

Title 5. EDUCATION
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 19. Charter Schools
Article 3. Facilities for Charter Schools

§ 11969.1. Purpose and Stipulation.

(a) This article governs provision of facilities by school districts to charter schools under Education Code section 47614.

(b) If a charter school and a school district mutually agree to an alternative to specific compliance with any of the provisions of this article, nothing in this article shall prohibit implementation of that alternative.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.2. Definitions.

(a) Average Daily Classroom Attendance. As used in Education Code section 47614(b), "average daily classroom attendance," or "classroom ADA," is average daily attendance (ADA) for classroom-based apportionments as used in Education Code section 47612.5. "In-district classroom ADA" is classroom ADA attributable to in-district students. Nothing in this article shall prohibit a school district from allowing a charter school to include nonclassroom-based ADA in average daily classroom attendance, but only:

(1) to the extent of the instructional time that the students generating the nonclassroom-based ADA are actually in the classroom under the direct supervision and control of an employee of the charter school; and

(2) if the school district and charter school agree upon the time(s) that facilities devoted to students generating nonclassroom-based ADA will be used.

(b) Operating in the School District. As used in Education Code section 47614(b), a charter school is "operating in the school district" if the charter school

meets the requirements of Education Code section 47614(b)(5) regardless of whether the school district is or is proposed to be the authorizing entity for the charter school and whether the charter school has a facility inside the school district's boundaries.

(c) In-district Students. As used in Education Code section 47614(b), a student attending a charter school is an "in-district student" of a school district if he or she is entitled to attend the schools of the school district and could attend a school district-operated school, except that a student eligible to attend the schools of the school district based on interdistrict attendance pursuant to Education Code section 46600 et seq. or based on parental employment pursuant to Education Code section 48204(f) shall be considered a student of the school district where he or she resides.

(d) Contiguous. As used in Education Code section 47614(b), facilities are "contiguous" if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety. In evaluating and accommodating a charter school's request for facilities pursuant to Education Code section 47614, the charter school's in-district students must be given the same consideration as students in the district-run schools, subject to the requirement that the facilities provided to the charter school must be contiguous.

(e) Furnished and Equipped. As used in Education Code section 47614(b), a facility is "furnished and equipped" if it includes ~~all the~~ reasonably equivalent furnishings and equipment necessary to conduct classroom-based instruction (i.e., at a minimum, desks, chairs, and blackboards) and to provide for student services that directly support classroom instruction as found in the comparison group schools established under section 11969.3(a) and (as applicable) consistent with the use of the terms furnishings and equipment in the California

School Accounting Manual, excluding furnishings and equipment acquired with non-district resources.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.3. Conditions Reasonably Equivalent.

The following provisions shall be used to determine whether facilities provided to a charter school are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities, as required by Education Code section 47614(b).

(a) Comparison Group.

(1) The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of ~~school~~ district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then the comparison group of schools shall be all of the district-operated schools that serve any of the grade levels served by the charter school. When a comparison group includes schools that do not serve similar grade levels, a contiguous facility within the meaning of subdivision (d) of Section 11969.2 shall be a facility that is most consistent with the needs of students in the grade levels served at the charter school.

(2) The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

(3) For school districts whose students do not attend high school based on attendance areas, the comparison group shall be three schools in the school district with similar grade levels that the largest number of students of the charter school would otherwise attend. For school districts with fewer than three schools with similar grade levels, the comparison group shall be all schools in the school district with similar grade levels.

(4) If a charter school's grade level configuration is different from the configuration of the district's schools, the district is not obligated to pay for the modification of a school site to accommodate the charter school's grade level configuration. However, nothing in this article shall preclude the district from entering into an agreement with the charter school to modify a school site, with the costs of the modifications being paid exclusively by the charter school or by the school district, or paid jointly by the district and the charter school.

(b) Capacity.

(1) Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations to ADA as those provided to students in the school district attending comparison group schools. School district ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. Charter school ADA shall be determined using in-district classroom ADA projected for the fiscal year and grade levels for which facilities are requested. The number of teaching stations shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, sSection 1859.30 1859.31 of ~~Title 2 of the California Code of Regulations~~, adjusted to exclude classrooms identified as interim housing portables.

