

# CSDC's Boarding Pass

Charter School History, Definitions and Legal  
Fundamentals

CSDC Boarding Pass Podcast 2024

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# California Charter Schools: History and Definitions

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# Warm-up Assessment

**It's a charter school!**  
**It's a district school!**  
**It's a private school!**

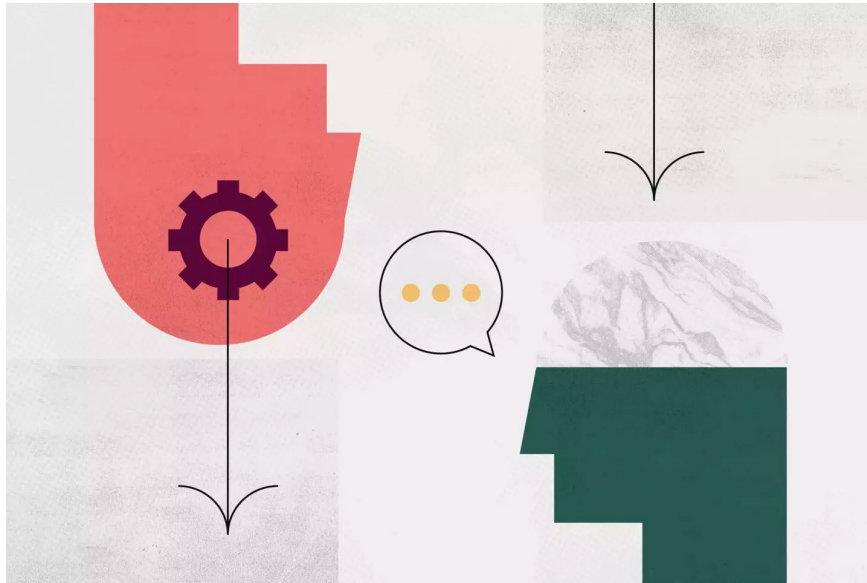


# CSDC's Definition of a Charter School

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**“A charter school is a *public* school, that may be formed, governed, and operated independent of a traditional school district.”**

# Why Did California Need Options in Public Education?



- Limited access to quality educational options in many communities
- Large urban districts were part of the problem—small, local schools seemed appealing
- Educators wanted flexibility from the bureaucracy
- Prop 174 voucher initiative had qualified for the ballot

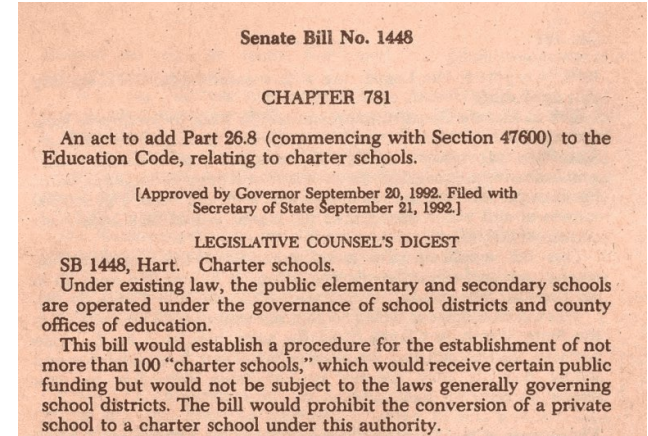
# Crafting the California Charter Schools Act



- Exempt from laws governing school districts
- Allow qualified professionals who are experts in much needed subjects to enter K12, no credentialing necessary
- Local school boards and county boards as authorizers who can be held accountable if they use the power of chartering unwisely.

# The Passage of the California Charter Schools Act 1992

- Minnesota passed in 1991 proving charters were politically viable
- California's second state to pass a charter law in 1992 as part of the ongoing push against vouchers.
- Passed with Bi-Partisan Support
  - Authored by Senator Gary Hart (D) and signed by Governor Pete Wilson (R)
  - Unions opposed Hart's version of the bill



Full story of bill's passage and signing here:

<https://tinyurl.com/bde4cjmcc>



# Charter Schools Act of 1992

The purposes of charter schools, as specified in [California Education Code Section 47601](#) are:

1. Improve pupil learning.
2. Increase learning opportunities for all pupils, with emphasis on expanded learning experiences for pupils identified as academically low achieving.
- 3. Encourage the use of different and innovative teaching methods.**
4. Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.





