

Mendocino Unified School District

New Construction

Charter School Facilities

Definitions

In-district students are those charter school students who are entitled to attend a district school. Students eligible to attend district schools based on an interdistrict attendance agreement or parent employment shall be considered students of the district where they reside. (5 CCR [11969.2](#))

An eligible charter school operating in the district is one that is either currently providing public education to at least an ADA of 80 in-district students or has identified at least 80 ADA in-district students who are meaningfully interested in enrolling in the charter school for the following year, regardless of whether the district is or is proposed to be the chartering entity and whether the charter school has a facility inside the district's boundaries. (Education Code [47614](#); 5 CCR [11969.2](#))

Contiguous facilities are contained on the school site or immediately adjacent to the school site. If the charter school's students cannot be accommodated on any single district school site, contiguous facilities also include facilities located at more than one site, provided that the district minimizes the number of sites assigned and considers student safety. (5 CCR [11969.2](#))

Reasonably equivalent conditions shall be determined on the basis of: (5 CCR [11969.3](#))

1. A comparison group of district schools with similar grade levels, selected in accordance with 5 CCR [11969.3](#)
2. Capacity, including equivalency of the ratio of teaching stations to average daily attendance, allocation of specialized classroom space and access to nonteaching station space
3. Condition of facilities, including:
 - a. School site size
 - b. Condition of interior and exterior surfaces
 - c. Condition of mechanical, plumbing, electrical and fire alarm systems
 - d. Conformity of mechanical, plumbing, electrical and fire alarm systems to applicable codes

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e. Availability and condition of technology infrastructure

f. Suitability of the facility as a learning environment, including but not limited to lighting, noise mitigation, and size for intended use

g. The manner in which the facility is furnished and equipped

Provision of Facilities by District

As of November 8, 2003, or on the first day of July following the passage of a local school bond measure, any eligible charter school operating in the district shall be entitled to receive district facilities sufficient for the charter school to accommodate all of its in-district students in conditions reasonably equivalent to those in other district schools. Facilities provided to eligible charter schools shall be contiguous and shall be furnished and equipped as necessary to conduct classroom-based instruction. Facilities, furnishings and equipment provided to a charter school by the district shall remain the property of the district. (Education Code [47614](#); 5 CCR [11969.2](#), [11969.4](#))

If a charter school was established through the conversion from an existing public school, the condition of the facility previously used by the district shall be considered to be reasonably equivalent for the first year the charter school uses the facility. (5 CCR [11969.3](#))

Procedures for requesting facilities shall include the following steps: (5 CCR [11969.9](#))

1. The charter school shall submit a written facilities request to the Governing Board in accordance with the timelines specified in 5 CCR [11969.9](#).

In submitting a facilities request, the charter school shall use a form available through the California Department of Education. The charter school shall distribute, or otherwise make available for review, the written request to interested parties, including but not limited to parents/guardians and school staff.

2. The Board shall review the charter school's projections of in-district and total average daily attendance and in-district and total classroom

average daily attendance, and shall provide the charter school a reasonable opportunity to respond to any concerns raised by the district.

3. The Board shall prepare a preliminary proposal regarding the space to be allocated to the charter school and the pro rata share amount, and shall provide the charter school a reasonable opportunity to review and comment on the proposal.

4. The Board shall 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 notification shall identify:

a. The teaching station and nonteaching station space offered for the exclusive use of the charter school and that to be shared with district-operated programs

b. Arrangements for sharing any shared space

c. The assumptions of in-district classroom average daily attendance upon which the allocation is based, and a written explanation of the reasons for any differences than those submitted by the charter school

d. The pro rata share amount

e. The payment schedule for the pro rata amount, which shall take into account the timing of revenues from the state and from local property taxes

5. The charter school shall provide written notification to the Board, by May 1 or within 30 days after the district notification, whichever is later, whether or not it intends to occupy the offered space.

The district and charter school shall negotiate an agreement regarding the use of and payment for the space. The agreement shall contain the information included in item #4 above. (5 CCR [11969.9](#))

The agreement also shall provide that the charter school shall maintain liability insurance naming the district as an additional insured in order to indemnify the district for damage and losses for which the charter school is liable, and that the charter school shall comply with Board policies regarding the operations and maintenance of school facilities, furnishings and equipment.

The space allocated to the charter school shall be furnished, equipped and available for occupancy at least seven days prior to the first day of instruction of the charter school. (5 CCR [11969.9](#))

The district may charge the charter school a pro rata share of its facilities costs that the district pays with

unrestricted general fund revenues. (Education Code [47614](#); 5 CCR [11969.7](#))

Each year, any charter school desiring district facilities shall provide the district with a reasonable projection of its average daily classroom attendance by in-district students for the following year, and the district shall allocate facilities on the basis of this projection. If the charter school generates less average daily attendance than projected, the charter school shall reimburse the district for the over-allocated space at rates set by the State Board of Education. (Education Code [47614](#); 5 CCR [11969.8](#))

The ongoing operations and maintenance of facilities, furnishings and equipment shall be the responsibility of the charter school. The district shall be responsible for projects eligible to be included in the district's deferred maintenance plan and the replacement of district-provided furnishings and equipment in accordance with district schedules and practices. (5 CCR [11969.4](#))

Space allocated for use by the charter school shall not be sublet or used for purposes other than those that are consistent with Board policies and district practices without permission of the Superintendent or designee. (5 CCR [11969.5](#))

Funding for New Construction

Applications for facilities funding for new construction pursuant to Education Code [17078.50-17078.62](#) may be submitted by either: (Education Code [17078.53](#))

1. The district on behalf of a charter school that is physically located within the geographical boundaries of the district
2. A charter school on its own behalf, if the charter school has provided written notification of its intent to both the Board and Superintendent at least 30 days prior to submitting the preliminary application

Any project applying for such funding shall: (Education Code [17078.54](#))

1. Meet all the requirements for public school construction, including Field Act, plan approvals, toxic substance review, site selection and site approval that apply to noncharter school projects
2. Fund only new construction to be physically located within the geographical jurisdiction of the district

If a charter school ceases to use any facilities funded through this program, the facility may be used for

other purposes in accordance with the priorities established in Education Code [17078.62](#).

Legal Reference:

EDUCATION CODE

[17070.10-17080](#) Leroy F. Greene School Facilities

Act of 1998, including:

[17078.50-17078.62](#) Charter schools facility funding;
state bond proceeds

[17280-17317](#) Field Act

[47600-47616.5](#) Charter Schools Act of 1992, as
amended

GOVERNMENT CODE

[53094](#) Authority to render zoning ordinance
inapplicable

[53097.3](#) Charter school ordinances

CODE OF REGULATIONS, TITLE 5

[11969.1-11969.9](#) Charter school facilities

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 52 (1997)