(2) If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to subdivision (b)(1) shall include a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or

the access to specialized classroom space provided shall be determined based on three factors:

(A) the grade levels of the charter school's in-district students;

(B) the charter school's total ~~and shall be commensurate with the~~ in-district classroom ADA ~~of the charter school.~~ ; and

(C) the per-student amount of specialized classroom space in the comparison group schools.

(3) The School districts shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

~~(4) Space allocated to a charter school may be shared with school district-operated programs. Sharing arrangements may involve use of a space by a charter school and a school district-operated program at the same time or at different times.~~

(c) Condition.

(1) All of the factors listed below shall be used by the school district and charter school to determine whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Condition is determined by assessing such factors as age (from latest modernization), quality of materials, and state of maintenance.

(A) School site size.

(B) The condition of interior and exterior surfaces.

(C) The condition of mechanical, plumbing, electrical, and fire alarm systems.

(D) The ~~conformity~~ condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes.

(E) The availability and condition of technology infrastructure.

(F) The ~~suitability~~ condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use.

(G) ~~The manner in which the facility is furnished and equipped~~ condition of the facility's furnishings and equipment.

(H) The condition of athletic fields and/or play area space.

(2) Notwithstanding ~~subdivision paragraph~~ paragraph (1) of subdivision (c), at a charter schools established ~~through the conversion from~~ at an existing public school site as described in pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the condition of the facility previously used by the school district at the ~~conversion~~ site shall be considered to be reasonably equivalent to the condition of school district facilities for the first year the charter school uses the facility. During its first year of operation, the charter school shall be subject to charges for pro rata costs pursuant to section 11969.7, but shall not be subject to reimbursement for over-allocated space pursuant to section 11969.8.

(d) Additional Provisions Relating to a Charter School Established at an Existing Public School Site.

The following provisions apply only to a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650 and that operated at the site in its first year pursuant to paragraph (2) of subdivision (c).

(1) The school site, as identified in the school's charter, shall be made available to the school for its second year of operation and thereafter upon annual request pursuant to Education Code section 47614. The district is entitled to charge the charter school pro rata costs for the school site pursuant to section 11969.7, and the district is entitled to receive reimbursement for over-allocated

space from the charter school pursuant to section 11969.8, except as provided in paragraph (3).

(2) If, by material revision of the charter, the location of a charter school is changed, or if one or more additional sites are approved pursuant to Education Code section 47605(a)(4), then the school is entitled to request and the district shall provide for the use of facilities by the school in accordance with the revised charter, Education Code section 47614, and the provisions of this article.

(3) If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the following year or thereafter, and the district is entitled to occupy all or a portion of the space identified. To recover space surrendered to the district pursuant to this paragraph, a charter school must apply to the district. An application to recover surrendered space shall be evaluated by the district in accordance with the provisions of this article.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.4. Operations and Maintenance.

(a) Facilities and furnishings and equipment provided to a charter school by a school district shall remain the property of the school district.

(b) The ongoing operations and maintenance of facilities and furnishings and equipment is the responsibility of the charter school. Projects eligible to be included in the school district deferred maintenance plan established pursuant to Education Code section 17582 and the replacement of furnishings and equipment supplied by the school district in accordance with school district schedules and practices, shall remain the responsibility of the school district. ~~The school district may require that the charter school~~ shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment, except to the extent variation is approved by the

district. However, ~~school districts may not require the~~ charter schools to need not comply with policies in cases where actual school district practice substantially differs from official policies.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.6. Location.

A school district may satisfy the requirements of Education Code section 47614 by providing facilities that are located outside the school district's boundaries, subject to other provisions of this article and subject to the restrictions on location of charter schools established in Education Code sections 47605 and 47605.1. No school district is required to provide facilities that are located outside the school district's boundaries to a charter school.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.7. Charges for Facilities Costs.

