

CALIFORNIA'S CHARTER SCHOOLS

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

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.*
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Chartering entities' and the California Department of Education's responses as of November 2002

The California Legislature passed the Charter Schools Act of 1992 (Act) to provide opportunities for communities 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—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 one charter school. The Joint Legislative Audit Committee requested that we conduct a comprehensive audit of California's charter schools. We assessed the actions of the Fresno Unified School District (Fresno), Los Angeles Unified School District, Oakland Unified School District, San Diego City Unified School District, and the California Department of Education (department). Specifically, we found that:

Finding #1: Chartering entities do not ensure that charter schools meet targeted student outcomes.

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. These outcomes give the chartering entity criteria against which it can measure the school's academic performance and hold it accountable. 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.

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 charter 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.

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.



Chartering Entity Action: None.

In their initial responses issued with the audit report, the four chartering entities disagreed with our position that they are responsible for the oversight we describe. At the time of the audit, three of the four chartering entities had developed charter school oversight policies and procedures; however, these policies and procedures are not adequate to ensure that the charter schools are achieving the measurable student outcomes set forth in their charter agreements.

Legislative Action: Unknown.

We are unaware of any legislative action implementing this recommendation.

Finding #2: Chartering entities do not ensure the schools' compliance with various legal requirements that are conditions of apportionment.

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 has been a condition of receiving state funds since 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. Moreover, 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.

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.



Chartering Entity Action: None.

In their initial responses to our audit report, the chartering entities disagreed with our audit finding. The entities stated that they had sufficient processes in place to ensure that their charter schools met the various conditions of apportionment.

Finding #3: Chartering entities lack policies and procedures for sufficient fiscal monitoring and have not adequately monitored their charter schools.

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 the chartering entity always know when they should require corrective action or revoke a charter. 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. 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.

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 the information relevant to school operations. 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, some entities did not adequately review the reports and ensure that reported problems were resolved.

To ensure that charter schools are held accountable for the taxpayer funds that 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.



Chartering Entity Action: None.

In their initial responses issued with the audit report, the four chartering entities disagreed with our position that they are responsible for the oversight we describe. At the time of the audit, three of the four chartering entities had developed charter school oversight policies and procedures; however, these policies and procedures are not adequate to ensure that the charter schools are operating in a fiscally sound manner and are accountable for the taxpayer funds they receive.

Finding #4: Chartering entities cannot justify the oversight fees they charge and risk double-charging the State through mandated-costs claims.

For fiscal years 1999–2000 and 2000–01, 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. 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.

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.

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.

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.



Chartering Entity Action: None.

In their initial responses to our audit report, the four chartering entities disagreed with our finding. The entities said that there is no clear guidance as to what tracking and documentation is required for charter schools expenses.

Legislative Action: Unknown.

We are unaware of any legislative action implementing this recommendation.

Finding #5: The department could use existing data to identify fiscally or academically struggling charter schools and then question the responsible chartering entities.

The department plays a role in the accountability of charter schools. The department has the authority to recommend that the State Board of Education 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 financial and academic information that it currently 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.

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.



Department Action: None.

In its initial response to our audit report, the department stated that it disagreed with the premise of our audit that the department has the authority and the responsibility to monitor charter schools' fiscal and academic performance. The department stated that it has an established and successful complaint and inquiry process and it chooses to use its limited resources in this way.

Finding #6: 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. 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. However, the department does not plan to systematically review charter schools' audits for this purpose. The department will collect but not review the charter schools' audit reports, data which helps reflect the schools' accountability for taxpayer funds.

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.



Department Action: None.

The department stated that Senate Bill 740 does not require it to review charter schools' audit reports for any purpose. The department said that it is implementing all statutorily required activities under this bill, including processing funding determinations, adjusting apportionments, administering the Charter Schools Facilities Grant Program, staffing the Advisory Commission on Charter Schools, and ensuring the Kindergarten through grade 12 audit guide includes audit procedures for elements specified in Senate Bill 740.

Finding #7: The department cannot assure that apportionments to charter schools are accurate.

Although the department apportions charter school funds on the basis of average daily attendance (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.

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.



Department Action: None.

In its initial response to the audit report, the department said it disagreed with the finding related to this recommendation. The department said that current statutes do not provide it with explicit guidance and authority related to verifying ADA, nor is it clear whether the charter schools' audit processes will insure that all statutory conditions of apportionment of state funds are met. The department stated that it believes that the verification of the charter schools' ADA and assurance that other statutory conditions of apportionment have been met are most appropriately determined at the local level.

Finding #8: Statutory guidance for disposing of a revoked charter school's assets and liabilities is unclear.

In January 2002 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. 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 (Chapter 1058, Statutes of 2002) requires a school's charter to specify closeout procedures, a policy gap remains regarding revoked or closed charter schools.

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.

Legislative Action: Unknown.

We are unaware of any legislative action implementing this recommendation.

Finding #9: 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 our 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. However, 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.

Assembly Bill 1994, signed on September 29, 2002, provides both technical and substantive changes to the charter schools law. For example, 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 agencies and the department with additional financial data to assess the fiscal health of charter schools. However, the chartering agencies are not adequately reviewing the financial records and audit reports they already receive. In addition, the department does not use currently available funding data to identify potentially struggling charter schools in order to raise questions with chartering agencies. As a result, without an increased commitment by chartering agencies and the department to monitor charter schools, the level of accountability will not reach its full potential as provided for in the statute.