mega waiver" provisions of charter law exempting charter schools from compliance with all but specifically identified Education Codes and clearly intended by the legislature (EC 47601), would likely have prevented additional District regulations – a point clearly echoed in the 2002 court decision preventing CDE from imposing further fiscal regulations on charter schools.
- We observe as well that the first and most specific intent of the charter law was to "improve pupil learning" (EC 47601 (a)). The District submits that the state legislature, in passing both the charter law and the PSAA, clearly intended for the PSAA to be the procedural implementation and regulatory check on the charter school's first and most important priority – student achievement. The audit team cites no evidence to indicate that the District did not follow the requirements of PSAA in its use of that legislation to ensure "the academic health" of charter schools **authorized** (as opposed to "sponsored") by the District.

11. It is precisely for these historical reasons that the District convened a two-day meeting in June 2001 with the District's charter school community and the senior District staff. The intent was to formalize a policy based on the District's self-initiated and funded review of charter schools in the District by McKenna and Cuneo (external legal counsel to the District). The focus for the intense discussions was the historical growth of practice during the preceding twelve months under STAR, the PSAA, and (at that time) proposed legislation regarding charter practice that would eventually lead to the passage of SB 740 and AB 1994. Copies of this report were made available to the audit team but never mentioned in their report. The District proactively sought to clarify local practice in the face of statewide inconsistency with respect to the laws affecting charter

schools. The audit team initially dismisses the significance of this two-day meeting, the subsequent meetings and negotiations that lasted over one hundred hours, and the unanimous approval of the District's new charter oversight policy on November 2001 with the following single sentence:

"However, San Diego has developed a new charter schools policy that it plans to implement in fiscal year 2002-03."

An attempt at further acknowledgement appears at page 27. Unfortunately characteristic of the entire tone of the report, even this language is unnecessarily cautionary and dismissive: "Finally, although San Diego has not in the past adequately assessed its charter schools for compliance with agreed upon measurable student outcomes, it has developed guidelines that, if implemented, may constitute an adequate process to monitor its charter schools."

- The District objects to and disagrees with the conclusionary language suggesting that we have not adequately assessed charter school compliance.
- The District Board approved the guidelines in November 2001, and the Charter Office positions were funded (even in the face of statewide budget delay and the prospect of District deficits) in September 2002. We believe that "if implemented" does not reflect this District's commitment to be a leader in developing a charter oversight model that is prudent, flexible, and consistent.
- We do agree that "these guidelines will help San Diego ensure that its charter schools are providing the agreed upon student educational opportunities and will help give it the information it needs to take necessary corrective action when schools are not following their charters." It would have been most appropriate for the audit team to have concluded its review at this point.

12. At page 28, the report notes that "we expected to find charter schools assessing student performance against the measurable outcomes defined in their charter."

- As the overwhelming majority of charters in 2000-01 came in to existence under the old charter law, one would expect to find such a mandate for the schools (as opposed to the District) under the language in the old law. We find no such language.
- Further, there was and is no language in the law that prohibits charter schools from adding other than "objective indicators" in their assessment statements. In fact, it would have been extremely helpful for the audit team to define, from statutory authority or their own protocol, "objective indicators" to begin with.
- The time for review of charter indicators would be during the renewal or revision process. The report is silent as to the obligation of the audit team to have reviewed such documentation in the case of renewals or revisions that the District has dealt with. Had they done so, they would have discovered that such reviews of charter indicators did take place and are a part of the District and Board records.

- Most recently, charter revisions were granted to the Sojourner Truth Learning Academy and the Holly Drive Leadership Academy, and a five-year charter renewal was granted to the Nubia Leadership Academy. In each instance, a full review, accompanied by clear and challenging conditions relating to academic performance (attached to the Board approval action) were present. It is unfortunate that the audit team ignored these facts as well in their written report.
- In the absence of statutory or regulatory definitions for "objective indicators", the audit team at Table 4 attempts to summarize their review of three charter schools in the District. Their review indicates that "some" assessment measures were included in the charters. While again not defining for statistical accuracy what "some" means, the Table leads one to conclude that the absence of "all" is a problem. Since there was not statutory prohibition in either the old or new charter law with respect to using some "objective "indicators' and **some** "non-objective" indicators, what precisely is the problem that the Table purports to represent?
- The report's conclusion at page 31 that "… 34 percent of the outcomes listed in the school's charters were not related to academic performance" is due to the reasons **other than pupil achievement** that are reflected in EC 47601 (b) through (g) as justification by the legislature to approve public charter schools. They include a special emphasis on students who are academically low-achieving, encouraging the use of different and innovative teaching methods, creating new professional growth opportunities for teachers, providing parents and students with expanded school choices, holding schools accountable, and providing vigorous competition within the public school system to stimulate continual improvements in all public schools. Rather than criticize these other objectives, the audit team should have applauded them as being consistent with legislative intent.
- The ultimate indicator with respect to achievement accountability, as stated previously, would be the PSAA – and the report is silent as to this reality and is equally silent on the District's use of PSAA to determine charter progress.
- The audit team's apparent confusion on this issue is demonstrated at page 31 when they note (for an unnamed school) that one school that did not assess its outcomes according to the new rules imposed by the audit team nevertheless showed increased student achievement. We conclude that such a statement in fact supports the current practice of mixing both "objective" and "non-objective" measures in the charter document.
- As stated at page 32, the audit team questions the use of student attendance data as a measurable outcome of charter success. They state "the effects of improved attendance rates on academic performance are of a longer-term nature and cannot be measured objectively". The audit team, especially as relates to racial and economic subgroup performance on standardized and content-based testing, has apparently ignored consistent academic research. It is fair to conclude that if a student is consistently absent from school, his/her test score performance and academic achievement will decline. If not, what would be the reason for mandatory attendance in the State of California?

13. At page 32, the report states that "San Diego does not ensure that all of its charter schools offer the requisite number of instructional minutes". This sweeping condemnation is "proven" (according to the audit team) at page 34: "In at least one instance, the district did not confirm the number of minutes offered by collecting a signature from the school". The report further states that "for another school San Diego did not complete the instructional minutes verification" until 22 days after the May 2002 certification was due. While we could be pleased that this represents (by default), an 88% success rate, we offer the following with respect to the two unnamed schools cited:

    - The signature from High Tech High School, whom we believe to be the first school cited, was secured after the District provided to the school site an opportunity to validate their change in schedule and secured the requested signature after the review process was completed.
    - With respect to the second school, we note for the record that all public schools may adjust their May reports in June after P-2 with a Final Report. The verification noted above was permitted under state law.
    - We therefore conclude that **the District had a 100% verification rate**, not (as concluded in the report) that "the district only verifies some of its charter schools' instructional minutes…"

14. **Although absolutely no data or explanation is presented** at Table 5 on page 33, the District's ability to verify teacher qualifications is stated as "unclear". In addition to the specific explanations to the team in the conference call and their last visit, we offer again the following:

    - In accord with EC 44258.9 (b) and (e), it is the obligation of each county superintendent to submit a report of credential verification to the state in the format requested. This county has done so, and this District has provided the required (and verified) data for submission. The report is silent as to this legal obligation and as to this District's compliance with that requirement.
    - **In addition to regularly satisfying that requirement,** the District conducts an **annual** review for **all charter schools**. Using the "Administrator's Assignment Manual", the District identifies the process to place personnel and monitor assignments.
    - Within four months for **all** charter schools in the district, credential verification occurs.
    - The master schedules for **all** charter schools are used as a **second verification.**
    - For 'arm of the district" schools using District payroll services, a third review occurs **monthly**.

- For arm of the district" schools using District payroll services, the Unit reviews all credentials set to expire and does so three months before their expiration date as a **fourth verification**.
- Although not required under the law, the District established a "Credential Unit" with three auditors within the Human Resource Services Division. The Director of the Credential Unit is responsible for credential verification for **all** charter schools.
- We note for the record, again, that the audit team makes no reference to specific statutory violations.

15. We are pleased that the audit team agreed with the District that standardized testing compliance was not an issue in this District, since no examples of purported noncompliance are noted at pages 34-35 and all charter schools are listed in the appendix. We are therefore puzzled as to why the team would have stated at page 34 that "… the sponsoring agencies do not always verify that each charter school participates in standardized testing." Given that the district provided the audit team with certification of testing for every charter school, we do not understand why the notation in Table 5 on page 33, under Verify Standardized Testing? Indicates "Most" versus "All."

16. With respect to the recommendations at page 35-36, we cite the audit team's statement at page 28 that the San Diego Unified School District's oversight policy will resolve any outstanding issues: "The programmatic audit will document the school's progress in student achievement, as well as whether the school has implemented the instructional program called for in the charter … These guidelines will help San Diego ensure that its charter schools are providing the agreed upon student educational opportunities and will help give it the information it needs to take necessary corrective action when schools are not following their charters."

C. Specific Audit Inaccuracies in Reference to San Diego Unified School District that are Contained in Chapter 2: "Sponsoring Agencies do not Exercise Sufficient Oversight of Charter Schools' Fiscal Health"

1. As stated at page 37, "When sponsoring agencies (sponsors) authorize the creation of a charter school, they accept the responsibility for monitoring its fiscal health …"

- As stated before, the appropriate terminology would include "authorizing agencies" and not "sponsoring agencies". In fact, the clear intent of the legislation almost compels a "yes" vote for charters from a local district board: "The governing board of the school district **shall not deny** a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings…" (EC 47605 (b)). In this context, and as opposed to the previous charter law, a district is compelled to grant a charter absent a very narrow permission to deny. This is clearly not "sponsorship"

– it reflects an objective predisposition to grant charters designed to "operate independently from the existing school district structure" (EC 47601).

- Absent the audit team's inability to define by statute or regulation what is meant by "monitoring" the "fiscal health" of a charter school, a review of the written historical record reveals the following:

  a. California Department of Education – Policy Letter – June 12, 1997 Joseph Symkowick – General Counsel

     "In our view, the Charter School Act balances flexibility in the relationship between a charter school and the chartering entity under the terms of the charter with the basic duty of the chartering entity **to revoke** the charter if public funds are not responsibly used for purposes of public education. While this duty to revoke exists, school districts and county offices of education **are not the financial guarantors** of any charter school transaction or liable for claims that arise against the charter school except in limited circumstances … The overall intent of the Charter School Act was to encourage experimentation and innovation in providing choices to public school students. Exposing chartering school districts to liability for charter school obligations would have a chilling effect on the ability of local groups to obtain or maintain charters that the legislature, in our view, did not intend." (page 2)

     In finding no more recent reference to the historical intent of charter school legislation in California since that time, the District identifies that its appropriate role is to grant charters (absent listed and narrow reasons for denial) and further identifies what it believes to be a clear "arm's length distance" from charter school operations.

  b. Mr. Symkowick observes later (page 3) in that same policy paper that the authorizing district's obligations are to "… **at a minimum** review the annual audit report on the charter school's financial operations to determine whether the charter school has acted in accordance with reasonable and prudent business standards. If the chartering entity decides that a charter school has failed to act in a fiscally responsible manner, the charter may be revoked."

