
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No:	SB 1216	Hearing Date:	April 11, 2018
Author:	Glazer		
Version:	March 22, 2018		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Charter schools.

NOTE: This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

SUMMARY

This bill subjects charter schools and their governing boards to the same open meeting and disclosure laws as traditional school districts, with specified exceptions.

BACKGROUND

Existing law, the Charter Schools Act of 1992, provides for the establishment of charter schools in California for the purpose, among other things, of improving student learning and expanding learning experiences for pupils who are identified as academically low achieving. Existing law declares that charter schools are part of the public school system as defined in Article IX of the California Constitution and are "under the exclusive control of the officers of the public schools." A charter school is required to comply with statutes governing charter schools and all of the provisions set forth in its charter, but is otherwise exempt from most laws governing school districts except where specifically noted.

Existing law requires state and local agencies to conduct business in meetings that are open to the public:

- 1) The Brown Act requires meetings of a local agency's board of directors to be open to the public.
- 2) The Bagley-Keene Open Meeting Act requires meetings of state bodies to be open to the public.

The California Public Records Act declares that the public has a right to access information that concerns the people's business and provides that public records shall be available for inspection, except as provided by an express provision of law.

ANALYSIS

This bill subjects charter schools and their governing boards to the same open meeting and disclosure laws as traditional school districts, with specified exceptions. Specifically, this bill:

- 1) Subjects charter schools and their governing bodies, with respect to the operation of a charter school only, to all of the following:
 - a) The Brown Act, except that a charter school operated by an entity governed by the Bagley-Keene Open Meeting Act is subject to that act, regardless of the authorizing entity.
 - b) The California Public Records Act.
- 2) Requires the governing body of a charter school, in addition to the requirements of the Brown Act and the Bagley-Keene Open Meeting Act, to hold its meetings within the physical boundaries of the state and in accordance with all of the following:
 - a) Proper notices pursuant to the Ralph M. Brown Act or the Bagley-Keene Open Meeting Act shall be posted at all charter school facilities.
 - b) For charter school governing bodies operating one or more charter schools within a single school district, the meetings shall be held within the geographic boundaries of the school district. If the charter school governing body operates charter schools in multiple school districts, the meetings shall be held within the geographic boundaries of a school district in which one of the charter schools operates and a teleconference location shall be available within the geographic boundaries of each school district in which the other charter schools are located.
 - c) If the charter school governing body engages in or conducts activities unrelated to the charter school, meetings of the governing body that address items related to the charter school shall be held in accordance with the Brown Act and shall not include discussion of any item involving activities of the governing body unrelated to the charter school.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “A lack of clarity in the law has caused confusion over whether charter schools are required to comply with the Brown Act and the Public Records Act. This bill would expressly state that charter schools are required to comply with both, in addition to other open meetings requirements to address circumstances not covered by the Brown Act.”
- 2) ***Public accountability laws.*** County boards of education and school district governing boards are required to conduct public meetings and make information available to the public, upon request.
 - a) *Open meeting laws*—entitles the public to have access to meetings of multi-member public bodies. The Brown Act and the Bagley-Keene Act recognize the need to balance the public’s right to open government with the need for boards, on occasion, to have closed session discussions in certain matters such as personnel or litigation. By making charter schools

subject to open meeting laws, charter school boards would need to provide advance notice of meetings and conduct their meetings in public.

- b) *Public records*—the purpose of the California Public Records Act (CPRA) is to give the public an opportunity to monitor the functioning of their local and state government. The fundamental precept of CPRA is that governmental records are to be disclosed to the public when requested, unless there is a specific reason not to do so. The CPRA allows for certain exemptions, such as matters relating to individual privacy. Under CPRA, agencies must segregate or redact exempt information and disclose the remainder of the record. Under the provisions of this bill, charter schools would need to respond to requests for information that is not private in nature.
- c) *The Political Reform Act*—The Political Reform Act of 1974 established the Fair Political Practices Commission (FPPC) to administer its requirements and receive annual conflict-of-interest statements. According to the FPPC, the CPRA is designed to assure that public officials perform their duties impartially without bias because of personal financial interests or the interests of financial supporters; and that public officials disclose income and assets that could be affected by official actions and to assure that public officials disqualify themselves from participating in decisions when they have conflicts-of-interest.
- 3) ***Do the public accountability laws already apply to charter schools?*** The California Legislative Counsel was asked to render an opinion on whether charter schools are subject to public accountability laws, including the Brown Act and the CPRA. The following is the opinion of the California Legislative Counsel:
- “In summary, it is our opinion that a charter school is subject to the Ralph M. Brown Act, the California Public Records Act, the conflict-of-interest provisions of the Political Reform Act of 1974, and Government Code section 1090. It is also our opinion that the conflict-of-interest provisions of the Political Reform Act of 1974 and Government Code section 1090 apply concurrently with the conflict-of-interest provisions of Corporations Code section 5233 to a member of the governing body of a charter school, operated by a nonprofit public benefit corporation, who is also a director of that corporation.”
- The California Attorney General’s Office (AG) was asked to render an opinion on this same question in 2011—it is now the longest pending opinion in the AG’s office.
- 4) ***Scaled down version of last year’s measure.*** Last year, this Committee heard SB 806 (Glazer, 2017) which would have: (1) prohibited the operation of for-profit charter schools, (2) subjected charter schools to a variety of the same open meeting, conflict-of-interest, and disclosure laws as traditional school districts, and (3) allowed charter school authorizers to correct violations of current self-dealing laws through court, as prescribed by the corporations code. After passing this Committee, SB 806 was held in Senate Judiciary Committee.

This bill includes open meeting and disclosure provisions that are similar to what was included in SB 806; however, those provisions have been amended in this bill to address concerns previously raised in the Senate Judiciary Committee related to meeting locations and meaningful public participation.

SUPPORT

California Charter Schools Association (sponsor)

OPPOSITION

None received

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