# Charter Schools Act of 1992 cont.

5. Provide parents and students with expanded educational opportunities within the public school system without the constraints of traditional rules and structure.
6. Provide schools a way to shift from a rule-based to a performance-based system of accountability.
7. **Provide competition within the public school system to stimulate improvements in all public schools. (language added in 1998)**



**“A rising tide lifts all boats.”**  
-John F. Kennedy

# Charter Schools Empower Communities



Charter schools broke the monopoly on school districts providing public education, creating **choice** and **competition**.

They are **independent public schools** that are allowed to have **freedom** and **flexibility** and are held **accountable** for results.

# Understanding California Charter Schools: A Framework

<b>Public school board authorizers</b>	Mostly local, some county, few state. They are born, live and die by a vote, which is why advocacy is essential, not optional.
<b>Governed by a board</b>	Board holds the admin responsible for delivering on the charter which is a contract and business plan. Non-profit or school board (no for-profit).
<b>Charter petition outlines level of independent authority</b>	<ol style="list-style-type: none"><li>1. Governance</li><li>2. Educational Program</li><li>3. Labor</li><li>4. Special Ed Local Planning Area (SELPA) Membership</li><li>5. Facility</li></ol>
<b>Charter schools are public schools</b>	<ul style="list-style-type: none"><li>● Tuition free (tax-payer funded)</li><li>● Non-sectarian</li><li>● Hire credentialed teachers</li><li>● Teach to state standards and administer state tests</li><li>● Admit all students or hold a public random lottery</li><li>● Subject to audits, open meeting laws, conflict of interest laws</li></ul>
<b>Held accountable</b>	Through annual authorizer oversight, renewal process every 2-7 years as well as parent/student choice

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**But what IS a  
charter school?**

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# What Is A Charter School Legally?

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- Laws vary by state
- California's Charter Act legal provisions have changed over time:
  - Original Charter Act (1992) was silent, did not specify any particular legal status
  - Law later amended to specify charter schools “may operate as, or be operated by, a nonprofit public benefit corporation”
  - Further amended in 2018 to prohibit for-profit corporations
- In practice, California charter schools are typically either:
  - Operated as/by nonprofit corporation (most common), or
  - Function as legal arm of school district or county office of education (less common, often described informally as “dependent”)

# What is a Corporation?

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- A corporation is a legal entity that allows a group of individuals to be recognized and operate as a single entity
- California law authorizes many different types of corporations
  - Some are “for-profit” (“C” corporations, “S” corporations, partnerships, LLCs, cooperative corporations, etc.)
  - Some are “not-for-profit”
- Local government agencies are also a form of corporation called a “municipal corporation”
- Primary advantage of forming a corporation is that it allows individuals to do things collectively without incurring high levels of individual personal liability for debts, lawsuits, etc.
  - Instead, the corporation assumes most of these risks, not the individuals

# What is a “Not-For-Profit” Public Benefit Corporation?

- One particular form of corporation
- “Not-for-profit”
  - Bit of a misnomer, as most “nonprofits” actually do generate modest profits
  - But law mandates these profits be spent to further a charitable mission rather than being distributed as profits to owners/shareholders
- Typically combined with “tax-exempt” status
  - State and federal tax laws allow most nonprofit corporations to function as tax-exempt
  - Many use the term “501(c)(3)” which is the section of the federal Internal Revenue Code that contains the primary tax exemption laws for public benefit corporations
  - Little or no income tax liability because it never distributes its profits externally to other individuals or companies
  - Supporters may donate funds and deduct the donated amounts from taxable income

# How Are Corporations Formed?

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- Typical steps include:
  - Group of individuals gather with a common purpose
  - Define desired characteristics of corporation
  - “Incorporator” drafts, files “articles of incorporation” with Secretary of State
  - Draft bylaws to govern operations of governing board
  - Incorporator seats first governing board
  - Governing board commences meetings, adopts bylaws, begins to operate
  - Complete, file forms with federal/state tax authorities to seek “tax-exempt” status
- For charter schools, the above steps may occur before or during chartering process
  - Typically, at least several months prior to commencing operations
  - Amendments may be necessary, desirable as organization grows/changes over time and to align with changing laws, norms