~~If t~~The school district ~~may charges~~ the charter school a pro rata share of its facilities costs for the use of the facilities. ~~t~~The pro rata share ~~amount~~ shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted general fund revenues, as described ~~on pages 203-1 and 305-1 of Part I of the 2001 edition~~ in Procedures 105 and 305 of the California School Accounting Manual (at ~~www.cde.ca.gov/fiscal/sacs/csam~~ <http://www.cde.ca.gov/fq/ac/sa>), divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school. The following provisions shall apply to the calculation of the pro rata share of facilities costs:

(a) For purposes of this section, facilities costs that the school district pays with unrestricted general fund revenues includes those costs associated with plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases, as defined ~~on page 81 of Part II of the 2001 edition~~ in

Procedure 325 of the California School Accounting Manual (at www.cde.ca.gov/fiscal/sacs/esam <http://www.cde.ca.gov/fg/ac/sa>). For purposes of this section, facilities costs also includes:

(1) the contributions from unrestricted general fund revenues to the school district's Ongoing and Major Maintenance Account (Education Code section 17070.75), Routine Restricted Maintenance Account (Education Code section 17014), and/or deferred maintenance fund,

(2) costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and

(3) costs paid from unrestricted general fund revenue for replacement of facilities-related furnishings and equipment, that have not been included in subdivisions (a)(1) and (a)(2), according to school district schedules and practices.

For purposes of this section, facilities costs do not include any costs that are paid by the charter school, including, but not limited to, costs associated with ongoing operations and maintenance. The value of any tangible items paid for by the charter school shall be adjusted in keeping with a customary depreciation schedule for each item.

(b) For purposes of this section, the cost of facilities shall include debt service costs.

(c) "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space may includes but is not limited to those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.

(d) The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.

(e) The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article and, beginning in 2008-09, each charter school using school district facilities pursuant to Education Code section 47614 shall report the per-square-foot charge it is paying in the current fiscal year to the California Department of Education (CDE). The per-square-foot charge information (as applicable) shall be included in the notification each charter school makes to the CDE by June 1 pursuant to Education Code section 47630.5(b). The CDE shall post the per-square-foot amounts reported by charter schools on its publicly accessible Web site. The CDE shall offer the opportunity to each school district to provide explanatory information regarding its per-square-foot charge and shall post any information received.

(f) If a school district charges a charter school for facilities costs pursuant to this article, and if the district is the charter school's authorizing entity, the facilities are not substantially rent free within the meaning of Education Code section 47613, and the district may only charge for the actual costs of supervisory oversight of the charter school not to exceed 1 percent of the school's revenue.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.8. Reimbursement Rates for Over-Allocated Space.

(a) Space is considered to be over-allocated if (1) the charter school's actual in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in-district classroom ADA, whichever is greater. The per-pupil rate for over-allocated space shall be equal to the statewide average cost avoided per pupil

set pursuant to Education Code section 42263. The reimbursement amount owed by the charter school for over-allocated space shall be equal to (1) this rate times the difference between the charter school's actual in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based, less (2) this rate times one-half the threshold ADA. For purposes of this subdivision, the actual in-district classroom ADA shall be determined using the report submitted pursuant to ~~S~~section 11969.9(i) in conjunction with the second principal apportionment under Education Code section 41601.

(b) A charter school must notify the school district when it anticipates that it will have over-allocated space that could be used by the school district. Upon notification by a charter school that the charter school anticipates having over-allocated space, a school district may elect to use the space for school district programs. The school district must notify the charter school whether or not it intends to use the over-allocated space within 30 days of the notification by the charter school. If the school district notifies the charter school that it intends to use all or a portion of the over-allocated space, payments for over-allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the school district notification to use the space. If the school district notifies the charter school that it does not intend to use the space, the charter school must continue to make payments for over-allocated space and pro rata share payments. The school district may, at its sole discretion, reduce the amounts owed by the charter school.

(c) With respect to charter schools established at existing public school sites pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the provisions of this section are limited by the applicable provisions of subdivisions (c) and (d) of section 11969.3.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.9. Procedures and Timelines for the Request for, Reimbursement for, and Provision of, Facilities.