     We conclude from the above reference that the power to revoke is permissive in that "may", not "shall" is used and that revocation is the **single remedy** that a district may employ. We note further that it is the "chartering entity", and not any other part of the educational system, that has the exclusive right to revoke. We observe that the criterion for revocation is clear – failing to "act in accordance with reasonable and prudent business standards".

c. When the new charter law took effect in January 1999, no substantive language was added to alter these conclusions. The San Diego Unified School District should then have been judged in the audit report against the standards and limitations described above – upon a finding that a specific charter had failed to "act in accordance with reasonable and prudent business standards". The District had the exclusive power to revoke a charter – but could decide not to revoke based on the use of the word "may" in **both the old and new law**. Mr. Symkowick states at page 3 of his report that "The duty to revoke … appears to require an exercise of discretion, which may not be compelled under (Code of Civil Procedure) Section 1085 unless the failure to act rises to the level of an abuse of discretion." The audit team made no such finding in its report.

d. The audit report is equally silent on whether the issues alleged (for the few charter schools cited in the report) in fact rose to the level of insufficient business practices that would have prompted a revocation hearing. Mr. Symkowick observes at page 5 of his report that "It is our view that a chartering entity should become liable, if at all, only after it has notice of a **pattern of fiscally irresponsible actions**, and fails to prevent further injuries by expeditious revocation of the charter". The audit report cites no such "pattern of fiscally irresponsible actions" on behalf of any charter school authorized by the San Diego Unified School District and thus errs it its conclusions.

e. The audit report is not clear as to the significance of the problem identified in the District. Of the thirteen charter schools in existence in the year cited, ten were "arm of the district" charter schools utilizing District fiscal services that automatically gave the District review authority of the monthly fiscal realities. None of these schools is cited as a problem. For the remaining three schools, they were operating as non-profit public benefit corporations – independent legal and fiscal entities. Each of these schools, in addition to the ten noted above, were treated as public schools within the District for audit review purposes under the District's audit as verified in the District's annual reporting using the J-200 form. We note for the record that the three independent entity charter schools had additional audit obligations under California law with respect to non-profit public benefit corporations.

f. The audit report correctly concludes that at the time of their visit not all of the schools had submitted their audits to the District. We note for the record that parallel information was already available to the District for the "arm of the district" schools, that **all** charter schools were a part of the District audit, and that the **single concern** expressed in the report focused on the June 30th ending balance for High Tech High, (HTH) a separate legal entity (page 48). HTH maintains a private bank

account to which they regularly transfer all funds received from the County Treasury. In order to reflect that this cash is no longer available for expenditure from the County Treasury, the District "expenses" the total of the wire transfer amount. Therefore, the charter school's fund balance may indicate that there are expenses in excess of revenues, when in fact there were cash balances in the commercial bank account that the charter school maintained. As reported in the June 30th **audited financial report**, Qualcomm Corporation (a regular sponsor and partner to HTH since it opened) had pledged $500,000 to HTH. If the audit team's review would have indicated that HTH had **no financial reserves** on the date cited (which they never did), then the District should have been promptly notified of the **alleged actual deficit** so that appropriate action could have been take. In fact, HTH was solvent at the time and remains so today.

g. The District has responded in a timely fashion in its review of the fiscal status of charter schools that it authorizes. We cite as evidence the fact that three of the District's charter schools (Nubia Leadership Academy, Sojourner Truth Learning Academy, and the Holly Drive Leadership Academy) were notified that they would be **audited by the District** in February 2002 in preparation for the renewal of Nubia's charter and material revisions to the charters of Sojourner Truth and Holly Drive. The decision to audit was made before the District was aware that the Legislative Committee audit was in existence. The audit report is silent as to this activity.

2. Absent any statutory or regulatory definition of "sufficient oversight", the audit team consistently impugns criminal activity to the District and never defends its conclusions by proof through an audit finding. We note a few of these generalized allegations:

- page 38: "may be withholding"
- page 38: "may be double-charging"
- page 57: "may be double-charging"
- page 58: "may have charged"
- page 58: "potential oversight double-charges"

Nowhere in the report is there an audit finding that specifically proves the truth of these insinuations – in the absence of such findings, this language should never (under any accepted audit protocol) have been used.

3. As used at page 39, the District does not "withhold fees" from charter schools – the charter schools are "charged" a fee and they authorize its payment.

4. At page 45, the conclusion is erroneously made that the District does not include in its Board-approved charter oversight policy (November 2001) any procedures for fiscal review. In fact, the new policy includes the following:

   Page 12:

   "The manner in which annual, independent financial audits shall be conducted:

   These audits shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the Board."

   A 'reasonably comprehensive description' would:
   1. Assure annual, independent financial audits employing generally accepted account ing principals will be conducted.
   2. Describe the manner in which audit exceptions and deficiencies will be resolved.
   3. Describe the plans and systems to be used to provide information for an independent audit.
   4. State the school will adhere to financial reporting requirements described in Guideline
   5, Additional Requirement 4 of this policy."

   Page 16:

   "The petitioners shall provide assurance that "the charter school will promptly respond to all reasonable inquiries, including inquiries regarding its financial records."

   <u>Additional Requirement 4, Reporting Requirements</u>

   The petitioners shall assure the charter school will adhere to the district's reporting requirements. Note: Petitioners may reference the written assurance previously provided in Element 9.

The applicants shall:

Provide the following reports as required by law:
   a. CBEDS (California Basic Educational Data System).
   b. ADA (Average Daily Attendance) reports J18/19.
   c. Budget J210 (preliminaries and final).
   d. SARC (School Accountability Report Card – charter schools may use their own formats).
   e. Copies of annual, independent financial audits employing generally accepted accounting principles.

Provide the following reports as required by the district:

a. Monthly statements of accounts (for arm-of-the-district charter schools only).
b. Annual reconciliations of the J210 with financial audits (SDUSD will provide a template).
c. Copies of test results reports for all state mandated assessments, which are:
   i. STAR (Standardized Testing and Reporting).
   ii. CELDT (California English Language Development Test).
   iii. SABE/2 (Spanish Assessment of Basic Education).
   iv. California High School Exit Examination.

Changes in reporting requirements may be incorporated by reference into the school's charter when the school and district update their MOU."

The audit team did not reference this language in their report although much time was spent with the team and staff discussing the new procedures.

District notes that CDE has been prevented in a recent court case from requiring charter schools to report their finances. While AB 1994 (effective January 1, 2003) may resolve this issue (if the as yet not written and approved regulations do come into existence at the state level), there is a statewide lack of guidance, in either regulation or statute for "sufficient data", "other financial information", "oversight", "monitoring", or "periodic".

5. As noted at page 45, the audit team must accept the legitimacy of fiscal review for the 10 charter schools receiving District payroll in the audit year reviewed, since their single focus is on the non-profit public benefit corporation schools (three). Please see introductory statements above regarding District review of fiscal issues for the non-profits.

6. At page 46, the audit team erroneously and harmfully misquotes the "senior financial accountant" as she is alleged to have stated that "San Diego lacks the authority to require regular financial reporting from schools that do not purchase the district's financial services". In fact, the senior financial accountant's statement was absolutely taken out of context. At page 3 of the senior financial accountant's memo (9/6/02) to the audit team, she states: "A charter school shall promptly respond to all reasonable financial inquiries, including, but not limited to, inquiries relating to its financial records…" She goes on to observe in that same response that "In a memo dated June 24, 2002, issued by Janet Sterling, CDE School Fiscal Services Division, regarding financial reporting for charter schools, it states that as a result of a lawsuit (*referred to previously in this District response*), since CDE does not have the statutory authority to require charter schools to submit annual financial data, 'charter schools are not required to submit

year-end financial reports to CDE'." San Diego does in fact receive financial data from all of its schools. The only issue is whether the data collected met with the test of sufficiency set up by the audit team. Since the audit team could cite no statutory or regulatory definition as to the extent of data collected, it is erroneous to conclude that the District was incorrect in its procedures. The District recommends **with** the audit team that these definitions be made clear in the regulations to be written to implement AB 1994. We recommend as well that "reasonable inquiries" and "financial records" as used in EC 47604.3 be clearly defined. We finally request that the erroneous statement attributed to the senior financial ccountant included in the report be removed.

7. As stated at Page 50 and Table 7, reference is made to "Number of Charter School Auditors that Performed Various Compliance Testing Procedures". This is the clearest example in the entire report of the audit team's penchant for creating an unsubstantiated test for district performance and then concluding that a district is at fault for not living up to their test. We note that, prior to the Table placement on page 50, the audit team reports that "Effective January 2002 the Legislature has imposed on the charter schools three additional conditions of apportionment: meeting minimum instructional minute requirements, maintaining written contemporaneous pupil attendance records, and using credentialed teachers in certain instances." The District notes that the legislation cited, SB 740, dealt with independent study charter schools, not in-seat learning programs that comprised 12 of the 13 charters in existence in the audit year selected. The one charter school with independent study, the Charter School of San Diego, has complied, through the Charter School Advisory Commission and the SBE with all verification components. We further observe that these requirements **were not in effect in 2000-01 and hence cannot be used a standard against which to judge District practice.**

8. We note as well that the audit team incorrectly identifies the level of educational authority responsible for ADA verification. Reading EC 11966, it is clear that the Superintendent of Public Instruction has the obligation to verify ADA – not the local district. The San Diego Unified School District has historically reviewed the ADA information although not required to do so. As the audit team knew, the Cortez Hill Academy Charter School audit for the year ending June 30, 2001 indicated a discrepancy of 2.04 units in their ADA. The District worked with Cortez Hill to correct this mistake and amend the records to reflect actual ADA at the lower figure. The audit report is silent as to this practice.

9. At page 50, the audit team references the "State Controller's Office standards and procedures for California K-12 local education agency audits." While this is interesting, the audit team knows full well that this specific audit protocol has never been an expectation for charter schools. It was not a part of the new charter law and has never been applied, by regulation or statute, to charter schools and was certainly not a mandatory

reporting form in the audit year selected. We agree with the audit team that future regulations or legislation must specifically identify what audit protocol a charter school is to use – but it was not an obligation in 2000-01.

10. As stated at page 54, the District is faulted for its audit compliance practices. In fact, ten of the thirteen charters were being regularly reviewed through fiscal information received by the District as "arm of the district" schools, and the other three independent legal entities were included in the annual District audit scope. The audit team cites **no data** to indicate that **any** of the schools had uncorrected deficiencies, except for the later reference to High Tech High that was responded to earlier.