# Charter School Legal Structures Vary

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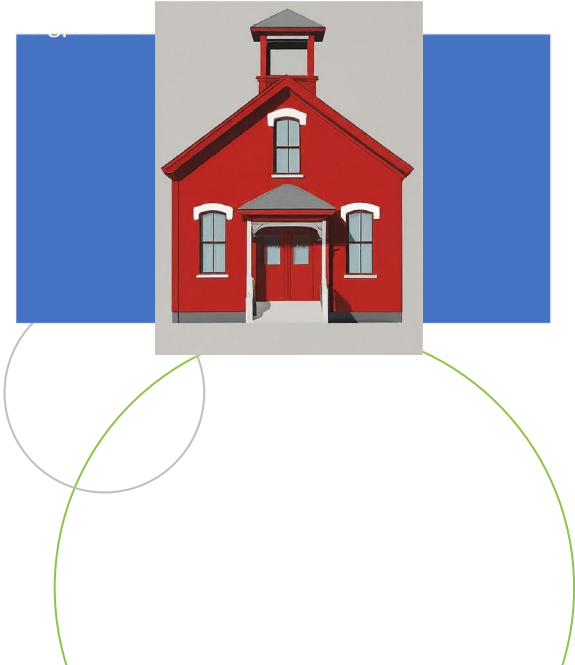
California charter school corporate structures vary from simple to complex

- Simple: Single corporation operating a single charter school
- Complex: Large “charter management organization” (CMO) operating multiple schools with multiple corporations

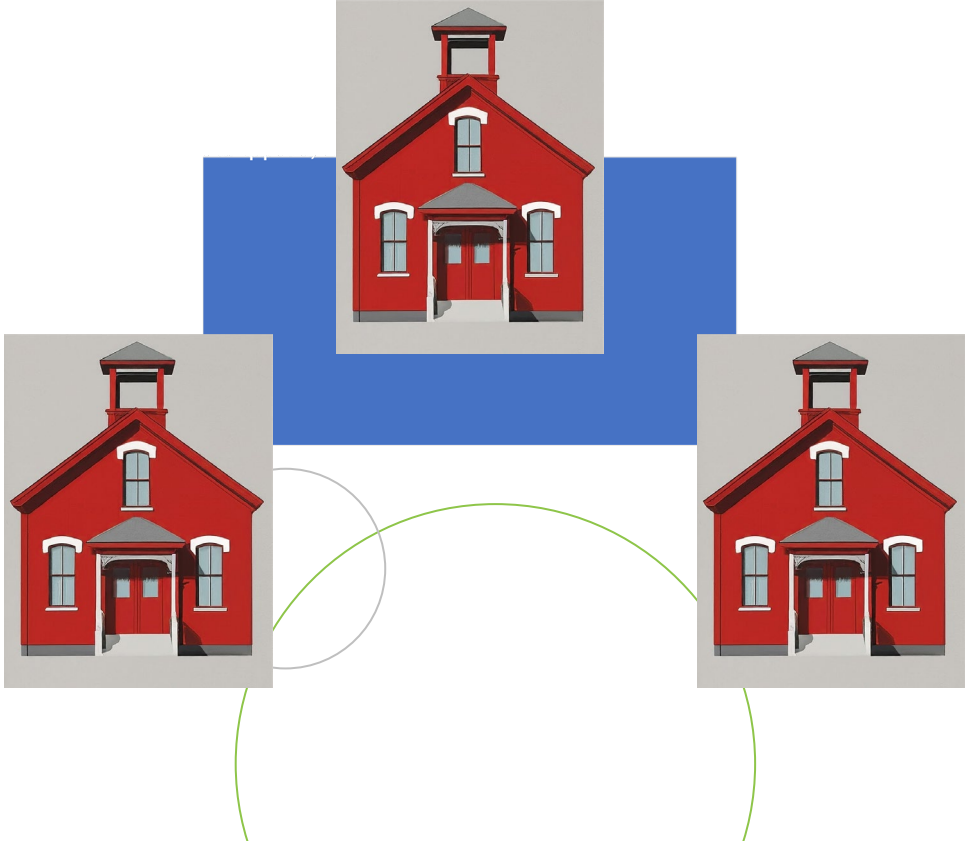
Additionally, some charter schools are organized as legal arms of the district or the county office of education

