

CLIENT NEWS BRIEF

New Law Prohibits Barriers To Charter School Enrollment

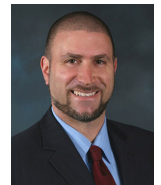
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A new law is intended to discourage the improper recruitment and disenrollment of charter school students, particularly students who belong to certain protected classes. Recently signed by Governor Newsom, Senate Bill (SB) 75 adds a provision to California's Charter Schools Act to prohibit charter schools from discouraging a student from enrolling or continuing to enroll in the charter school.

The law lists explicitly unlawful bases for "counseling out" students and their families, including nationality, race, ethnicity, sexual orientation, or if a student exhibits characteristics of: a disability; an academically low-achieving student; an English learner; a neglected or delinquent student; a homeless student; a student who is economically disadvantaged; or a foster youth. In furtherance of the law's purpose, charter schools are also prohibited from requesting a student's records, or requiring a parent, guardian, or student to submit the student's records to the charter school, prior to enrollment. Historically, charter schools have always been required to accept all students that are California residents, regardless of academic achievement, disability, economic status, etc. Here, the California Legislature recognizes problems that have arisen, where certain groups of students were being discouraged from enrolling, or encouraged to disenroll, in some charter schools.

Under the law, the California Department of Education (CDE) is directed to develop a notice and complaint form stating the new legal requirements, and charter schools are required to post the notice on their respective websites. Charter schools also now have an affirmative duty to provide a copy of the CDE notice to parents, guardians, and students over age eighteen when the parent, guardian, or student over age eighteen inquires about enrollment; before conducting an enrollment lottery; and before the disenrollment of any student. In order to ensure enforcement, any member of the public has a right to file a complaint with the charter school's authorizer, often the local school district, if the person suspects a charter school has violated the provisions of this law. CDE's notice and complaint form can be found at <https://www.cde.ca.gov/sp/ch/cskomplaint.asp>.

Although the law creates a process for aggrieved families to complain to charter authorizers, it is silent regarding exactly what action a charter authorizer must take when it receives a complaint. The recently revised statutes regarding charter school renewals, which go into effect in July 2020, shed some light onto the complaint review process (See [2019 Client News Brief No. 49](#)). The law now indicates that, when determining whether to renew a school's charter, an authorizer must consider, along with other criteria, any substantiated complaints that the charter school has not complied with the new enrollment requirements described above. The determination of whether a complaint is "substantiated" is left to the charter authorizer, and thus the law infers that charter authorizers must develop their own complaint investigation processes. Still, some questions remain unanswered. For example, if the authorizer investigates the complaint and discovers a potential legal violation, what action is the charter authorizer supposed to take, aside from considering whether to revoke the charter? The new law does not appear to create an



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enforcement mechanism, aside from considering compliance during the charter renewal process.

Takeaways

Charter schools and charter authorizers should be careful to ensure that charter schools are not discouraging any student from attaining or maintaining charter school enrollment. Charter schools must be extra careful when dealing with students who are members of the groups specifically protected under the law. Since the law took immediate effect in July, charter schools should post the CDE notice and complaint form on their websites and implement clear policies for staff regarding the distribution of the CDE notice, in short order. Note that charter schools are still permitted to suspend or expel students for disciplinary reasons, so long as such discipline conforms to federal and state statutory and constitutional due process requirements, and is otherwise consistent with the law, and the processes laid out in the charter.

If you have any questions about SB 75, the amendments to the Education Code regarding charter schools, or charter school student enrollment in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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