

**CCSA Guidance on SB 126:  
Charter School Governance and Transparency Legislation**

*Updated 6/20/19*

Senate Bill 126 passed the Senate on February 21, 2019, and goes into effect on January 1, 2020. [You may view the full content of SB 126 here.](#)

We recognize that these governance and conflict of interest laws are complex, and the implementation process for the application of these laws to charter schools and entities managing charter schools will likely vary depending on a school's current structure and practices. While many charter schools already comply with many of the provisions of SB 126, others may find some of the provisions more challenging, and the law may even require structural changes for many charter schools. For general guidance, we suggest you review CCSA's website for information on [Understanding the Brown Act](#),\* [Charter School Governance: Conflicts of Interest](#),\* and [How to Respond to a Public Records Act Request](#)\*. Additionally, we suggest that you attend a Governance Academy sponsored by CCSA and our partner law firms Young Minney & Corr and Procopio, which generally happen in May and October. As always, we encourage all charter schools to work closely with their attorneys and boards in order to obtain advice that is tailored for your school's unique circumstances.

This communication is intended to provide a broad overview of what will be required for all charter schools and "entities that manage charter schools" under SB 126 and how this new law may impact charter school operations.

**SB 126 enacted a new Section 47604.1 of the Education Code** which requires a charter school and "an entity managing a charter school" to be subject to four specific governance and transparency laws, with qualifications as noted below:

1. **The Ralph M. Brown Act related to open meetings** (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). However, in the limited case of a charter school operated by an entity pursuant to Chapter 5 (commencing with Section 47620), the charter school shall instead be subject to the **Bagley-Keene Open Meeting Act** (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). SB 126 adds some additional restrictions and requirements with regard to locations of meetings, teleconference capacity and recordings, as follows:
  - **Locations of Meetings:**
    - For a charter school operating in one county, the governing body of a charter school shall meet in the county in which the charter school is located.
    - For a charter school operating in multiple counties, and for a nonclassroom-based charter, the board shall meet within the physical boundaries of the county in which the greatest number of pupils who are enrolled in that charter school resides.
      - Existing Brown Act Exceptions Apply. All schools retain access to the existing

Brown Act exceptions under Government Code section 54954, which allows agencies to meet outside the boundaries described above, as long as the meeting place is fully accessible and freely open to the public. The common exceptions are: When necessary to comply with a court order or attend a judicial or administrative proceeding to which the charter school is a party;

- To meet with elected or appointed officials to discuss a legislative or regulatory issue impacting the charter school when a local meeting would be impractical;
  - To visit the office of the charter school’s legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs; or
  - To attend a conference.
- **Teleconference Capacity:** All schools must provide two-way teleconference capability at each charter school site and resource center for its governing board meetings. CCSA suggests that schools consider posting a number for a conference call-in line on the agenda to ensure access in the event that a phone is not available at each charter school site at the time of the meeting.
  - **Audio or Video Recordings:** If your school’s board also manages other charter schools in different counties, then the school must audio record, video record, or both, its governing board meetings and post the recordings on each charter school’s internet website.
2. **The California Public Records Act related to public access to documents** (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). However, the law provides a limited exception and alternative process to access public records of a charter school located on a federally recognized California Indian reservation or Rancheria or that is operated by a federally recognized California Indian tribe.
  3. **Government Code 1090 related to board membership and conflict of interest.** Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code. However, an employee of a charter school shall not be disqualified from serving as a member of the governing body of the charter school because of that employee’s employment status as long as such employee abstains from voting on or influencing or attempting to influence another member of the governing body regarding, all matters uniquely affecting that member’s employment.
  4. **The Political Reform Act of 1974 related to transparency of board member assets and conflict of interest** (Title 9 (commencing with Section 81000) of the Government Code). However, for purposes of the Political Reform Act, a charter school and an entity managing a charter school shall be considered an “agency” and is the most decentralized level for purposes of adopting a conflict-of-interest code. This clarification ensures that charter school boards may adopt their own codes, and not be subject to the code of their authorizing district. This autonomy allows each charter school to adopt a conflict code that reflects its unique structure and operation.

**Other Clarifications on board operations contained in SB 126:**

- **Transparency and Governance Rules Don't Apply to Unrelated Activities:** To the extent a governing body of a charter school or an entity managing a charter school engages in activities that are unrelated to a charter school, Government Code 1090, the Ralph M. Brown Act, the Bagley-Keene Open Meeting Act, the California Public Records Act, and the Political Reform Act of 1974 shall not apply with regard to those unrelated activities unless otherwise required by law. Additionally, a meeting of the governing body of a charter school to discuss items related to the operation of the charter school shall not include the discussion of any item regarding an activity of the governing body that is unrelated to the operation of the charter school.
- **"Entities Managing a Charter School":** SB 126 applies the four governance and transparency laws discussed above to both to charter schools, and to any *"entity managing a charter school"*. This phrase is defined as a nonprofit public benefit corporation that operates a charter school consistent with Education Code Section 47604. By the express terms of the law, an organization is not subject to SB 126 solely because it contracts with a charter school to provide to that charter school goods or task-related services that are performed at the direction of the governing body of the charter school and for which the governing body retains ultimate decision-making authority. CCSA believes that a nonprofit public benefit corporation which manages a charter school through a contract will not be subject to SB 126 as long as the contract allows the charter school entity to maintain ultimate decision-making authority. Of course, we encourage you to seek legal advice if you have any questions about whether the CMO entity with which your school is affiliated should be complying with SB 126.

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