# Simple Single Corporation Charter School

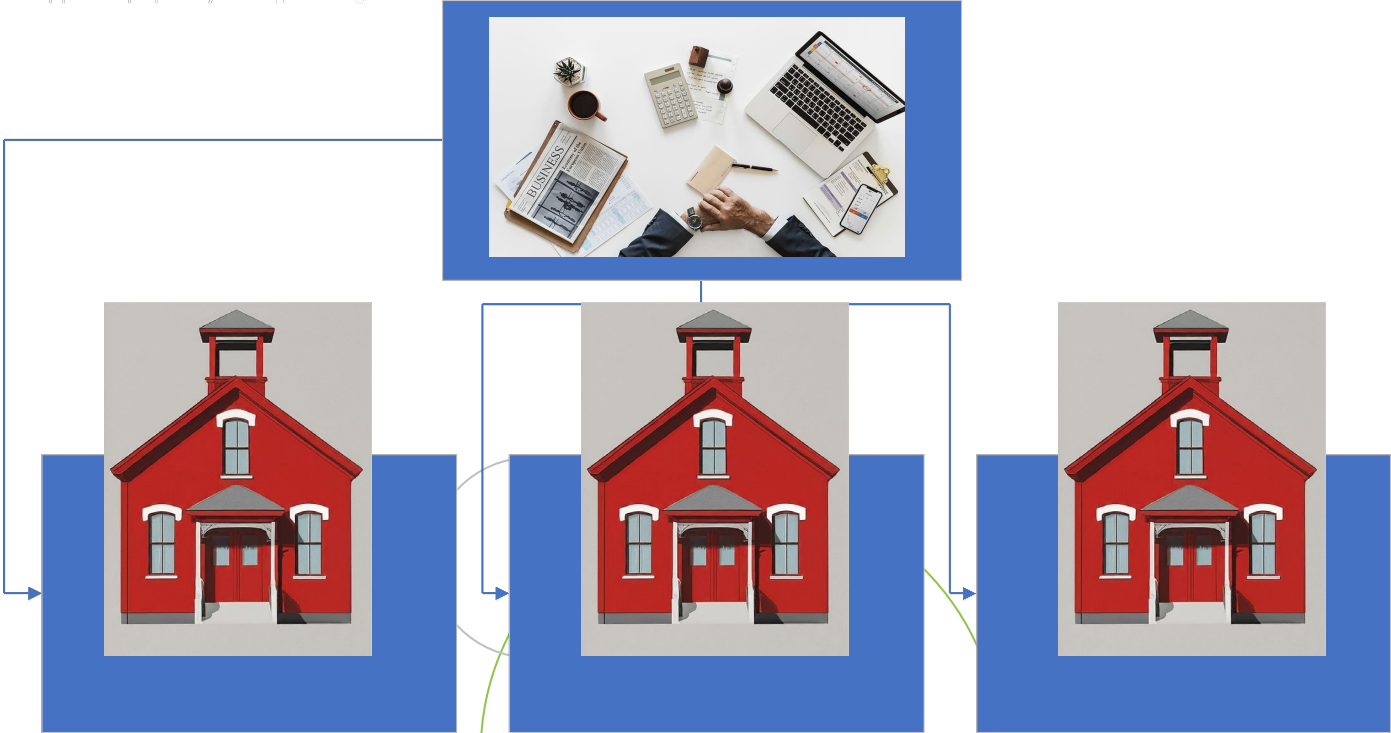
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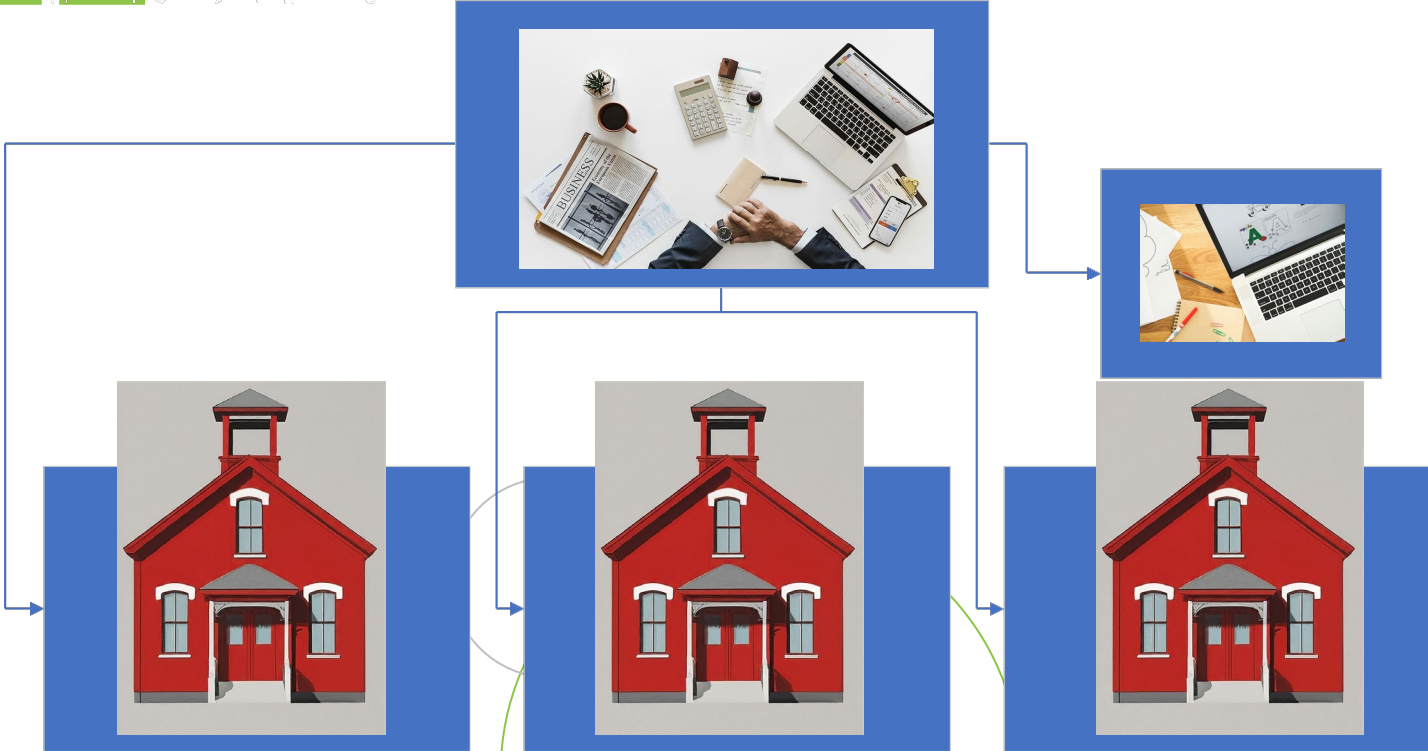
# Single Corporation with Multiple Schools