11. At page 58-60, the audit team attempts to insinuate that the District "double-charged" for reimbursement under the 1%-3% fee and mandated cost recovery. The Table at page 58 is either incorrect or misleading. In accord with the J-210 Fund Consolidation Report approved by CDE, the total cost to the District under the Indirect Cost Recovery formula was $979,707. The one- percent oversight fee paid by charter schools for 1999-2000 was $249,332. If the state approved methodology for indirect costs calculation is representative of the oversight functions actually provided by districts, then, $730,375 **more** in "oversight" was provided for than billed. For the 2000-01 fiscal year, in accord with the same CDE-approved report for that year, the charter schools paid $384,277 for the one- percent oversight fee, while $1,262,200 in services was provided. For that year, the District services exceeded charter school billing by $877,923. As the audit team knows full well, the District used the Indirect Cost Recovery method and formula to determine its oversight costs. The team presented no evidence that this formula was incorrectly used, or that statute or regulation prohibited its use. Absent such a finding, the District's use of the formula was legal and compliant.

12. The issue rises to one of criminal insinuation with the statement at page 58 and elsewhere that the District engaged in "potential oversight double-charge". This insinuation is correct only if the team makes a finding that the $45,886 and $113,104 claims were filed with the knowledge that they had already been covered by the 1% fee charges for the two respective years. In fact, the audit team was challenged by the Mandated Costs Unit at the District, both in the conference call and at their last meeting at the District, to prove that the claims in question were not a part of the nearly $1.6 million dollars in uncharged oversight provided by the District to the charter schools for the two years in question. If anything, the District is at fault for not filing a mandated costs claim for the full amount owed. The audit team was reminded as well that three years or more are needed to finally approve a mandated costs claim. While this may be 2002, the claims process in question pre-dates the current charter law and calls into question (as mentioned earlier) the change in language from the old law to the new law. While the old law used "monitoring", the new law uses "oversight". In addition to neither term being defined in either law, the lack of statewide consistent practice on this issue is proven in the report when the team surmises that "the sponsors inconsistently apply the withholding fee" at page 60. In fact, the districts apply the same language

differently, not "inconsistently". San Diego has consistently applied its Indirect Cost Formula to the 1% charge. The fact that we use a different formula than other districts is irrelevant unless San Diego was mandated to have used some other formula. The audit team knew, and knows now, that no single formula for computation for mandated cost claims for charter school oversight ever existed in law or regulation.

13. This same analysis applies to the remarks made at page 60 regarding the definition of charter school income used as a basis for charging the fee – there was and is no definition in law or regulation as to what constituted charter income. The audit report is also silent as to the District's solution to the problem found in the new oversight policy adopted by District Board action in November 2001:

    "Oversight Fees

    Consistent with Education Code § 47613, the district will cover the cost of oversight activities by charging charter schools using district facilities 3% of their total revenue and schools not using district facilities 1% of their total revenue. Schools receiving private grant funding or other private sources of revenue may have additional funds excluded from the revenue figure used to calculate oversight charges if the schools can provide proper documentation identifying the source and amount of private revenue. Further, direct funded schools operated as or by a nonprofit public benefit corporation may, with proper documentation, exclude funds from one-time government grants that require no signature of the district to acquire (e.g., federal charter school implementation and dissemination grants)."

14. On page 5 the audit team defines the term fiscally independent as: "Some charter schools rely on their sponsors for operational support. Other schools manage their own operations; these schools we consider to be fiscally independent." Also on page 5, the audit team states that "some charter schools are fiscally unhealthy" and speculates that the "schools may have to close and displace their students."

In Appendix B eight of the San Diego Unified School District charter schools are included in a discussion of financial viability. Of these eight charter schools, only three are non-profit benefit corporations: Cortez Hill, Explorer, and High Tech High and, therefore, comply with the audit team's definition of "fiscally independent" charter schools. The other five charter schools are arm-of-the-district schools and the district provided payroll and accounting services for these schools. Therefore, any reference to these five charter schools should be deleted from Appendix B.

Further, the fund balance reserve requirement that the Department of Education has established for school districts as discussed by the audit team on pages 47 and 65 is, to the District's knowledge, **not** specifically required for charter schools in any statute, regulation or CDE policy. Since the audit team does not cite any legal reference

for this requirement for charter schools, the audit cannot hold charter schools or the authorizing districts accountable to this standard.

In our review of available independent financial audits of the three cited fiscally independent charter schools, we found that they did have in excess of the 5% fund balance reserve as defined by the audit team, i.e. fund balance of between 3% to 5% of annual expenditures. If the audit team can provide any financial data to show otherwise, then the district requests that information.

Cortez Hill:
5% of fiscal year 2000/2001 expenditures of $471,926 = $23, 596
Unrestricted Fund Balance at 6/30/01 = $105,978

Explorer:
5% of fiscal year 2000/2001 (first six months) expenditures of $355,013 = $17,750
Unrestricted Fund Balance at 12/31/00 = $64,888

High Tech High
5% of fiscal year 1999/2000 expenditures of $1,414,102 = $70,705
Unrestricted Fund Balance at 6/30/2000 = $2,686,519

D. Conclusion

As previously stated, the San Diego Unified School District welcomes the opportunity to participate in a fair audit to determine how effectively the oversight of charter schools was conducted within the State of California during 2000/2001. The draft audit that was provided to the District for review and response does not accomplish that goal.

It may be far more appropriate for the audit team to await the conclusion of the legislative review of charter schools mandated in Section 47616.5 of the Education Code and now being conducted by the Rand Corporation. The 1999 legislation mandates that by July 2003 the following fiscal-related recommendation must be made: (j) "The governance, fiscal liability and accountability practices and related issues between charter schools and the governing boards of school districts approving charters". The legislation also calls for their report to include: (d) "The fiscal structures and practices of charter schools as well as the relationship of these structures and practices to school districts, including the amount of revenues received from various public and private sources."

At a minimum, we recommend that the audit team enlist the assistance of charter school law experts from advocacy groups and school districts across the State of California. Such experts assist the audit team in reaching an initial understanding of what the charter school law permits and how to measure performance.

In reviewing the draft audit report and in making preparations for the final audit report, we hope that the final report will "(1) communicate the results of audits to officials at all levels of government, (2) make the results less susceptible to misunderstanding, (3) make the results available for public inspection, and (4) facilitate follow-up to determine whether appropriate corrective actions have been taken" (GAO Yellow Book Section 7.3).

Should the State Auditor publish the audit in its current form or any revised form that does not incorporate the District's revisions nor address its concerns, we request that this response be published with the audit, without any editing and in its entirety.

We also request that the State Auditor inform the San Diego Unified School District of the details for releasing this audit including the date, time, method(s) of release and intended audiences. We request that notification be given at least two weeks in advance to allow us the opportunity to make travel arrangements, should they be necessary, to participate and/or observe the release.

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COMMENTS

California State Auditor's Comments on the Response From the San Diego City Unified School District

To provide clarity and perspective, we are commenting on the San Diego City Unified School District's (San Diego) response to our audit report. The numbers below correspond to the numbers we placed in the margins of San Diego's response.

- The title of the report changed and we made San Diego aware of the change while San Diego was reviewing the draft report.

- During any of the several meetings we had with San Diego to discuss our audit findings, San Diego officials never expressed a concern about "a lack of consistent communication among members of our audit team." And for San Diego to make such complaints now, without even alerting us of their concern, is disingenuous.

- Contrary to San Diego's suggestion, our audit report is not intended to be read as a legal opinion on the application of the Charter Schools Act of 1992 (Act) to chartering entities. Instead, we looked to the law for guiding principles in responding to specific questions from the Joint Legislative Audit Committee (audit committee) regarding policies and practices for monitoring charter schools. Moreover, on pages 18 and 32, we recognize the lack of specificity in state law regarding monitoring charter schools and recommend to the Legislature that it might consider making the oversight role of chartering entities more explicit. Finally, as we state on these same pages, we believe that some monitoring role and responsibilities for chartering entities is implicit in the Act, particularly in a chartering entity's charter revocation authority, the primary vehicle for enforcement of charters.

  Although not rendering a legal opinion on the issue of oversight, our view that the charter schools law places some monitoring responsibilities on chartering entities is informed by our reading of the statutes as well as the constitutional obligations of the State regarding the public school system. In fact, in

Wilson v. State Board of Education, (1999) 75 Cal.App 4th 1125, the First Appellate District Court of Appeal considered the issue of whether the Act permitted funding for schools that fell outside of the public school system, thus violating the California Constitution. In finding that the Act did not run afoul of the constitution, the court pointed to the statutes that we have relied on as evidence that charter schools are operated in a framework that keeps them within the public school system. For example, the court found that:

- Chartering entities have "continuing oversight and monitoring powers" with:
  - The ability to demand response to inquiries.
  - Unlimited access to inspect or observe any part of the charter school at any time.
  - The right to charge for actual costs of supervisorial oversight.
  - The right to revoke a charter for, among other reasons, a material violation of the charter or violation of any law, failure to meet student outcomes, or fiscal mismanagement.
- As part of their revocation authority, chartering entities are required to permit a charter school the opportunity to cure the alleged problem. More specifically, the court stated, "short of revocation, [charter entities] can demand that steps be taken to cure problems as they occur."
- Chartering entities "approve" charters. The chartering entity "controls the application-approval process, with sole power to issue charters"—"[a]pproval is not automatic, but can be denied on several grounds, including presentation of an unsound education program."
- With regard to accountability, charter schools must promptly respond to all reasonable inquiries from a chartering entity.
- The charter schools law does not create a dual system of public schools. Although the law loosens the "apron strings of bureaucracy," the court found that charter schools are within the common system of public schools because, among other reasons, they "are subject to state and local supervision and inspection."

- Even though charter schools have operational independence "the very destiny of charter schools lies solely in the hands of public agencies and offices, from the local to the state level: school districts, county boards of education, the Superintendent [of Public Instruction] and the [State] Board of [Education]."

We believe that the statutes, although not explicit, do envision a monitoring role for chartering entities and that a monitoring process is absolutely essential to identifying key issues, providing charter schools the opportunity to take corrective action, and determining whether a chartering entity should exercise its authority to revoke the charter.

- We stand by the findings and recommendations in our report. The audit committee charged us with the independent review of the chartering entities' policies and procedures for enforcing charters and the policies and practices for monitoring the charter schools' compliance with the conditions, standards, and procedures entered into under the charter. As our work shows, chartering entities are not enforcing the charters and the responses reflect that the chartering entities do not believe it is their responsibility to do so.

- Although the term "sponsoring agency" is in the statutes, we have changed the term to "chartering entity" to more closely conform to the language of the Act. The change in term does not affect any of our findings or recommendations in the report.

- San Diego suggests that it was free to set its own standards for reasonable monitoring of charter school performance. Although San Diego may have that freedom, at the time of our audit San Diego had not adopted policies and procedures for monitoring charter school performance. However, it is important to point out that to be in conformance with the Act, San Diego's oversight policies should ensure that the performance of its charter schools are measured in accordance with the academic outcomes set forth in the schools' charters.

- This is simply untrue. In letters dated July 3 and July 8, 2002, that we sent to San Diego as a courtesy, we notified San Diego as to which charter schools we would be visiting. We arranged our visits with the schools at times convenient for them, at the same time allowing us to progress in our work. At no time did the schools express the concerns San Diego has. Moreover, our school visits were necessitated by the fact that San Diego did not adequately monitor its schools. As San Diego did not

participate in these conferences, it is disingenuous to make such complaints now. Finally, each school was provided with the relevant text and tables in our draft report for their review and comment.

