
AB 1360 Webinar



California's New Charter School
Fair Admissions and Due Process Law

April 17, 2018

Alliance for
Boys and Men of Color

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Part 1:

Agenda & Introduction

Agenda

- I. Agenda and Introductions
 - II. Due Process
 - III. Ensuring Fair Admissions
 - IV. What can you do?
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Your presenters:

- Angela McNair Turner, Public Counsel
 - Angelica Jongco, Public Advocates
 - Ashleigh Washington, Public Counsel
 - Oscar Lopez, East Bay Community Law Center
 - Victor Leung, ACLU Foundation of Southern California
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Poll

Who's joining us today?

- Charter School Authorizer (Staff or Board)
 - Charter School Operator (Board or Leader)
 - Charter School Staff
 - Community Member
 - Other: _____
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What is AB 1360?

A new state law to make clear charter schools must

- 1) Provide **DUE PROCESS** protections to students before their suspension, expulsion or involuntary removal from school
- 2) **ADMIT ALL STUDENTS** by not using admissions preferences that might exclude students from historically underserved backgrounds.

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Part 2:

Due Process for Students & Families



In March 2016, the UCLA civil rights project released a report entitled, "Charter Schools, Civil Rights and School Discipline."

- ★ In the 2011-12 school year, 374 charter schools suspended 25% of their enrolled student body at least once.
- ★ Nearly half of all Black secondary charter school students attended one of the 270 charter schools that was hyper-segregated (80% Black) and where the aggregate Black suspension rate was 25%.
- ★ More than 500 charter schools suspended Black charter students at a rate that was at least 10 percentage points higher than the rate for White charter students.
- ★ 1,093 charter schools suspended students with disabilities at a rate that was 10 or more percentage points higher than for students without disabilities.
- ★ 235 charter schools suspended more than 50% of their enrolled students with disabilities

Consequences of Exclusionary Discipline

High rates of out-of-school suspensions equal lower achievement scores even after controlling for other factors such as race or poverty.

High rates of discipline are also linked with worse school climate ratings.

Suspended or expelled students:

- **6 times** more likely to repeat a grade
- **5 times** more likely to dropout
- **3 times** more likely to have contact with juvenile justice system



**What does this look
like in Charter
Schools?**



What is Due Process?

- Due Process safeguards individual rights.
- Due Process generally includes:
 - ◆ Notice
 - ◆ Opportunity to Be Heard
 - ◆ Impartial Hearing

Suspensions and Expulsions Under AB 1360

What are a student's rights if they face potential suspension or removal?

A charter school's policies for suspensions, expulsions, or other involuntary removals, must comply with **federal and state constitutional requirements, any other applicable state or federal laws** and the following procedures under AB 1360.

Due Process Rights:

- 1. Suspension of Less Than 10 Days**
- 2. Suspension of 10 Days or More and Expulsion**

1. Suspensions of Less Than 10 Days

AB 1360 codified pre-existing federal and state constitutional requirements (Goss vs. Lopez):

- ❑ Provide oral or written notice of the charges.

If the student denies the charges:

- ❑ Provide an explanation of the evidence that supports the charges;
- ❑ Provide an opportunity for the pupil to present their side of the story.

CALIFORNIA EDUCATION CODE:

- ❑ Limit grounds for suspension (48900, 48900.2, 48900.3, 48900.4, 48900.7)
- ❑ Limit suspensions to only when other means of correction fail to bring proper conduct (48900.5 and 48900.6)
- ❑ Restrict days of suspension (48903 and 48911)
- ❑ Right to hearing within 2 days after “emergency suspension” (48911(c))
- ❑ Written notice of principal’s decision (48911(d))
- ❑ Right to appeal suspension (48914)

2. Suspensions of 10 Days or More and All Other Expulsions

Dixon vs. Alabama State Board of Education):

- ❑ Notice
- ❑ Opportunity to be heard

Proper **Notice** must:

- ❑ Contain a statement of the specific charges;
- ❑ Explain the student's basic rights.

A Proper **Hearing** must afford the student the right to:

- ❑ Be represented by counsel;
- ❑ Present testimony, evidence, and witnesses;
- ❑ Confront and cross-examine adverse witnesses;
- ❑ A fair and impartial factfinder.