(a) A charter school must be operating in the school district as defined in Education Code section 47614 before it submits a request for facilities. A new or proposed new charter school is operating within the school district and, therefore, eligible to request facilities for a particular fiscal year only if it submitted its charter petition ~~to a local education agency~~ pursuant to Education Code sections 47605, 47605.6, or 47605.8 on or before November ~~15~~ 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to ~~receive~~ be allocated and/or provided access to facilities only if it ~~received~~ receives approval of the petition before March ~~15~~ 1 of the fiscal year preceding the year for which facilities are requested.

(b) To receive facilities during a particular fiscal year, a charter school must submit a written facilities request to the school district ~~by October~~ on or before November 1 of the preceding fiscal year. ~~However, a new charter school, defined as a charter school that did not receive funds pursuant to Education Code section 47633 in the fiscal year preceding the fiscal year for which facilities are requested, must submit its written facilities request before January 1 of the preceding fiscal year. In the absence of a successful local school bond measure, a charter school making a request for facilities under this article in compliance with the procedures and timelines established in this section shall be entitled to receive facilities beginning on November 8, 2003.~~

(c)(1) The written facilities request must include:

(A) reasonable projections of in-district and total ADA and in-district and total classroom ADA;

(B) a description of the methodology for the projections;

(C) if relevant, documentation of the number of in-district students meaningfully interested in attending the charter school;

(D) the charter school's instructional calendar;

(E) information regarding the general geographic area in which the charter school wishes to locate; and

(F) information on the charter school's educational program that is relevant to assignment of facilities.

(2) Projections of in-district ADA, in-district classroom ADA, and the number of in-district students shall be broken down by grade level and by the school in the school district that the student would otherwise attend.

(3) (A) Until subparagraph (B) becomes operative, Sschool districts may require the charter school to submit its facilities request containing the information specified in subdivisions (c)(1) and (2) on a form available from the California Department of Education CDE and developed in consultation with the Advisory Commission on Charter Schools or another form specified by the school district. School districts may also require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review.

(B) Beginning with the facilities to be used in 2008-09, the charter school shall submit its facilities request containing the information specified in subdivisions (c)(1) and (c)(2) on a form made available (and periodically revised) by the CDE following consultation with the Advisory Commission on Charter Schools and the Office of Public School Construction. The CDE shall post and maintain the form on its publicly accessible Web site.

(d) The school district shall review the projections and provide the charter school a reasonable opportunity to respond to any concerns raised by the school district regarding the projections charter school's projections of in-district and total ADA and in-district and total classroom ADA and, on or before December 1, express any objections in writing and state the projections the district considers reasonable. If the district does not express objections in writing and state its own projections by the deadline, the charter school's projections are no longer subject

to challenge, and the school district shall base its offer of facilities on those projections.

(e) On or before January 2, the charter school shall respond to any objections expressed by the school district and to the district's projections provided pursuant to subdivision (d). The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to subdivision (d). If the charter school does not respond by the deadline, the district's projections provided pursuant to subdivision (d) are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

(f) On or before February 1, ~~The~~ the school district shall prepare a preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include (1) the projections of in-district classroom ADA on which the proposal is based, (2) the specific location or locations of the space, (3) all conditions pertaining to the space, and (4) the associated projected pro rata share amount and a description of the methodology used to determine that amount ~~provide the charter school a reasonable opportunity to review and comment on the proposal.~~ The district shall also provide the charter school a list of the comparison group schools used in developing its preliminary offer.

(g) On or before March 1, the charter school shall respond to the school district's preliminary proposal made pursuant to subdivision (f), expressing any concerns and/or making counter proposals.