- We have changed the wording of the report to reflect "charge" rather than "withhold" to conform more precisely to the charter schools law. The change in term does not affect any of our findings or conclusions in the report. We would note, however, that the documents we obtained from the chartering entities show that at least three of the four districts *withhold* the oversight fee from amounts they distribute to charter schools.

- We stand by our audit conclusion. At the four chartering entities included in our audit, we found that two of them do not monitor the academic performance of their charter schools. At these two chartering entities the academic programs of the schools are not measured against three conditions set forth in the charter. Based on this observation we concluded that "chartering entities were not always assessing their academic programs against the terms of their charters."

- San Diego suggests that the audit report leaves the reader with the impression that it did not specify the responsibilities of the charter schools. We do not believe this to be true. Rather, the audit report plainly concludes that San Diego has not set forth its own responsibilities for monitoring the academic health of its charter schools.

- In the Memorandum of Understanding between San Diego and its charter schools, San Diego agrees that it is their intent to oversee the activities of the charter schools. However, San Diego has not established a plan or guidelines specifying how it intends to do so, nor has it monitored the charter schools' performance against the outcomes set forth in their charter agreements.

- It is erroneous for San Diego to suggest that we do not understand the revocation provisions of the Act. The audit report accurately reflects the Act, pointing out that the Act provides that the chartering entity "may" revoke a school's charter.

- Again, San Diego is overreacting to terminology we use to describe the focus of the monitoring we believe that chartering entities should perform to fulfill their responsibilities under the charter

schools law. Further, we believe that the law adequately defines grounds for revocation. As we state on page 19 of the report, unless a chartering entity engages in some sort of periodic monitoring, it will not be in a position to identify grounds for charter revocation and the corrective action that a charter school must undertake to avoid revocation. Although we agree with San Diego on the grounds for revocation and that revocation is not to be taken lightly, the chartering entities are required by the Education Code, Section 47607(c), to notify the charter school of any violation of either an academic or fiscal nature and give the school a reasonable opportunity to cure the violation. Thus, the chartering entity has the ability to work with a school to effect corrective action short of revocation. The Act authorizes a chartering entity to revoke a charter upon a finding that a charter school did any of the following: (a) committed a material violation of any of the conditions, standards, or procedures set forth in the charter; (b) failed to meet or pursue any of the pupil outcomes identified in the charter; (c) failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement; or (d) violated any provision of law. For example, if a chartering entity suspected a charter school violated a provision of law, the chartering entity could review the alleged facts and then apply the particular statute that it suspects was violated to determine whether the law was violated. Moreover, our legal counsel advises us that under the rules of statutory construction, statutory terms should be construed in accordance with the usual or ordinary meaning of the words used.

- As we explain in the text following Table 3, San Diego has not developed guidelines for monitoring the academic outcomes of charter schools nor has it engaged in such oversight. Based on these observations, San Diego receives a "No" in answer to the question of "Has the chartering entity engaged in periodic academic monitoring"?

- San Diego suggests that the Public Schools Accountability Act represents the standard against which student performance is based. This is an accurate statement, however, our audit focused on how the performance of charter schools are being measured. Furthermore, the Act requires that charter schools be assessed against the agreed-upon student outcomes contained in their charters.

- We disagree with San Diego's assessment of the Sacramento Superior Court's order granting summary judgment in *CANEC v. State Department of Education*. The order does not state that the Department of Education (department) is prohibited from

imposing further fiscal regulation on charter schools. Instead the court specifically ruled that the department did not have statutory authority to impose financial reporting requirements on charter schools and chartering entities in a format dictated by the department. The court also ruled that charter schools are authorized to prepare their financial reports in a manner of their choosing for transmission to the department. Given the nature and specificity of the *CANEC* order, we do not think it should be relied on when analyzing a chartering entity's authority to oversee its charter schools (see California Rules of Court, Rule 977, which prohibits an opinion of a superior court that is not certified for publication or ordered published from being cited or relied on by a court or a party in any legal proceeding).

- As we state on page 21 of the report, San Diego is in the process of developing a plan, which it has not yet implemented, to monitor the academic performance and fiscal health of charter schools. San Diego intends to implement this plan during the current school year.

- San Diego's comment here misrepresents the discussion of academic outcomes in the report. On page 27 of the report, we indicate that about one-third of the outcomes listed in the charters are not clear indicators of academic performance. We recognize that certain of these outcomes are beneficial, but do not have a clear causal relationship with academic performance. We limited our analysis to determining the extent to which the schools and chartering entities were measuring academic progress against the objective measures in the charters, because we believed that they would be the measures that the schools and chartering entities would find to be the easiest to assess and most likely to be documented.

- San Diego is asserting that the evaluation relating to a charter renewal process, which occurs every five years, is an adequate substitute for the periodic monitoring that a chartering entity could be performing to justify the fee of "up to" 1 percent or 3 percent of a charter school's revenue. This interpretation ignores the chartering entity's authority to not only renew a charter but to also revoke a charter due to material violation of any charter condition. In addition, as described in note 3 on page 185, chartering entities have the ability to demand response to inquiries and unlimited access to inspect or observe any part of the charter school at any time. Without periodically monitoring their schools for compliance with the charter terms, the chartering entities cannot ensure that

their charter schools are making progress in improving student learning, nor are the chartering entities in a position to identify necessary corrective action or the need for revocation.

- San Diego complains that our report makes a "sweeping condemnation" of one of its practices when we state that it does not ensure that all of its charter schools offer the requisite number of instructional minutes. We do not agree that this is a "sweeping condemnation." Furthermore, we reached this conclusion only after discovering that for two of the charter schools we sampled, San Diego had not verified that the requisite number of instructional minutes had been provided. For this reason, we stand by the words contained in the report to convey this audit conclusion.

- In Table 5 of the report, we rated as "Unclear" that San Diego had properly verified teacher qualifications. We reached this conclusion only after requesting documents from San Diego evidencing their review of teacher qualifications. Initially, San Diego was unable to provide us such documents. However, it subsequently collected the sought-after documents from the charter schools and ultimately forwarded the documents to us. In other words, San Diego did not have the documents on hand, making it "Unclear" whether they regularly verified the qualifications of the teachers in their charter schools.

- For one of the charter schools in our sample, San Diego had not certified that the school had participated in standardized testing. For this reason, we gave San Diego the rating of "Most" in the Verify Standardized Testing column of Table 5.

- We disagree with San Diego's characterization of its revocation authority as an "exclusive remedy." The statute granting revocation authority to chartering entities also grants chartering entities authority to "inspect or observe any part of the charter school at any time." Further, charter schools are required to respond to any reasonable inquiries made by its chartering entity. Finally, chartering entities are required to provide charter schools with an opportunity to cure violations prior to revocation. Thus, we believe the statutes provide avenues for chartering entities to work with their charter schools in resolving problems prior to revocation proceedings. We also disagree with San Diego's assertion that chartering entities have the "exclusive right" to revoke charters. The Education Code, Section 47604.5, clearly grants the State Board of Education

revocation authority upon the recommendation of the Superintendent of Public Instruction and upon certain findings. Finally, although San Diego asserted on page 168 that the reasons for revocation are not defined, it appears that San Diego has now read the statute to define one reason for revocation—fiscal mismanagement by charter schools—and has construed that reason to require a finding that a charter school is "failing to act in accordance with reasonable and prudent business standards."

- Our data show that San Diego was the chartering entity for 17 schools in fiscal year 2001–02. San Diego believes that schools utilizing its fiscal services give it "automatic review authority of the fiscal realities." In our report we note that San Diego does not have expenditure data for all of its schools, and thus, does not have a complete financial picture for all of its charter schools. The data we cite in Table 6 accurately reflects the information High Tech High Charter School (High Tech High) provided to us; San Diego did not supply this information. Moreover, San Diego overstates the reliance that should be placed on its audit. It may have included all charter schools' revenue, but for some charter schools, San Diego's expenditure information is limited to the lump-sum transfer of revenue from the county treasury to a commercial bank account. San Diego does not have the detailed expenditure information for all schools required for a financial audit.

- We strenuously object to San Diego's suggestion that we have engaged in "criminal insinuation" with regard to our findings of risk of potential double-charges for oversight costs. Nothing in our text either suggests or implies that San Diego engaged in anything remotely akin to criminal behavior. Moreover, the statutes pertaining to the State mandated-costs claim process do not make any provisions for criminal penalties, thus to suggest that we have engaged in "criminal insinuation" is completely baseless in law and fact.

- We have changed the wording of the report to reflect "charge" rather than "withhold" to conform more precisely to the charter schools law. However, San Diego has again misrepresented the wording of our report. As we state on page 46 of the report, each of the chartering entities charged their charter schools precisely the percentage allowed. When we asked for the support for the actual costs incurred to justify this percentage, none of the chartering entities could show the costs that were covered. Each chartering entity could document the costs that it included in

its mandated-costs claims, but could not show that these costs were in addition to the costs for which the charter schools reimbursed their chartering entities. Although San Diego states that the documentation of a chartering entity's costs is not required or defined in the statutes, we see this as strictly an accounting issue. In fact, by signing the mandated-costs claim, the chartering entity is certifying that it has not been otherwise reimbursed for these costs. As we found, the chartering entities cannot support this assertion. We have modified the report text to state there "is a risk of double-charging" rather than "may be double-charging."

- San Diego objects to our conclusion that the charter school oversight policy it adopted in November 2001 is insufficient. San Diego claims that its policy includes procedures for fiscal review. San Diego's policy does cite a number of documents and reports that it plans to require its charter schools to submit. However, as we state in our report, San Diego's policy does not address how it will review the data, what it has defined as indicators of fiscal problems, or the necessary steps it will take to help resolve the charter schools' fiscal problems. We view requesting and receiving information as separate from reviewing and responding to the information; it is the last two steps that San Diego's policy does not address.

- We disagree. In a September 6, 2002, memorandum in which she responded to a number of our questions, San Diego's senior accountant made two different references to her belief that San Diego lacks the authority to require regular financial reporting by a charter school. The senior accountant went on to say that absent such reporting, San Diego is left only with the audited financial statements to monitor the charter schools that do not utilize San Diego's financial systems.

- San Diego is correct in pointing out that the additional conditions imposed by Senate Bill 740 did not go into effect until January 2002. Therefore, to reflect this, we have modified Table 7.

- We agree that the State Controller's Office standards for California K-12 local education agency audits do not apply to charter schools. Accordingly, in our report we do not state that these standards apply to charter schools.

- San Diego's comment on this point reflects exactly the point we intend to bring to the reader's attention. That is, as we state on page 50 of our report, there is no definition in law or regulation as to what constitutes charter school revenue.

- San Diego suggests that our title for the table in Appendix B is incorrect because it contains schools that rely on San Diego to receive some or all of their fiscal services, which San Diego calls "arm of the district" charter schools. This concern reflects a minor disagreement between us and San Diego over the definition of independent charter schools. For this reason we chose not to modify the table.