CALIFORNIA EDUCATION CODE:

- ❑ Timely, Written Notice (48918(b))
- ❑ Timely Hearing (48918(a)(1))
- ❑ Notice: Date and place of hearing (48918(b)(1))
- ❑ Notice: Inspect and obtain copies of evidence to be used (48918(b)(5))
- ❑ Standard: Substantial evidence (48918(f)(2))
- ❑ Other means of correction or continuing danger (48915)
- ❑ Evidence: Cannot expel based solely on hearsay (48918(f)(2))
- ❑ Right to appeal (48918(j)(1))

For any involuntary removal from a charter:

- ☐ **The parent or guardian must receive written notice of intent to remove the pupil no less than 5 school days before the effective date.**

- ☐ **The written notice shall:**
 - ☐ **Be in the native language of the pupil or the pupil's parent/guardian**
 - ☐ **Inform him or her of the right to a hearing**

If the hearing procedure is initiated, the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision.

Questions?

- Type in chatbox



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Part 3:

Ensuring **fair** admissions

AB 1360: Fair Admissions Rules

- ❑ **General Rule:** A charter school shall admit all students who wish to attend the charter school.
- ❑ If there are not enough spaces, the charter school may hold a lottery.

So what made AB 1360 necessary?

I had to buy 3 boxes of paper before they would re-enroll my son because I hadn't met my volunteer hour requirements.

Parent

Although people of color make up 90% of the local population, the school only enrolled 10% people of color.

Parent

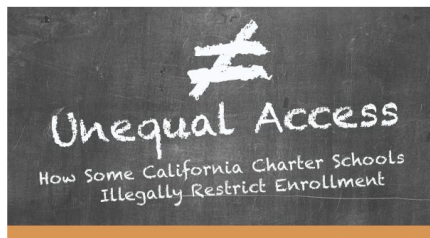
In the first semester of 8th grade, I was kicked out for failing to maintain a 2.0 GPA.

Student

Timeline

Nov 2014

Public Advocates Parent
Volunteer Hours Report



Aug 2016

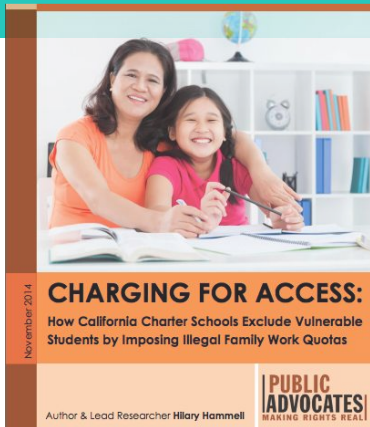
Unequal Access report
released by ACLU & Public
Advocates

2014

2015

2016

2017



Jan 2015

CDE Guidance explicitly
prohibits Requiring Parent
Volunteer Hours
(updated Jan 2017)

Sept 2017

AB 1360 signed into law

AB 1360: Fair Admissions Rules

Can a charter school have admissions preferences? Yes, but under very limited circumstances. They must:

1. Be approved by the chartering authority at a public hearing
2. Be in compliance with both federal and state law (including discrimination and civil rights laws)
3. Not require mandatory parent volunteer hours. A charter school may encourage parental involvement, but shall notify parents and guardians of applying and currently enrolled students that parental involvement is not a requirement for acceptance or continued enrollment.

AB 1360: Fair Admissions Rules

Specifically, admissions may not limit or discourage enrollment access to:

1. Students with disabilities
2. Academically low-achieving pupils
3. English learners
4. Neglected or delinquent pupils
5. Homeless pupils
6. Pupils who are economically disadvantaged (determined by eligibility for any free or reduced-price meal program)
7. Foster youth, or
8. Pupils based on nationality, race, ethnicity, or sexual orientation.

AB 1360: Fair Admissions Rules

Examples of impermissible requirements:

1. Minimum GPAs or test scores
2. Minimum English proficiency
3. Mandatory parent volunteer requirements
4. Essays or interviews as part of the application process
5. Not providing translated materials
6. Asking for immigration status or documentation

Intent ≠ Impact



Some Tips ...

Parent volunteering should be **encouraged**. But not **required** as a condition of admission or some other benefit to a child.

Best practice: Admit all students who wish to attend, and then gather information about students

If your school consistently underenrolls students in the protected categories as compared to neighborhood schools, **carefully examine your admissions policies and practices** for potential barriers.

Questions?

- Type in chatbox



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What can **you** do?



Charter School Authorizers

- ➔ **Learn**
Familiarize yourself with the Charter School Act and AB 1360
- ➔ **Act**
- ➔ Ensure that all new charter schools that seek authorization comply with the rules.
- ➔ Review the charters, handbooks, forms, websites, and other documents of the charter schools you oversee to ensure that those schools are compliant with the new rules during your annual review.
- ➔ Analyze whether charter schools' demographics align with those of the neighborhood schools'. If not, determine why and eliminate barriers to entry.
- ➔ Spread the word. Notify your authorized schools about this new law.



