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 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 (<u>Goss vs. Lopez</u>):

 \Box 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):

NoticeOpportunity to be heard

Proper **<u>Notice</u>** must:

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

A Proper <u>Hearing</u> 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))
- $\Box \text{ Timely Hearing } (48918(a)(1))$
- □ 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)
- \Box Evidence: Cannot expel based solely on hearsay (48918(f)(2))
- $\Box \quad \text{Right to appeal } (48918(j)(1))$

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

Part 3: Ensuring fair admissions

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.

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

Student

Parent

Timeline

Nov 2014

Public Advocates Parent Volunteer Hours Report



Aug 2016

Unequal Access report released by ACLU & Public Advocates

2014	2015	2016	2017	
	Jan 20:	15	Sept 2017	
CHARGING FOR ACCESS: How California Charler Schools Exclude Vulnerable Students by Imposing Illegal Family Work Quotas		lance explicitly Requiring Parent	AB 1360 signed in	to law

Volunteer Hours

(updated Jan 2017)

Author & Lead Researcher Hilary Hammell

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.

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.

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

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?

Questions?

• Type in chatbox



For more information

→ www.aclusocal.org/ab1360



On October 13, 2017, Governor Brown signed AB 1340 into law. The new law tesk effect on Amuzry 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 admissions preferences?

You had only in some limited circumsta

Any preferences must:

22 Be approved by the chartering authority at a public hearing. 2 Be in compliance with both federal and state law, including civil rights and anti-discrimination laws. 22 Not discriminate, including by limiting enrollment access for -+ Students with disabilities \rightarrow Academically low a chieving papils -+ English learners → Neglected or delinquest pupils - Homeless pupils → Pupils who are economically disadrantaged (determined by eligibility for any free or reducedprice meal program) proto much program) → Foster youth, or → Puplis based on nationality, mee, ethnicity, or sexual orientation.

2 Not require manded our memory, and, containing, in the order of marking and the order of th guardians of applicant and currently enrolled students that parental involvement is not a requisement for acceptance or continued enrollment.

Key questions: • Does the school enzoll a dispropertionately low percentage of these student groups compared to surrounding schools? Do any of the school's policies or practices seem to limit access to enzolment for any of these average?

· Bequiring a student to have or maintain a minimum GPA Bequiring incoming students to have completed certain classes • Evaluating students hased on interviews or written essays for admissions parposes • Asking students or families to provide immigration-related information, including hirth certificates, passports, or Social Socurity manders * Requiring parents to volunteer X number hours per semaster, or perment in lies of hours

Examples of impermissible policies:

Ensuring Due Process in Charter School Discipline

What are a student's rights if they face potential suspension or removal? A chart or school's policies for suspensions, expulsions, or other involutiony removals, must couply with federal and state constitutional requirements and the proordures below:

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

\$2 O ml or written notice of the charges. If the student donies the change:

- II As explanation of the evidence that supports the charges.
 - 2 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: [2] Tursely, written notice of the changes and an explanation of the student's basic rights, and [2] A hearing (adged by a montal officer, whose the student has a fair opportunity to: present testimory, evidence, and writenesse; control and cross-securities adverse writenesse; and theirs [adj Control or ran a dvocate.

For any involuntary removal from a charter:

(2) The posent or guardian must receive written notice of intent to remove the papit no less than 5 school days before the effective data. The written order schol:

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What must the charter school and school district do after a student leaves a charter school? If a student is some died or issues the charter achool without straduating or comoluting the school year for any reason, the charter

E2 Notify the superintendent of the school district of the student's last known address within 30 days, and E2 Upon request, provide that school district with a copy of the canalative record of the pupil, including report. cards or a transcript of grades, and health information.

If the papel re-eventian their previous school district and insubsequently use effectives or leaves the school district without graduating or completing the school year for any reason, the school district shall: Directed the information to the district reason within 20 days of the cluster school demonstrate estimate the papel of the school reason school demonstrate estimates the papel of the school reason school demonstrate estimates the school district the school district the school demonstrate estimates the school district the school dis

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

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

- For exputations, "timely, written notice" is 10 days before the exputation hearing. - For other disciplinary actions, "timely written notice" is sufficient time for the student/family to gather widence and

reparts "Implantary removals" include domentationers, distained a transfere, or terminations, but do not include summations

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

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