- San Diego misrepresents the wording of our report. As we note on page 38 of the report and in Appendix B, we used the fund balance reserve requirement established by the department for school districts as one indicator in our assessment of a charter school's fiscal health. We also acknowledge in the report that charter schools are not legally required to meet this reserve requirement, although it would be a prudent practice.

- San Diego is partly mistaken in its claim that the three schools have in excess of the 5 percent fund balance reserve. As we show in Table B.1, Cortez Hill Academy Charter School met the fund reserve requirement. However, Explorer Elementary Charter School (Explorer) did not. Explorer's fiscal year 2000–01 audited financial statements reflect net assets of $108,187 and total expenses of $834,642; we adjusted these figures to approximate the fund balance as described in Appendix B. The resulting reserve ratio is what we show in Table B.1, 3.9 percent. In the case of High Tech High, San Diego cites fiscal year 1999–2000 financial information. As we note in our appendix, we are reporting fiscal year 2000–01 audited data and High Tech High did not have an audit report for this period.

Agency's comments provided as text only.

California Department of Education
721 Capitol Mall
Sacramento, CA 95814

October 23, 2002

Elaine M. Howle*
State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Audit No. 2002-104

Dear Ms. Howle:

This letter and accompanying documents constitute the California Department of Education's (CDE) response to your draft audit report entitled "California's Charter Schools: Oversight at All Levels Could Be Stronger to Ensure Charter Schools Accountability." We appreciate the opportunity to comment on your draft audit report.

The successful operation of California's charter schools and the teaching of children who attend those schools are goals that CDE shares with the Bureau of State Audits (BSA). However, this report recommends that CDE adopt a significant oversight role that is not statutorily authorized, and it designates CDE as a "safety net" for identifying and addressing certain types of problems and risks associated with charter schools. For the record, CDE is emphatically not charged with, nor given the statutory authority to serve as a comprehensive safety net for California's charter schools. However, CDE does have concerns about academic and/or fiscal malfeasance occurring at any school, including charters. I initiated legislation this past session to shore up limited fiscal oversight authority for charter schools.

Therefore, I have strong concerns regarding the BSA's interpretation of CDE's responsibilities in the charter school law and the premise that CDE has inferred or implied authority and responsibility to monitor the fiscal and academic performance of charter schools. CDE's authority to act must be specifically authorized or be reasonably implied by the plain language of the statutes, not through inference and interpretation of legislative intent by your staff. The recent lawsuit *CANEC vs. the State Department of Education, et al*, specifically rules out the approach advanced by your audit team.

Your draft audit report appears to be based upon assumptions and inferences of the law gleaned by your staff. Nowhere in your report does the BSA provide any factual circumstances to document if and where CDE violated any laws with respect to charters.

* California State Auditor's comments begin on page 213.

Likewise, your report does not provide any factual basis for any adverse consequences or tangible effects to justify your recommendations that CDE take on a larger monitoring role with regard to charter schools. As enacted, the charter schools statutes regarding oversight and monitoring placed this responsibility at the most appropriate level--with the local sponsoring organization that approves the charter and that has the primary responsibility to renew or revoke the charter. Since inception, CDE has best been able to define its "safety net" responsibilities as focusing its very limited resources toward intervention in only the most serious cases on an exception basis rather than duplicating routine monitoring activities of sponsoring organizations. CDE simply lacks the resources to monitor the over 400 charter schools now operating in the state.

The report minimizes the impact of its recommendations on the limited staffing resources of CDE. It ignores the fact that limited resources were appropriated by the Legislature to CDE to handle a myriad of federal and state responsibilities clearly delineated in law. The Charter Schools Office only has 12 staff positions. Seven positions are federally funded in order to fulfill our obligations under the federal law. Three are funded to perform specific, statutorily required state functions – SB 740, and the Revolving Loan Fund; and the remaining two are to carry out all remaining state activities. CDE submitted a budget change proposal (BCP) for the 2002-03 fiscal year for 5.5 additional new staff to address the statutory and other related workload resulting from the enactment of SB 740. However, CDE was authorized only two one-year limited term positions. These two positions are to "carry out activities relating to Chapter 892 of the Statutes of 2001; for administration of the Charter Schools Facilities Grant; for activities relating to the State Board of Education's Charter School Advisory Group; for developing regulations; and to assist the State Board of Education in the analysis of non-classroom based charter school requests for determination of funding" as specifically stated in the 2002-03 Governor's Budget narrative (enclosed), issued in January 2002. Although it might be beneficial to implement some analysis or review not presently required by law, CDE is required to focus our very limited resources on only those areas mandated by law and not on speculative analyses or reviews.

When your staff visited our Department, they were unaware of the recent lawsuit brought against the CDE by the California Network of Educational Charters, CANEC. We advised the BSA of the Motion for Summary Judgment filed by CANEC, which it appears your staff has largely ignored. Much of what you contend the CDE <u>should</u> be doing about financial oversight was ruled out by the judge. While some additional oversight will be allowed because of legislation that we sponsored, many of your suggestions about what the Department should have been doing were expressly forbidden by the Court. For example, I cite directly from the Judgment: "Nowhere in the statutory scheme does the Legislature authorize Defendants to require charter schools, directly or

indirectly through the Local Education Agencies, to provide annual reports in a format directed by the Department of Education."

I am enclosing the Judgment Granting the Motion for Summary Judgment in the *CANEC* case, lest anyone reading this audit miss the fundamental disconnect between your findings and the court's opinion. I request that the entire Order granting the Summary Judgment be printed as part of CDE's response to this audit.

Also enclosed is our response that addresses each of your audit recommendations, as well as our rebuttal to the report that provides the specifics for the points made above. If you have any questions about the corrective actions taken by CDE or the information in our response, please contact CDE's Audit Response Coordinator, Susan Faresh at (916) 323-4124 or Kim Sakata at (916) 323-2560.

Sincerely,

(Signed by: Delaine Eastin)

DELAINE EASTIN
State Superintendent of Public Instruction

Enclosures

6110 DEPARTMENT OF EDUCATION—Continued

- Other Reductions
  - $183.5 million for the School Library Materials ($158.5 million) and K–4 Classroom Library Materials ($25 million) programs in an effort to realign funding for instructional materials and provide greater flexibility for school districts. (See related Governor's Instructional Materials Realignment Initiative).
  - $21.6 million Proposition 98 for the School Development Plans and Resource Consortia.
  - $5.0 million in Proposition 98 General Fund for the College Preparation Partnership Program.
  - $1.4 million General Fund state operations for lower rent and maintenance costs associated with the department's relocation to the East End Complex.
  - $275,000 in General Fund state operations and 1.9 PYs due to expiration of the Teenage Pregnancy Prevention Grant Program.
  - $250,000 General Fund state operations resulting from the suspension of the instructional materials follow-up adoption process, which is not statutorily required.
  - $210,000 General Fund reduction due to elimination of STAR and HSEE test integrity assurance team. Consistent with current practice, these activities will continue to be performed by school districts.
  - $173,000 General Fund state operations for eliminating unnecessary reports and administrative procedures.
  - $142,000 General Fund state operations for the Commission on Technology in Learning, reflecting half-year costs due to the sunset of the Commission.
  - $125,000 General Fund state operations for Healthy Start Field Office contract.
  - $100,000 General Fund state operations in support for the Curriculum Commission.
  - $100,000 General Fund state operations for the CalSAFE evaluation contract.
  - $94,000 General Fund reduction due to elimination of support activities associated with Williams v. State of California.
  - $85,000 General Fund state operations for College Preparation Partnership Program administration.
  - $78,000 General Fund state operations for the California Academic Preparation Initiative, which tracks the progress of students whose teachers have received professional development training via demonstration programs.
- Other Major Budget Adjustments
- Governor's Initiatives
  - $250.0 million Proposition 98 for the Governor's Instructional Materials Realignment Initiative, in the first year of a multi-year effort to align funding with the instructional materials adoption process and provide districts the flexibility to purchase standards aligned materials or library materials. Funding level provided is an increase over current funding for instructional materials programs for grades K–8 ($137 million) and grades 9–12 ($35.8 million).
  - $200.0 million in one-time funds (Proposition 98 Reversion Account) for textbook procurement. These funds also complement the Governor's Instructional Materials Realignment Initiative.
  - $100.0 million in one-time funds (Proposition 98 Reversion Account) for school library enhancements. These funds also complement the Governor's Instructional Materials Realignment Initiative.
  - $73.0 million in one-time funds (Proposition 98 Reversion Account) for science lab materials and equipment.
  - $4.0 million in one-time funds (Proposition 98 Reversion Account) for the High-Tech High School program.
- General Fund
  - $197.0 million Proposition 98 to support low-performing schools through the High Priority Schools Grant Program.
  - $30.0 million augmentation for the Mathematics and Reading Professional Development Program, bringing the total funding level to $110 million in 2002–03 ($22.9 million Proposition 98 and $87.1 million in one-time funds from the Proposition 98 Reversion Account).
- $29.6 million Proposition 98 augmentation for the Intermediate Intervention/Underperforming schools program:
  - $49.0 million Proposition 98 augmentation to fund implementation grants for the Third Cohort of the Intermediate Intervention/Underperforming Schools Program.
  - $10.8 million Proposition 98 reduction in the II/USP due to a projection that approximately 20 percent of schools in the First Cohort will not be eligible to receive a third year of implementation funding.
  - $8.6 million Proposition 98 reduction in the Intermediate Intervention/Underperforming Schools Program (II/USP). These funds were provided on a one-time basis in 2001–02 to equalize funding levels at $200 per pupil between the First Cohort and the other II/USP Cohorts.
  - $15.5 million in one-time funds from the Proposition 98 Reversion Account for implementation of the California School Information Services Project.
  - $11.0 million Proposition 98 for implementation of the California School Information Services Project.
  - $8.3 million Proposition 98 for a growth adjustment for the Charter School Categorical Block Grant.
  - $7.5 million in one-time funds from the Proposition 98 Reversion Account for the Principal Training Program.
  - $3.9 million Proposition 98 to fund growth ($1.0 million) and COLA ($4.9 million) for the Instructional Time and Staff Development Reform Program.
  - $3.7 million Proposition 98 to fund growth ($1.9 million) and COLA ($1.8 million) for the Beginning Teacher Support and Assessment Program.
  - $3.5 million Proposition 98 augmentation to fully fund the High School Exit Examination.
  - $3.1 million Proposition 98 to fund growth ($0.9 million) and COLA ($2.2 million) for pupil testing programs.
  - $2.7 million Proposition 98 to fund growth ($0.9 million) and COLA ($1.8 million) for the Peer Assistance and Review Program.
  - $2.4 million Proposition 98 to provide workbooks for the High School Exit Examination.
  - $2.3 million Proposition 98 augmentation to fund district apportionments for the English Language Development Test.
  - $1.6 million to continue funding for 18 positions provided for activities associated with the High Priority Schools Grant Program. Of the total, $858,000 General Fund is appropriated by Chapter 749, Statutes of 2001, and $752,000 is provided from federal funds.
  - $196,000 to fund two consultant positions, limited-term through the 2002–03 fiscal year, to carry out activities relating to Chapter 892 of the Statutes of 2001; for administration of the Charter School Facilities Grant; for activities relating to the State Board of Education's Charter School Advisory Group, for developing regulations; and to assist the State Board of Education in the analysis of one-classroom based charter school requests for determinations of funding.
  - $135,000 General Fund and $2.6 million in bond funds in state operations for network infrastructure expenses associated with the department's relocation to the East End Complex.
  - $100,000 General Fund state operations appropriated by Chapter 737, Statutes of 2001, to support the Department of Education's administration of the Mathematics and Reading Professional Development Program.
  - $74,000 in General Fund and 1.0 PY for growing Interscholastic Athletic discrimination-related workload (Chap. 889, Stats. 2001).