(h) On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to subdivision (g), the school district shall submit a final notification of the space offered to the charter school. The notification shall include a response in writing to the charter school's concerns and/or counter proposals (if any). The notification shall

~~(e) The school district must provide a final notification of the space offered to the charter school by April 1 preceding the fiscal year for which facilities are requested. The school district notification must specifically identify:~~

~~(1) the teaching station, specialized classroom space, and non-teaching station space offered for the exclusive use of the charter school and the teaching station, specialized classroom space, and non-teaching station space to which the charter is to be provided access on a shared basis with district-operated programs;~~

~~(2) for shared space, the arrangements for sharing;~~

~~(3) the in-district classroom ADA assumptions for the charter school upon which the allocation is based and, if the assumptions are different than those submitted by the charter school pursuant to subdivision (e), a written explanation of the reasons for the differences;~~

~~(4) the specific location or locations of the space;~~

~~(5) all conditions pertaining to the space;~~

~~(4)(6) the pro rata share amount; and~~

~~(5)(7) the payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes.~~

~~(f)(i) The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur by May 1 or 30 days after the school district notification pursuant to subdivision (h), whichever is later. The charter school's notification can be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the school district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the school district by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in the following fiscal year.~~

~~(g)~~(j) The space allocated to the charter school by the school district (or to which the school district provides the charter school access) must be furnished, equipped and available for occupancy by the charter school for a period of at least seven ~~ten~~ working days prior to the first day of instruction of the charter school. For good cause, the period is subject to reduction by the school district, but to no fewer than seven working days.

~~(h)~~(k) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in the notification provided by the school district to the charter school pursuant to subdivision ~~(e)~~(h). In addition, ~~if required by the school district, the agreement shall provide that the charter school shall:~~

(1) ~~Maintain~~ The charter school shall maintain general liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable. The school district shall maintain first party property insurance for the facilities allocated to the charter school. ; and/or

(2) ~~Comply~~ The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.

(3) A reciprocal hold-harmless/indemnification provision shall be established between the school district and the charter school.

(4) The school district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code section 47610(d).

~~(i)~~(l) The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

~~(j) The charter school and the school district may negotiate separate agreements and/or reimbursement arrangements for specific services not~~

~~considered part of facilities costs as defined in Section 11969.7. Such services may include, but are not limited to, the use of additional space and operations, maintenance, and security services.~~

~~(k) Notwithstanding any of the other provisions of this section, a charter school and the school district may mutually establish different timelines and procedures than provided in this section. A school district may establish timelines as much as two months earlier than provided in this section provided that (1) it notify charter schools of the changes, (2) it does not change the dates for submission of facility requests, and (3) charter schools have the same amount of time to respond to the school district's offer of space.~~

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

§ 11969.10. Procedures and Timelines for Dispute Resolution Regarding Facilities for Charter Schools.

(a) A charter school has standing to initiate the dispute resolution process established in this section only if one of the following conditions applies.

(1) The charter school believes it filed a facilities request in accordance with Education Code section 47614 and this article, but that the school district did not meet its obligations by the deadlines specified in subdivisions (d), (e), or (f) of section 11969.9. Initiation of the dispute resolution process for this purpose must occur not later than ten working days following the deadline alleged to have been missed.

(2) The charter school believes the facilities offer it was provided pursuant to subdivision (h) of section 11969.9 does not comply with Education Code section 47614 or this article. Initiation of the dispute resolution process for this purpose must occur not later than April 15.

(3) The charter school believes the school district otherwise failed to comply with Education Code section 47614 or this article.

(b) A school district has standing to initiate the dispute resolution process established in this section only if the school district believes the charter school has failed to comply with Education Code section 47614 or this article.

(c) If a school district is also the authorizing entity of a charter school, disputes between the school district and the charter school regarding an alleged violation, misinterpretation, misapplication, or failure to comply with Education Code section 47614 or this article shall be resolved using the dispute resolution process identified in the school's charter. If either party does not want to resolve the dispute in the manner identified in the school's charter, or if the school district is not the charter school's authorizing entity, then the following steps apply to resolve the dispute:

(1) The first step in the dispute resolution process is:

(A) If the charter school initiates the dispute resolution process, it shall bring the dispute before the school district's governing board, and the district governing board shall respond within 30 days or at the conclusion of the governing board's next regularly scheduled meeting at which the matter can be appropriately noticed for action, whichever is earlier.

