AB 1360 Webinar









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

April 17, 2018

Alliance for **Boys and Men of Color**

Part 1: Agenda & Introduction

Agenda

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

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

Poll

Who's joining us today?

- Charter School Authorizer (Staff or Board)
- Charter School Operator (Board or Leader)
- Charter School Staff
- Community Member
- Other: _____

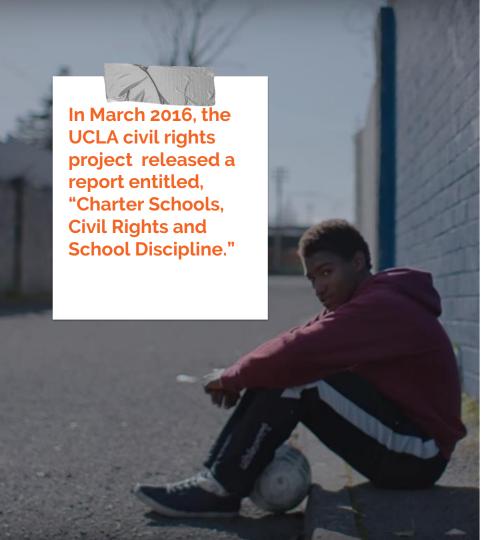


What is AB 1360?

A new state law to make clear charter schools must

- 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.

Part 2: Due Process for Students & Families



- ★ 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)
- \square 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))
- \Box Timely Hearing (48918(a)(1))
- \square Notice: Date and place of hearing (48918(b)(1))
- \square Notice: Inspect and obtain copies of evidence to be used (48918(b)(5))
- \Box Standard: Substantial evidence (48918(f)(2))
- ☐ Other means of correction or continuing danger (48915)
- \Box Evidence: Cannot expel based solely on hearsay (48918(f)(2))
- \square 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.

- \Box 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.



Part 3: Ensuring fair admissions

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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.

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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

CHARGING FOR ACCESS:
How California Charter Schools Exclude Vulnerable
Students by Imposing Illegal Family Work Quotas

Author & Lead Researcher Hilary Hammell

Applicates

Author & Lead Researcher Hilary Hammell

Applicates

Author & Lead Researcher Hilary Hammell

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
- 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.



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.

What is one thing you can do next?



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?





For more information



→ www.aclusocal.org/ab1360

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

On October 13, 2017, Governor Brown signed AB 1340 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

Can charter schools have admissions preferences?

Any preferences must:

- IZ Be approved by the chartering authority at a public hearing. If Be in compliance with both federal and state law, including civil rights and anti-discrimination laws.
- Studenty with disabilities
- English learners
- → Neglected or delinquest pupils
- Honoloss number → Pupils who are economically disadvantaged (determined by eligibility for any free or reduced-
- price meal pregram) Foster youth, or
 Foster youth, or
 Papile based on notionality, mee, ethnicity, or secural orientation.
- 22 Not require mandatory parent volunteer hours or denations as a criterion for admission or continued enrollment. A charter school may encourage parental involvement, but shall notify parents and guardams of applicant and currently enrolled students that purental involvement is not a requirement for acceptance or continued curolinent.

- Key questions:

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

Examples of impermissible policies: . Bequiring a student to have or maintain a

- minimum GPA * Bequiring incoming students to have completed
- certain classes

 Evaluating students based on interviews or written e sooys for admissions purposes • Asking students or families to provide
- immigration-related information, including birth certificates, passports, or Social Security
- * Requiring parents to volunteer X number hours per semester, or payment in lies of hours

Ensuring Due Process in Charter School Discipline

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 and the procedures below:

For suspensions of fewer than 10 days, the charter school must provide: \$2 Oral or written notice of the charges.

- If the student denies the change:
- SI As explanation of the evidence that supports the charges. So 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:

22 Timely, written notice of the changes and an explanation of the student's basic sights, and if A heaving judged by a mental officer, when the statest has a first opportunity to: present testimony, writtens, and witnesses; conform and cross-scenario-solverse writnesses; and bring legic counsel or ran

For any involuntary removal from a charter:

- 52 The parent or guardies start receive written notice of intent to sensere the papt no less than 5 school days before the effective date.
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- UES in a the native language of the papil or the papil's present/gazedian
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 UES HIGHILGHT: If the hearing precedure is initiated, the pupil shall recraim envoked and shall not
 be somewed until the cluster achieve issues a final decision.

What must the charter school and school district do after a student leaves a charter school? If a student is send led or leaves the sharter school without madesting or correlating the school year for any responsible charter

SZ Notify the superintendent of the school district of the student's last known address within 30 days, and SZ Upon request, provide that school district with a copy of the causalative record of the papil, including seport

cards or a transcript of godes, and health information.

If the papi is e-week in their previous school district and is subsequently up of ed from or leaves the school district without gradualing or completing the school year for any reason, the school district shall: 2 Provide their is information to the district when within 30 days of the cluster school demonstrate or that the papil

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

Students and purents have the right to file a complaint for violations of AB 1300 using Uniform Complaint

- For other disciplinary actions, "timely written notice" is sufficient time to the student/family to gather widence and
- "Implication removals" include disministrate, disministration, or terminations, but do not include summarious.

The full text of the law can be found here: bit.ly/ab1360ca

For more information and resources, visit http://aclusocal.org/ab1360