SB 740

* Dollars in thousands, except in Salary Range.

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

CALIFORNIA NETWORK OF EDUCATIONAL CHARTERS, a nonprofit corporation; and CONSTELLATION COMMUNITY MIDDLE SCHOOL, a nonprofit corporation, Plaintiffs, v. STATE DEPARTMENT OF EDUCATION; and DELAINE EASTIN, in her official capacity as the Superintendent of Public Instruction, Defendants.	No. 01AS02690 **JUDGMENT** **Hearing Date: April 11, 2002** **Dept.: 54** **Judge Joe S. Gray** **Verified Complaint Filed: May 3, 2001** **Trial Date: June 3, 2002**

On April 11, 2002, the Court granted the motion for summary judgment of Plaintiffs California Network of Educational Charters and Constellation Community Middle School made under Code of Civil Procedure section 437c on the grounds that Defendants exceeded their statutory authority and violated the Administrative Procedures Act, for an Order that judgment be entered for Plaintiffs in accordance with that Order.

IT IS ORDERED ADJUDGED AND DECREED that:

1. For the reasons stated in the Order Granting Summary Judgment, attached hereto and incorporated in this final judgment, the May 22, 2000 memorandum from Janet Sterling, the Director of School Fiscal Services Division, entitled "Financial Reporting for Charter Schools"

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and the September 11, 2000, memorandum from Janet Sterling, entitled "Follow Up: Financial Reporting for Charter Schools" are unauthorized by law and are invalid exercises of the Defendants' statutory authority with respect to charter schools.

2. For the reasons stated in the Order Granting Summary Judgment, attached hereto and incorporated in this final judgment, the May 22, 2000, memorandum from Janet Sterling, the Director of School Fiscal Services Division, entitled "Financial Reporting for Charter Schools" and the September 11, 2000, memorandum from Janet Sterling, entitled "Follow Up: Financial Reporting for Charter Schools" are invalid, not authorized by law and are not enforceable as they constitute underground regulations that have not been duly promulgated under the Administrative Procedures Act, Gov't Code § 11340, *et seq.*

3. Plaintiffs are entitled to costs of suit as designated in a memorandum of costs to be filed in this Court, and

4. Jurisdiction is reserved for consideration of a motion for attorneys' fees.

DATED: APR 29 2002

JOE S GRAY

HONORABLE JOE S. GRAY
Judge of the Superior Court

Approved as to Form

Attorney for Defendants

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Exhibit B

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

CALIFORNIA NETWORK OF EDUCATIONAL CHARTERS, a nonprofit corporation; and CONSTELLATION COMMUNITY MIDDLE SCHOOL, a nonprofit corporation, Plaintiffs, v. STATE DEPARTMENT OF EDUCATION; and DELAINE EASTIN, in her official capacity as the Superintendent of Public Instruction, Defendants.	No. 01AS02690 **ORDER GRANTING SUMMARY JUDGMENT** **Hearing Date: April 11, 2002** **Dept.: 54** **Judge Joe S. Gray** **Verified Complaint Filed: May 3, 2001** **Trial Date: June 3, 2002**

The motion of California Network of Educational Charters and Constellation Community Middle School for summary judgment came on regularly for hearing on April 11, 2002, before this Court in Department No. 54, Honorable Joe S. Gray, Judge Presiding. After full consideration of the evidence, the separate statements of material facts of each party, and the authorities submitted by counsel, the Court finds that there is no triable issue of material fact in this action and that the moving party is entitled to summary judgment as a matter of law for the reasons stated below. The Court has disregarded the inadmissible evidence and relied only on all of the admissible evidence in making its decision.

1. On May 22, 2000, Defendant State Department of Education, by Janet Sterling, the Director of School Fiscal Services Division, distributed a memorandum entitled "Financial

Reporting for Charter Schools" to County and District Superintendents, County and District Chief Business Officials, and Charter Schools Administrators regarding financial reporting for charter schools. The May 22, 2000, memorandum was distributed under the control of Defendant Delaine Eastin, the Superintendent of Public Instruction, acting as the Director of Education. The memorandum did not contain notice that its guidance was not binding on chartering entities (Local Education Agencies) or other agencies, nor was it issued pursuant to the Administrative Procedures Act (APA), Gov't Code § 11340, *et seq.*

2. On September 11, 2000, Defendant State Department of Education, by Janet Sterling, the Director of School Fiscal Services Division, distributed a memorandum entitled "Follow Up: Financial Reporting for Charter Schools" to County and District Chief Business Officials and Charter Schools Administrators regarding financial reporting for charter schools. This memorandum was distributed under the control of the Defendant Superintendent of Public Instruction. The memorandum did not contain notice that its guidance was not binding on Local Education Agencies or other agencies, nor was it issued pursuant to the APA.

3. Plaintiffs seek summary judgment of the complaint for declaratory relief in which they allege that the Defendants did not have statutory authority to issue the May 22, 2000, and September 11, 2000, memoranda and, even if Defendants did have such authority, the memoranda are underground regulations in that Defendants failed to exercise that authority in compliance with the APA. Defendants oppose Plaintiffs' motion for summary judgment, arguing that factual issues exist with respect to the actual burdensomeness of the reporting requirements.

4. The Court grants Plaintiffs' motion for summary judgment on the grounds that the motion raises issues of statutory interpretation, which are matters of law for the Court to decide. The essential material facts are undisputed. Defendants' contention that factual issues exist regarding the actual burdensomeness of the reporting requirements misses the point. The factual issues raised by Defendants are immaterial to the issue of whether the memoranda are valid exercises of the Defendants' statutory authority with respect to charter schools. Thus, this Court finds that there are no triable issues of material fact.

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5. The Charter Schools Act of 1992 (Educ. Code § 47600, *et seq.*) authorizes charter schools to operate free from most state laws and regulations that govern school districts. Despite the limitations imposed by the Charter Schools Act on their power to directly regulate charter schools, Defendants attempted to accomplish the same result indirectly by requiring the chartering entities (Local Education Agencies) to collect and report specified data from charter schools by issuing the May 22, 2000, and September 11, 2000, memoranda. The Court finds that the May 22, 2000, and September 11, 2000, memoranda impose financial reporting requirements on charter schools and chartering entities that exceed the authority granted by the Charter Schools Act.

6. Contrary to Defendants' position, express authority to issue the memoranda cannot be found in Education Code sections 47601, 47605(b), 47610, 47604.3, and 47607, either individually or collectively. Section 47601 expresses the Legislature's intent that charter schools "operate independently from the existing school district structure." Section 47605(b) sets forth the required elements of a petition to establish a charter school. Subdivision (J) of section 47605(b)(5) confers on charter schools, not Local Education Agencies or the Department of Education, the power to determine the manner in which "annual, independent, financial audits shall be conducted." Section 47610 expressly exempts charter schools from compliance with the laws governing school districts, with certain exceptions not relevant here. Section 47604.3 requires charter schools to respond to reasonable inquiries regarding its financial records. Section 47607 authorizes revocation of a charter for, inter alia, a failure to meet generally accepted accounting principles or fiscal mismanagement.

7. Nowhere in the statutory scheme does the Legislature authorize Defendants to require charter schools, directly or indirectly through the Local Education Agencies, to provide annual reports in a format dictated by the Department of Education. Indeed, section 47605(m), which requires charter schools to submit a copy of its annual, independent financial audit report to the Department of Education, indicates exactly the opposite: that charter schools are authorized to prepare their financial reports in a manner of their choosing (consistent with generally accepted accounting principles) for transmission to the Department of Education. In

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view of these overt expressions of Legislative intent, the Court cannot draw an inference that the Department of Education may burden charter schools, directly or indirectly, with additional financial reporting requirements.

8. The Court finds that the May 22, 2000, and September 11, 2000, memoranda are not valid exercises of the Department of Education's statutory authority with respect to charter schools.

9. Further, to the extent the Department of Education has any authority to establish general standards of financial reporting applicable to charter schools or their chartering entities (Local Education Agencies), which standards embellish upon or depart from express statutory language, it must exercise that authority in compliance with the APA. *Englemont v. State Board of Education*, 2 Cal. App. 4th 47, 62 (1991). The May 22, 2000, and September 11, 2000, memoranda are invalid as they constitute underground regulations that have not been duly promulgated under the APA.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' motion for summary judgment is GRANTED and that judgment shall be entered forthwith in favor of Plaintiffs and against Defendants on all causes of action.

JOE S. GRAY

DATED: APR 29 2002

HONORABLE JOE S. GRAY
Judge of the Superior Court

Approved as to Form.

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CALIFORNIA DEPARTMENT OF EDUCATION'S RESPONSE THAT ADDRESSES THE RECOMMENDATIONS ON THE BUREAU OF STATE AUDITS REPORT NUMBER 2002-104

California's Charter Schools: Oversight at All Levels Could be Stronger to Ensure Charter Schools Accountability

Recommendation 1 – To fulfill its role as a safety net, the department should review available financial and academic information and identify charter schools that are struggling. The department should then raise questions with the schools' sponsoring agencies as a way of ensuring that the schools' problems do not go uncorrected.

California Department of Education's (CDE) Response:
BSA makes the assumption that CDE should be responsible for identifying charter schools with problems, and is the safety net for charter schools, then further addresses how CDE should identify these charter schools by using Academic Performance Index (API) and average daily attendance (ADA) data. BSA's suggestion of the use of these data is arbitrary, indicates a lack of BSA's understanding of the use and limitation of the data, and is unsupportable by any clear statutory authority. There is no basis for these assumptions, nor is there an explanation of their rationale. CDE regularly identifies charter schools with problems and questions the sponsoring agency through its already established and successful complaint and inquiry process.

CDE focuses its very limited resources toward an intervention by exception in the most serious cases, and it notifies authorizing school districts in several cases when information received suggests a charter school may be in trouble. In these cases, CDE asks the district to look into the allegation and report back to us. For example, the concerns in two cases were so serious that CDE initiated its authority under *Education Code* Section 47604.5 to recommend revocation of the two charters to the State Board of Education (SBE). In both cases, the local district governing boards revoked the charters subsequent to CDE intervention and prior to SBE action. This illustrates that CDE's limited role as a "safety net" is effective, as it provoked the local board to take action. To further implement a systematic review process at the state level would consume very limited resources to unnecessarily review materials of charter schools for which no concern is apparent. Given the CDE's limited resources and the lack of explicit statutory authority, CDE chooses to implement a more strategic and efficient approach by intervening on a case-by-case basis when the local systems fail.