(B) If the school district initiates the dispute resolution process, it shall bring the dispute before the charter school's governing authority as identified in the charter, and the school's governing authority shall respond within 30 days or at the conclusion of the governing authority's next regularly scheduled meeting at which the matter can be appropriately noticed for action, whichever is earlier.

(C) If a school district governing board or charter school governing authority response pursuant to subdivision (c)(1) does not resolve the dispute, or if a response is not received within 30 days, the party initiating the dispute resolution process shall notify the other party (responding party) in writing that it intends to proceed with the second step of the dispute resolution process.

(2) The second step in the dispute resolution process is mediation, but it is applicable only if agreeable to both parties. If mediation is not agreeable to both

parties, the third step in the dispute resolution process applies. Mediation consists of the following:

(A) The initiating party shall select a mediator, subject to the agreement of the responding party. If, though agreeing to mediation, the parties are unable to agree upon a mediator, the CDE shall be requested by the initiating party to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.

(B) Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolution process shall prepare and send to both the responding party and the mediator a notice of dispute that shall include the following information:

(i) The name, address, and phone numbers of designated representative of the parties;

(ii) A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute;

(iii) The specific sections of the statute or regulations that are in dispute; and

(iv) The specific resolution sought by the initiating party.

(C) Within seven days of receiving the information specified in subdivision (c)(2)(B), the responding party shall file a written response.

(D)(i) The mediation procedure shall be entirely informal in nature. However, copies of exhibits upon which either party bases its case shall be shared with the other party. The relevant facts should be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made.

(ii) If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the school district and the charter school. The agreement shall not set a precedent for any other case.

(iii) If the school district and the charter school fail to meet within the specified time line, have not reached an agreement within 15 days from the first meeting

held by the mediator, or if the mediator declares the parties at impasse, the mediation is terminated, and the parties proceed to the third step in the dispute resolution process.

(E) The costs of the mediation are divided equally by the two parties and paid promptly.

(3) The third and final step in the dispute resolution process is immediate resolution. Immediate resolution consists of the following:

(A) The party initiating the dispute resolution process shall request the CDE to immediately resolve the dispute. CDE, at its discretion, shall take either of the following actions, balancing in that decision its determination of the method that will be less expensive and more expeditious:

(i) Submit the matter to the Office of Administrative Hearings (OAH) for consideration and resolution by an administrative law judge.

(ii) Prepare within five working days a list of five charter school facility arbitrators. Beginning with the responding party, the parties shall alternatively strike names from the list until only one name remains. Striking names from the list shall occur within five days of the receipt of the list by the responding party. The initiating party shall contact the CDE regarding the selection of the arbitrator. Arbitration shall be scheduled and conducted as quickly as possible following the selection of the arbitrator.

(B) Prior to the administrative hearing or the arbitration, the parties shall meet to attempt to frame the issue or issues to be submitted to the administrative law judge or arbitrator, share all evidence, determine whether a court reporter is necessary, and attempt to settle the dispute, if possible.

(C) The administrative law judge or arbitrator shall hold an administrative hearing or arbitration concerning the dispute and render a decision. Both parties shall comply with the decision. The administrative law judge or arbitrator is empowered to include the award of any remedies he or she determines to be reasonable, proper, and in compliance with Education Code section 47614 and this article.

(D) Unless otherwise specified by the administrative law judge or arbitrator, all costs of the administrative hearing or arbitration, including, but not limited to, the fees of the OAH or the arbitrator's fees, per diem, travel, and subsistence expenses, and the cost, if any, of a hearing room and transcription of the hearing, shall be divided equally by the school district and the charter school and paid promptly.

(E) Only after the administrative procedures established in this section have been exhausted may judicial review be sought regarding a dispute related to an alleged violation, misinterpretation, misapplication, or failure to comply with Education Code section 47614 or this article.

(F) If judicial review is sought of a decision rendered pursuant to subdivision (c)(3)(C), it shall be incumbent upon the party pursuing judicial review to establish conclusively that the decision does not comply with a provision of Education Code section 47614 or of this article

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.