# CMO "Mothership" Corporation with Multiple Schools



# CMO "Motherhood" with Multiple Schools and Supporting "Sidecar" Corporation



# What Laws Govern California Charter Schools?

- Federal Constitution
- Federal Statutes/Regulations
- Federal Courts - Case Law
- California State Laws/Regulations
- California Courts - Case Law
- Local Codes and Ordinances
- Local Governing Board/Authorizer Policies
- Charter and bylaws
- Contracts, MOUs and other agreements



# Your Corporate Documents

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- Articles of Incorporation
  - Typically short, simple document specifying name, address, purpose, agents, and filed with state to establish the corporation
  - Rarely consulted during routine operations, but you need to “color within the lines”
- Bylaws
  - Typically a longer document that specifies the general parameters of how a governing board functions, including board composition, officers, turnover/election, rules of order, liability matters, amendments, and other topics
  - Important for board members and staff to understand the key parameters
- Charter
  - Document addressing many required topics, when approved by a district or county board of education, it authorizes the chartered school to exist
  - Important for board members and staff to understand key parameters
  - Once approved the charter document allows school to function as a charter school

# Incorporated Charter Schools v. Districts

## Charter Schools

- Governing board is appointed, or may hold internal elections
- Corporate status per key provisions in Corporations Code
- Formed when charter petition is granted
- Board selection/turnover per bylaws
- Few or no “sovereign” powers
- Exempt from many portions of Education Code
- Accountable for performance via charter revocation/renewal laws

## School Districts

- Governing board is elected by members of the voting public
- Corporate status per key provisions in Education and Government Code
- Formed per Education Code and county school organization committee process
- Board publicly elected per state law
- Multiple “sovereign” powers (e.g., eminent domain, zoning/land use, bonding etc.)
- Subject to most portions of Education Code
- Accountable for performance via board election process