The failure of local districts to routinely review charter performance and fiscal data and oversee charter schools is not a sufficient reason to presume CDE itself should be performing the responsibility that the law specifies be fulfilled at the local level. A more appropriate recommendation would be to improve local review and oversight, not to delegate the responsibility to a state agency.

Recommendation 2 – The department should take necessary steps to implement Senate Bill 740, including reviewing each charter school's audit report for pertinent information and taking appropriate steps to follow up.

CDE's Response:
CDE is implementing all statutorily required Senate Bill 740 (SB 740) activities, including processing funding determinations (118 last year), adjusting the apportionments of charter schools with funding determinations, administering the Charter Schools Facilities Grant Program, providing staffing assistance to the Advisory Commission on Charter Schools (ACCS), and ensuring that the Kindergarten through grade 12 audit guide includes procedures for auditing charter schools for the elements specified in SB 740. SB 740 does not require CDE to review charter schools' audit reports for any purpose; however, CDE agrees it could be valuable to review those reports. With the recent passage of Assembly Bill 2834 (AB 2834) (Chapter 1128, Statutes of 2002), the school district audit reform bill, CDE received one new position for the purpose of reviewing charter school audits and ensuring that any audit findings are resolved, which we will do. CDE also plans to review the audit reports to determine whether the audit findings have any bearing on the charter school funding determination requests submitted.

Recommendation 3 – So that it does not improperly fund charter schools, the department should work with sponsoring agencies and county offices of education to ensure that their charter schools' reported ADA is verified through an independent audit or other appropriate means and that charter schools have met other statutory conditions of apportionment.

CDE's Response:
We do not concur with BSA's finding relating to this recommendation. We have been and continue to work with authorizing agencies and county offices of education to ensure that their charter schools' reported ADA is verified through "other appropriate means" as described below.

We do not concur with BSA's concerns regarding our apportionment process as it relates to charter schools' ADA data. While the law is clear with respect to our responsibilities to compute and apportion funding to charter schools based on their ADA, there exists no clear statutory or regulatory procedures that address how ADA should be verified and what entity is responsible to perform the verification. With this lack of clarity and authority in statute, our responsibilities require us only to apportion funds based on the ADA reported. As an added level of assurance to the apportionment process, we require the charter school, the authorizing local educational agency (LEA), and the authorizing LEA's county office of education to certify that the charter school's attendance data was compiled and reported in accordance with state and federal laws and regulations. We promptly follow up on all instances where an LEA indicates concerns in certifying the ADA of its charter school. As a result, we work to determine the legitimacy of the concerns and whether the LEA has provided a legal basis to conclude that the ADA is noncompliant. In some cases where an LEA has exercised its due diligence and provided us with specific reasons for not certifying ADA, and quantified the ADA in question, we have withheld apportionment of funds to its charter school. In many instances, this certification requirement has prompted the authorizing LEA and/or county office of education to conduct or contract for an audit or review of the charter school's attendance.

Current statutes do not provide CDE with explicit guidance and authority related to verifying ADA, nor is it clear whether the audit process of charter schools will insure that all statutory conditions of apportionment of state funds are met. As such, we believe that the verification of the charter school's ADA and that their assurance that other statutory conditions of apportionment have been met are most appropriately determined at the local level, not with CDE.

Recommendation 4 – To ensure that charter school assets and liabilities are disposed of properly when a charter school closes or has its charter revoked, the Legislature may wish to consider setting out a method for disposing of the assets and liabilities and requiring the department to adopt regulations to implement these provisions.

CDE's Response:
We agree with this recommendation; however, we believe that the Legislature would need to specify in statute, which entity is responsible and liable for the assets and liabilities of a charter school when a charter school closes or its charter is revoked. Without clear statutory guidance in this regard, the CDE would have no statutory basis for developing regulations implementing the specific methods for disposing of assets and liabilities. It should be noted that CDE has established a suggested process for charter school closures to provide some guidance to school districts and charter schools in this regard. This suggested process includes documenting the closure action; notifying CDE, the county office of education, parents and students of the charter school, and school districts receiving those students; dissolving assets; and closing out the finances of the school.

CALIFORNIA DEPARTMENT OF EDUCATION

REBUTTAL TO THE BUREAU OF STATE AUDITS
REPORT NUMBER 2002-104

California's Charter Schools: Oversight at All Levels Could be Stronger to Ensure Charter Schools Accountability

Page 10: Department of Education's Role in Charter Schools – The narrative and accompanying table that describes the role of the California Department of Education (CDE) with regard to charter schools fails to acknowledge the primary function of CDE's charter school unit, which is to administer the federal Public Charter School Grant Program (PCSGP). Seven of the 12 existing Charter School Office staff positions are fully federally funded, as is one-third of the administrator position, in order to fulfill our obligations under the federal law. Three positions perform specific, statutorily required state functions – SB 740, and the Revolving Loan Fund, and two positions carry out all remaining state activities. CDE allocates an average of approximately $24 million per year and approximately 300 active grants under the PCSGP.

Page 19, First Paragraph: "Therefore, we assessed the department's activities against the level of oversight we would expect it to have." While BSA may expect other actions and not agree with our approach to charter oversight, the report provides no clear standard or statutory authority in support of its interpretation. In fact, the standard BSA has applied that oversight should be conducted by CDE using Academic Performance Index (API) and average daily attendance (ADA) data, is arbitrary, suggests a lack of understanding of the uses and limitations of this data, and is unsupportable by any clear statutory authority.

Page 20, Subtitle: "The Department Neither Identifies Nor Questions Sponsoring Agencies About Fiscally or Academically Struggling Charter Schools" - The title of this section is misleading, erroneous, and inflammatory; it is not supported by the text. In fact, the report documents CDE's approach to responding to complaints and inquiries about charter schools by contacting the chartering agency. If BSA's concern is that CDE only provides intervention on an exception basis, and does not perform regular and systematic data review and analysis of all charter schools, then the title should reflect that concern. Further, and more importantly, nowhere in the law does it suggest or specify that CDE has the responsibility suggested by this title.

Page 21, First Paragraph, the Additional Staffing – The two positions provided to the Charter Schools Office beginning in fiscal year 2001-2002, were the first state funded positions provided to handle general state activities related to charter schools. Prior to that, the federally funded staff handled all Charter School Office state activities, with the exception of those related to the Charter School Revolving Loan Fund and the apportionments. These two state funded positions absorb the existing workload of the Charter Schools Office, including the high-level oversight activities for those charters directly approved by the State Board.

Page 22, First Paragraph: "We see little difference between responding to external concerns or internal ones." – BSA makes assumptions first, that CDE should be identifying charter schools with problems, and second how CDE should be doing that (using API and ADA). There is no basis for their assumptions, nor do they explain their rationale. The law does not require CDE to internally identify struggling charter schools.

Page 24, First Paragraph: "In addition, the office is organized on a regional basis to facilitate constant interaction with the sponsoring agencies." – The regional configuration of the Charter Schools Office was never intended to facilitate constant interaction with either sponsoring agencies or charter schools. The configuration is intended to allow state staff to become more familiar with the charter schools and sponsoring agencies in the regions and any particular regional issues, and to provide a single, consistent point of contact for schools and districts in the region.

Page 26, Second Paragraph – The failure of local districts to systematically review charter performance and fiscal data and oversee charter schools is not a sufficient reason to presume CDE should be performing a responsibility that the law specifies be handled at the local level. A more appropriate response to lack of local review and oversight would be to improve local review and oversight, not to delegate the responsibility to a state agency.

Page 28, First Paragraph – As described in the BSA report, CDE submitted a budget change proposal (BCP) for the 2002-03 fiscal year for new staff to address the statutory and other related workload resulting from the enactment of SB 740. Although we requested 5.5 additional, ongoing positions, CDE was provided only 2 one-year limited term positions. Furthermore, narrative in the 2002-03 Governor's Budget, issued in January 2002, specified that those two positions were to "carry out activities relating to Chapter 892 of the Statutes of 2001; for administration of the Charter Schools Facilities Grant; for activities relating to the State Board of Education's Charter School Advisory Group; for developing regulations; and to assist the State Board of Education in the analysis of non-classroom based charter school requests for determination of funding" (see attached copy). Notwithstanding the fact that CDE has not yet been able to fill these positions due to the state hiring freeze, the workload associated with the funding determination analysis, staffing the ACCS, and the facilities program is greater than two positions. It is all we can do to fulfill our statutory obligations under SB 740, without taking on the voluntary workload of reviewing charter schools' audits for potential fiscal solvency issues.

Page 28, Second Paragraph: Four Key Points for Which CDE Should Review Charter School Audits – There are potentially significant shortcomings in the current charter school annual audits. These audits are only required to be financial in nature and, therefore, are not useful in assessing charter school compliance with applicable provisions of law. However, AB 2834 will bring charter school in the Kindergarten through grade 12 audit guide process for the first time beginning in 2002-03, which should help address this shortcoming in the future. In addition, charter schools are permitted to be included in the annual audit of their charter-granting agency, so CDE will not receive audit reports specific to these charter schools. Because the annual school district audits only look at a sampling of schools within the district, if the charter school is not selected in the sample, the audit will contain no information specific to the charter school(s) within the district. Finally, with respect to BSA's example of looking at the charter school's structured debt to determine if

it exceeds the life of the charter agreement, this criteria may not be particularly useful. We would expect that many, if not most, charter schools are in this situation. Given the relatively short term of the charter (five years), that the expectation by most charter schools is that they will be renewed, and the types of reasons that charter schools carry debt (e.g. facilities), it is not unexpected that many fiscally healthy schools will have debt exceeding the life of the charter agreement.

Page 29, Subtitle: "The Department's Process For Making Charter School Apportionments Is Unsound" – The title of this finding is misleading. BSA's basis for this finding is that CDE primarily relies on the certifying signatures of school districts and county offices of education—both of which, according to BSA, lack the necessary procedures to ensure that charter schools comply with apportionment requirements. While BSA's report does not explain what necessary procedures are lacking at the local level, we believe that the authorizing LEA and county office of education are in a better position than CDE to provide the assurance needed to verify whether the charter school is in compliance with apportionment requirements. Existing law provides the authorizing LEA with the monitoring and supervising authority over the charter schools and the authority to make reasonable inquiries related to financial and other records. As such, the authorizing LEA should have access to charter school records to effectively review them on a regular basis. Therefore, BSA should review those procedures first before making these assumptions that CDE's processes are unsound.