Charter School Operators

→ Learn

Familiarize yourself with the Charter School Act and AB 1360

→ Act

- Review your handbooks, forms, websites, and other documents closely and ensure they comply with all laws..
- Include the most inclusive and welcoming language possible on your materials and forms.
- Include translated materials if your community has a significant portion of non-native English speakers.
- Provide due process protections for students greater than what AB 1360 requires.



Students and Families

→ Learn

Familiarize yourself with the Charter School Act and AB 1360

→ Act

- If you apply for a charter school and believe it has discriminatory or exclusionary policies, file a complaint first with the principal, then the charter school board, then the authorizer.
- If you are facing a suspension or expulsion or if school administrators ask you to leave the school for any reason, ask for a hearing to challenge it.

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What is **one thing** you can **do** next?



TYPE IN CHATBOX

Given the role you play in relation to charter schools, what is one thing you can do to help make sure they do not exclude students and provide due process?

Questions?

- Type in chatbox





For more information



www.aclusocal.org/ab1360

AB 1360 Fair Admissions and Due Process for All Charter School Students

On October 11, 2017, Governor Brown signed AB 1360 into law. The new law took effect on January 1, 2018 and makes clear what charter school operators must do to ensure equal admissions access and disciplinary due process for all students.

Ensuring Fair Charter School Admissions

A charter school shall admit all students who wish to attend the charter school. If there are not enough spaces, the charter school must hold a random, public lottery.

Can charter schools have admission preferences?

Yes, but only in very limited circumstances.

Any preference must:

- ❑ Be approved by the chartering authority at a public hearing.
- ❑ Be in compliance with both federal and state law, including civil rights and antidiscrimination laws.
- ❑ Not discriminate, including by limiting enrollment access for:
 - Students with disabilities
 - Academically threatening pupils
 - English learners
 - English or at-risk pupils
 - Hispanic pupils
 - Pupils who are economically disadvantaged (determined by eligibility for any free or reduced-price meal program)
 - Foster youth, or
 - Pupils based on nationality, race, ethnicity, or sexual orientation.
- ❑ Not require mandatory parent volunteer hours or donations as a criterion for admission or continued enrollment. A charter school may encourage parental involvement, but shall notify parents and guardians of applicant and currently enrolled students that parental involvement is not a requirement for acceptance or continued enrollment.

Key questions:

- Does the school enroll a disproportionately low percentage of those student groups compared to surrounding schools?
- Do any of the school's policies or practices seem to limit access to enrollment for any of those groups?

Examples of impermissible policies:

- Requiring a student to have or maintain a minimum GPA.
- Requiring incoming students to have completed class in class.
- Evaluating students based on interviews or written essays for admission purposes.
- Asking students or families to provide unsolicited information, including birth certificates, passports, or Social Security numbers.
- Requiring parents to volunteer X number hours per semester, or payment in lieu of hours.

Ensuring Due Process in Charter School Discipline

What are students' rights if they face potential suspension or removal?

A charter school's policies for suspensions, expulsions, or other involuntary removals must comply with federal and state constitutional requirements and the provisions below.

For suspensions of fewer than 10 days, the charter school must provide:

❑ Oral or written notice of the charges.

❑ The student's due process rights.

❑ An explanation of the evidence that supports the charges.

❑ An opportunity for the pupil to present their side of the story.

For suspensions of 10 days or more and all other disciplinary expulsions, the charter school must provide:

❑ Timely or written notice of the charges and an explanation of the student's basic rights, and

❑ A hearing before a neutral officer, where the student has a fair opportunity to present testimony, evidence, and witnesses; confront and cross-examine adverse witnesses; and bring legal counsel or an advocate.

For any involuntary removal from a charter:

❑ The parent or guardian must receive written notice of intent to remove the pupil no later than 5 school days before the removal date.

The written notice shall:

- ❑ Be in the native language of the pupil or the pupil's parent/guardian.
- ❑ Shall inform him or her of the right to a hearing.
- ❑ REMEDY: If the hearing process is initiated, the pupil shall remain enrolled and shall not be removed until the charter school makes a final decision.

What must the charter school and school district do after a student leaves a charter school?

❑ A student's expulsion from the charter school within 90 days of the school year for any reason, the charter school shall:

❑ Notify the superintendent of the school district of the student's last known address within 30 days, and

❑ Upon request, provide that school district with a copy of the cumulative record of the pupil, including report cards or a transcript of grades, and health information.

If the pupil re-enrolls in their or another school district and subsequently expelled from or leaves the school district without

publishing or completing the school year for any reason, the school district shall:

❑ Provide this information to the charter school within 30 days if the charter school documented that the pupil had been enrolled in the charter school.

What can a student do if they think that a charter school has violated AB 1360?

Parents and parents have the right to file a complaint for violation of AB 1360 using Uniform Complaint Procedures.

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