The finding further allocates blame to CDE because BSA determined that some authorizing LEAs have not been verifying ADA. The failure of LEAs to take the necessary procedures to validate the ADA and then to certify to CDE that the ADA was compiled and reported in accordance with state and federal laws and regulations is not a sufficient reason to presume CDE's apportionment process is unsound. We expect the chartering agency to take responsibility of its charter school in the same manner that is applied to its traditional schools, which is to ensure that the ADA is accurate and compliant. In this regard, the certification process is a constant reminder to LEAs of their responsibility. In addition, the certification process mirrors the procedures applied to the ADA of traditional schools. What is lacking for charter schools, however, is that the traditional school process requires responsible school district officials to be held fully accountable for the sum and substance of attendance accounting and reporting; fiscal accountability and liability of a charter school is not addressed in current law.

Further, traditional schools are subject to annual financial and compliance audits, which include attendance procedures and requirements that address the conditions of eligibility for the receipt of state funds. The charter school statutes that make specific compliance requirements as conditions of apportionment do not contain explicit procedures or methodologies to ascertain whether a charter school has met or violated a condition of apportionment. We generally agree with the BSA recommendation that an independent audit would be a means of verification; however, the charter school statutes do not require that an audit of a charter school include state program compliance procedures. Charter schools are required only to have an annual, independent, financial audit performed. As stated in the BSA's report, "An independent audit report typically contains financial statements and an opinion as to the accuracy with which the statements present a school's financial position—information illustrating the charter schools' accountability for the taxpayer funds they receive." A financial audit, which is different from a compliance audit, does not

illustrate or determine compliance to state program requirements. We note that SB 740 recently added a requirement to ensure that the Kindergarten through grade 12 Audit Guide includes procedures for auditing charter schools related to nonclassroom-based instruction. It is to be determined, however, whether this requirement extends to other state program compliance areas that are deemed to be conditions of apportionment.

COMMENTS

California State Auditor's Comments on the Response From the California Department of Education

To provide clarity and perspective, we are commenting on the response by the Department of Education (department) to our audit report. The numbers below correspond to the numbers we placed in the margins of the department's response.

The concept of the State as a safety net is consistent with the California Constitution, which the courts have construed to place on the State the ultimate responsibility to maintain the public school system and to ensure that students are provided equal educational opportunities. Although the chartering entity is the primary monitor of a charter school's financial and academic health, the department has the authority to make reasonable inquiries and requests for information. It currently uses this authority to contact chartering entities if it has received complaints about a charter school. We are not suggesting that the department assume a greatly expanded and possibly duplicative role in monitoring charter schools. However, we do recommend, in addition to responding to complaints, that the department analyze information that it already receives to identify those charter schools that may need additional assistance and bring that information to the attention of the responsible chartering entity.

- The department misrepresents the magnitude of the oversight role we recommend. As we note on page 55, the charter schools are primarily accountable to their chartering entity, but that the department has certain information it could analyze and use to draw chartering entities' attention to concerns about specific charter schools.

- Although the department asserts it does not have the statutory authority to serve as a comprehensive safety net for charter schools, its statement contradicts later statements in its response and the actions it currently takes when it receives complaints from the public about academic or fiscal issues at charter schools. As we discuss on page 56, through its requests that

chartering entities investigate these complaints, it appears that the department has the necessary authority to act as a safety net as we have used the term in our report.

- The department again mischaracterizes our report and exaggerates how the order granting summary judgment in *CANEC v. State Department of Education* would apply to our report. We merely suggest that the department could review financial data regarding charter schools that it *already* receives under its *existing* statutory authority. For example, on page 58, we simply suggest that the department's charter schools unit could review average daily attendance (ADA) forms that it already receives from charter schools to determine if significantly declining ADA with resulting declining apportionments is cause for concern. In contrast, the *CANEC* lawsuit challenged a memoranda circulated by the department on the basis that it sought to impose additional financial reporting requirements on charter schools and chartering entities. The court agreed and ruled that the department did not have statutory authority to impose financial reporting requirements on charter schools and chartering entities in a format required by the department. But the court also found that charter schools may prepare their financial reports in a manner of their choosing for *transmission to the department*. Our report merely suggests that the department review information transmitted to it under the existing statutory scheme.

- The department is misrepresenting what we say in our report. Our findings and recommendations are that the department can more effectively use information it currently has to enhance its role as a safety net related to the academic and fiscal operations of charter schools, not that it has violated any laws with respect to charter schools.

- Although the term "sponsoring agency" is in the statutes, we have changed the term to "chartering entity" to more closely conform to the language of the Charter Schools Act of 1992 (Act). The change in term does not affect any of our findings or recommendations in the report.

- The department is misrepresenting the magnitude of the oversight role we recommend. The department's comment overlooks statements we make in the report related to this issue. As we note on pages 61 and 62, much of the information the department could use to identify schools that may need assistance is in electronic form. The department would only need to contact the chartering entities for the 20 to 30 schools that meet some criteria indicating the school's fiscal health is at risk.

- On pages 62 and 63, we discuss the department's request for additional staff and the number of positions approved. We also discuss other strategies the department could use to leverage its resources to identify charter schools that are potentially in need of assistance.

- Although the department believes the analyses we recommend are speculative, we believe they are simply another method to identify potential academic and fiscal concerns. In this way, the results of the analyses would be comparable to action the department asserts it takes when it receives complaints or information that suggests a charter school may be in trouble.

- Contrary to the department's statement, on pages 58 and 59 we describe why we believe an analysis of the Academic Performance Index and ADA could be useful in identifying charter schools that are potentially in need of assistance. For example, fluctuations in ADA, such as continual drops, may indicate a school needing assistance or intervention to ensure that it considers ways to address its decreasing revenue. We acknowledge that these analyses are not definitive evidence of a troubled charter school, but they would supply sufficient indicators of concerns that would justify communicating with the chartering entity about a charter school's operations.

- In contrast to its earlier statements, the department persuasively argues a case here for our recommendation that it serve as a safety net and communicate concerns about specific charter schools to the appropriate chartering entity.

- The department states that its current safety net role, for which it earlier asserts it has no authority to perform, is effective. Our recommendation that it analyze information it currently receives about and from charter schools would allow the department to identify other charter schools that may be struggling.

- The department overstates our recommendation related to its role. We do not presume nor state in the audit report that the department itself should be responsible for oversight of charter schools. In fact, in Chapters 1 and 2, we recommend ways that chartering entities can improve their oversight of charter schools. Furthermore, on page 56 we state that although the accountability systems at the chartering entities need improvement, our work does not demonstrate the need for the department to play a greatly expanded and possibly duplicative role in charter school oversight, or any function beyond that of a safety net.

- The statement the department makes here is inconsistent with other statements in its response. The department asserts that it has and continues to work with the various entities to ensure that charter schools' reported ADA is verified. However, it then states that there is no clear statutory authority or regulations addressing how ADA should be verified and what entity is responsible to perform the verification. The department further states that due to the lack of clarity and authority in the statute it is only responsible for apportioning funds based on reported ADA.

- Contrary to the department's claim that certifying signatures add a level of assurance to the charter schools' ADA reporting, these signatures do not have the same weight as those related to noncharter schools. Noncharter schools' ADA is verified through annual audits, which include tests of ADA; however, charter schools are not held to this same standard in their audits. As we conclude on page 63, the department's apportionment process with regard to charter schools is faulty because it relies primarily on the certifying signatures of school districts and county offices of education, which lack the necessary procedures to ensure that ADA is correct. Finally, the department asserts Assembly Bill 2834 will subject charter schools to the State Controller's K-12 audit guide. If the department is correct in its assertion, these guidelines will go a long way in addressing the current shortcomings in charter schools' annual financial audits.

- The department overstates our recommendation related to its role. On page 70 of our report, we recommend that the department work with the appropriate organizations to ensure that ADA is properly verified and reported. We do not recommend that the department make this determination itself.

- The department claims here that the charter schools unit's primary function is to administer a federal grant program. Our intent in providing summary information in the Introduction was to provide context for the reader. The fact that certain of its workload is related to federal funding does not negate the department's role and responsibilities with regard to oversight of California' public schools, including charter schools.

- We disagree with the department that the heading on page 57 was misleading, erroneous, and inflammatory; however, during our edit process, we changed the heading to more precisely communicate the issue described in this section. Furthermore, the department is misrepresenting our report as nowhere in it do we state the law specifies that the department has the

responsibility to directly monitor charter schools. However, as stated on page 55, we believe that the Act envisions some monitoring role for the department and that the State has ultimate responsibility for maintaining the public school system. Moreover, we believe that a recent decision, *Wilson v. State Board of Education*, (1999) 75 Cal.App. 4th 1125, which involved an unsuccessful challenge to the constitutionality of the Act on the basis that it provided funds to schools operated outside of the public school system supports our view. In ruling that charter schools are operated within the public school system, the court found that the "very destiny of charter schools lies solely in the hands of public agencies and offices, from the local to the state level: school districts, county boards of education, the Superintendent [of Public Instruction] and the [State] Board [of Education.]" Specifically with regard to state involvement, the court looked to the superintendent's authority to recommend charter revocation, the superintendent's authority to "prompt inquiry," and the fact that "public funding of charter schools rests in the hand of the Superintendent." We believe that monitoring is absolutely essential for the department to identify those egregious situations that would prompt a revocation recommendation to the State Board of Education. As we describe beginning on page 54, we view the departments' role as that of a safety net because the charter schools are primarily accountable to their chartering entities. In addition, the department's comments appear contradictory as it notes in its response the safety net activities that it does engage in.

- We have changed the text of our report by inserting the department's description of the charter schools unit's configuration.

- The department again misrepresents our report; we do not recommend that the department act as the primary monitor of charter schools. On page 55, we state that the charter schools are primarily responsible to their chartering entities and that the department's role is that of a safety net. On page 61 we state that not all chartering entities are fulfilling this primary responsibility, which increases the importance for the department to fulfill its safety net role.

- We disagree with the department that review of a charter school's structured debt may not be useful. This element was just one of four suggested key points that the department could use to assess the charter schools' financial stability. When viewed in conjunction with the assessment of funding information we suggest the department perform on page 58, a charter school

with declining ADA will receive less revenue and may be in less of a position to repay long-term debt than a charter school experiencing steady or increasing ADA.

- We have modified the report text to state the department cannot assure that apportionments to charter schools are accurate.

- When constructing its response, the department did not have Chapters 1 and 2 of our report to review for reasons of confidentiality. These chapters fully address the chartering entities' lack of oversight and that these weaknesses contribute to the unsoundness of the department's apportionment process.

- The department has mischaracterized our report and its comments are inconsistent with other statements the department made in its response. On page 63, we discuss the weaknesses inherent in the department's allocation process. The department has chosen to interpret our remarks as 'allocating blame.' In addition, the department states that "there is no clear statutory or regulatory procedures that address how ADA should be verified and what entity is responsible to perform the verification." Nevertheless, the department expects that the chartering entity would take responsibility for its charter schools in the same manner as its noncharter schools to ensure that the ADA is accurate and compliant. Throughout its response, the department takes exception to our establishing expectations from vague statutory language, however, it has applied the same standard to chartering entities that it argues against for itself.

cc: Members of the Legislature
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Department of Finance
Attorney General
State Controller
State Treasurer
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